

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY
Wednesday, February 12, 2014

The meeting was called to order by Chairman Kevin Woolbright at 9:00 am in the Miss Utility One Call Center, 7223 Parkway Drive, Hanover, MD 21076. In attendance were Authority members Tom Hoff, Art Bell, Walt Gainer, Tom Hastings, Tom Baldwin and Marcia Collins. Laura Olander and Jim Barron were also present. Guests included Dora Parks from Miss Utility, Scott Brown with Washington Gas, Thurman Smith with Utiliquest. Martin Wetzler and T. J. Goloboski - both with Belfast Valley Contractors, and Larry McIntyre with Centerline Utilities. Authority members Bernard Cochran and Veronica Davilla Steele were absent. Bruce Bereano was also absent.

Chairman Kevin Woolbright opened the meeting and asked everyone to introduce themselves. There is a quorum.

The Minutes from January 8, 2014 were approved.

Report of Authority Treasurer: Jim Barron went through the Financial Statement handout. Motion was made to accept Treasury Report. All in favor. The former Treasurer's term expired and was she was replaced by Victoria Davilla Steele who is absent today. Cindy was the only signatory and this has to be changed over. Jim Barron went to the bank and got all the documents necessary to make changes.

Next, the following motion was made, seconded and passed by the Authority:

Cynthia Flanders, Treasurer is removed as the signatory to the Business Resolution and Agreement for the Maryland Underground Facilities Damage Prevention Authority Accounts at BB&T and James A. Barron, Executive Director is added as the new signatory.

Cynthia Flanders, Treasurer is removed as the signatory to the BB&T checking accounts and James A. Barron, Executive Director; Kevin Woolbright, Chairman and Bernard W. Cochran, Treasurer are added as new signatories.

All signatures will adhere to the "Accounting Policies and Operating Practices of the Maryland Underground Facilities Damage Prevention Authority" as approved by the Authority at the November 20, 2013 meeting.

Next Jim went over the handout regarding APA and Authority conduct during hearings. Jim said the most important take-away in this document is that nobody should leave the room during hearings. Everyone also received a copy of the 2013 Annual Report today.

Kevin Woolbright briefly discussed that he is now Chairman and thanked Tom Hoff for providing the foundation for where the Authority is today.

Today's scheduled hearings:

Washington Gas vs. Centerline Utilities - NPV #1198.

Recording has been turned on. Kevin announced everything is being recorded and asked everyone speaking to state their name when they are speaking. Representative from Washington Gas is Scott Brown. Kevin Woolbright administered the oath to Centerline representative Lawrence McIntyre. Kevin also administered oath to Scott Brown and Jim Barron, Executive Director. Kevin asked Jim Barron to proceed with the evidence. Jim presented summary sheet and handed out NPV #1198 research sheet (Exhibit #1). Exhibit #1 entered into evidence. This was the original NPV that came through the website. Exhibit #2 entered into evidence which is the Google map where violation occurred. Evidence #3 is Jim's ticket search on this NPV. Exhibit #4 is an expanded search where Jim found a ticket from Centerline for a different address (Exhibit #5) however, this address included where work was being done. Evidence # 6 is a sketch of the area. Exhibit #7 is a sketch where damage occurred. Exhibit #8 is a picture showing the excavation occurring behind the building and showing that back hoe equipment is being used. Exhibit #9 is a picture showing marks and damage in background where gas line is running through and gas line being marked correctly. Exhibit #10 is a picture of actual damage. Exhibit #11 is a copy of page 1 and 2 of Utiliquests' damage investigation report. Jim read Washington Gas' damage report to everyone. As a result, Miss Utility ticket was valid and was marked. It was determined that the contractor did not exercise due care. They did not dig by hand; rather by large machines. Kevin thanked Jim Barron. Kevin asked Mr. McIntyre from Centerline to present his evidence. Mr. McIntyre stated that they were digging parallel and found the line near the gas meter. The gas line was 4 feet deep and they were digging 30 inches; they found it but unfortunately this gas line had been reinstalled. He presented evidence of 2 pictures. These were marked as Defendant's Exhibit #1 and Exhibit #2. The pictures, according to Mr. McIntyre, show the line being moved. He said that he did hand dig. Further, he said they did everything right but it isn't fair to assume that they would know the line moved. Art Bell asked if they did test pits. Mr. McIntyre said yes. Kevin thanked Mr. McIntyre. Kevin asked Scott Brown to come up and present any evidence, etc. Scott Brown said his records indicate there was clear evidence that mechanized equipment was used and the 18" distance was not honored. Scott also said there weren't 3 test holes and this wasn't enough to make a determination with the line anyway. They should have dug holes to allow them to know where the line was vertically and horizontally. However they didn't. And there should not have been any mechanized equipment in that 18 inch tolerance zone. Tom Hoff asked what the required distance was that Utiliquest mark the ground. Scott said reasonable distance can differ, but in this case not ten feet apart. Tom asked Scott if the test pits that were dug normally reasonable? Scott said yes. Kevin Woolbright asked if Mr. McIntyre had any further comments. Mr. McIntyre said there are no definitions for what reasonable means when marking test pits so he made assumptions based on what he had already done. Kevin concluded NPV #1198. Hearing for NPV #1198 was officially over at 9:55 am.

Washington Gas vs. Belfast Valley Contractors - NPV #892:

Martin Wetzler and T.J. Golaboski were present from Belfast Valley Contractors.

Recording began. Mr. Wetzler and Mr. Golaboski from Belfast Valley Contractors were given the oath. Jim Barron and Scott Brown were also given the oath.

Jim Barron began with briefly discussing the original NPV which was marked as Exhibit #1. Exhibit #2 is the cover sheet of his review. For the record, this NPV occurred in a Rockville, Maryland zip code on Medical Drive. Map of the area is Exhibit #3. Jim did a search and status to see what tickets were called in. This ticket search is Exhibit #4. The search was expanded and is labeled Exhibit #5. Also attached to this search are the 29 tickets that came up

(all part of Exhibit #5). None of these tickets were for Belfast Valley. It was determined there is no ticket for this work within Exhibit #5. Jim expanded his search and, again, no active tickets were found for Belfast Valley. Exhibit #7 is the area where incident occurred and approximate area where the damage was done. Exhibit #8 is a picture taken by Washington Gas where the break occurred. Exhibit #9 is a picture of the excavation area. You can see gas marks from previous tickets. As a result of research, Jim determined the contractor didn't have a valid ticket, clear evidence from previous tickets. Washington Gas is alleging 112-124a violation and 12-127e (clear evidence). This concludes Jim Barron's evidence and presentation.

Kevin Woolbright asked T.J Goloboski and Martin Wetzler to present any evidence they may have. Martin Wexler began and said he wasn't with the company when this happened but there was a miscommunication. He spoke with a representative who saw the markings and made an assumption and thought there was a ticket called in. There also may have been a miscommunication that there was an active ticket when he spoke with the office also. He made a poor decision and continued with the excavation. They have since made a change in their policy and believe that this will correct this matter and future matters. They are taking a proactive approach and are providing training and have a mandatory meeting coming up where they have invited Miss Utility to come out and train their people and give a presentation. Tom Baldwin said he appreciates their honesty and that they have put some controls in place. However, Tom Baldwin also recommends their people have more of a questioning attitude - question red flags, etc. Stop and ask questions before a serious damage occurs. T.J Goloboski said, for the record, there is reference to a gentleman in the NPV and he has no idea who this person is. Jim Barron said the referenced gentleman works for Forrester Construction. Walt Gainer asked if a ticket was ever called in. Jim Barron said he never found one. Belfast Valley was now excused and Washington Gas representative, Scott Brown was called up. Under oath, Scott Brown said there was no ticket, and the marks were off the target utility, however, they were accurate. There are no tickets and he encourages Belfast Valley to use Miss Utility. The individual identified on the job site said he was with Belfast Valley - a supervisor - and someone named Julio was doing work for him. Tom Hoff asked if this was a hand repair only. Scott Brown said there was no further excavation required by his company when they arrived at the job site. Walt Gainer asked if there were any test holes on this site. Scott Brown said there was no evidence of any. Kevin Woolbright asked about the paint on the silt fence - was that writing already there? Scott Brown said the clear evidence was paint but wasn't sure where the paint was. Belfast Valley was asked back to the table and Chairman Kevin Woolbright asked if they had anything further to say. T.J Goloboski said in reference to resuming excavation, Washington Gas should be required to contact them. Tom Baldwin said the law pertains to the excavator and it's their responsibility to have a valid ticket; Washington Gas isn't responsible for confirming that with them. Scott Brown further commented that Washington Gas provides free training for excavators and suggests they take advantage of that. Martin Wexler said he will take an aggressive approach with his excavators and make sure they get training. They have already scheduled training with Miss Utility. He went on to say that he recognizes the importance of all this and it is unfortunate that on this particular day there was poor judgment used. Chairman Woolbright thanked them and said findings would be sent to them within 90 days. At 10:32 am, the hearing concluded.

Recording turned off.

Break.

5. Appeals:

a. Pinpoint/WSSC - Update from Tom Hoff - Mr. Hoff had a conversation with the lawyers and they agree that the Authority shouldn't be spending money for attorneys to attend every hearing. Tom suggested they only attend when there is a special matter. The ball is now in Pinpoint's court. Waiting for them to write a response to the court regarding why they shouldn't be fined.

b. Reliable - NPV #283 - Update from Tom Hoff - Reliable's Attorney Liskow filed his case with District Court and the Authority has filed a response that included the letter from AG's office. In the 45-day phase now.

DECISIONS ON HEARINGS TODAY:

Center Line Utilities - \$2,000 total: \$1,000 for clear evidence and \$1,000 duty of excavator plus training is the recommendation. Clear evidence only applies when there are no marks and there were marks. No reference in law regarding test pits. Fines reduced to \$500 and mandatory training. If training is not taken within so many days, there will be a \$1,000 fine. Motion made and all agreed. Art Bell opposed for the record.

Belfast Valley Contractors - Motion made for a \$2,000 fine plus training. All in favor.

New NPVs:

NPV #1188 - turns out there was a valid ticket. Motion to dismiss. All in favor.

NPV #1446, #1449 and #1483 - All no calls. Motion for \$2,000 fine each plus training. All in favor.

NPV #1413 - The complaint is that they abused emergency ticket. Will talk to Dominion about this because it's acceptable to call in emergency tickets. Possible training for them. Need more information.

NPV's #1216 & 1249 & 1336. Motion to close due to lack of information. All agreed. NPV #1497 will be ready in March for review.

Subscribers meeting results: Jim requested more money. Another \$50,000 authorized in 2 \$25,000 increments. Kevin said this has not been confirmed because the Subscribers asked that the Authority look for another revenue source.

The Authority needs to write a check to the Subscribers from the Education Fund as soon as possible.

Jim Barron is suggesting an exploratory committee be appointed to find ways of creating a revenue stream. Perhaps one way is to reinstitute the filing fees. It was suggested that Kevin Woolbright, Marsha Collins, Tom Hastings, Bruce Bereano, and Walt Gainer along with Scott Brown and Vince Healy should be on the exploratory committee.

Recommendation made that the Authority begin charging \$200 to file an NPV beginning in June. All in favor.

Miss Utility ticket - type of work issue handout. Tom Hoff said keep it general.

There being no further discussion or business of the Authority, the meeting was adjourned. The next Authority meeting is scheduled for March 5, 2014. Meeting adjourned at 12:44 pm.