

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY Wednesday, April 2, 2014

The meeting was called to order by 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, Victoria Davila Steele, Tom Hastings, Walter Gainer and Marcia Collins. Laura Olander and Jim Barron were also present. Authority members Tom Baldwin, Bernard Cochran and Art Bell were absent. Bruce Bereano was also absent. Guests included Scott Brown with Washington Gas, Matt Ruddo with OCC, Mark Hamrick, Chuck Baker, Vincent Healy, and John Pendleton with Verizon, Juan Vogel with Utiliquest, Victor Harris with Utiliquest.

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

The Minutes from March 5th were approved.

Report of Authority Treasurer. Financials were handed out and Jim Barron gave an overview.

Appeals. There is a Hearing June 2nd in Circuit Court regarding Pinpoint/WSSC. Reliable court date is on April 7th at 1:30 pm in Circuit Court. Oral arguments only - no required attendance from Authority. Just legal teams need to appear. Kevin Woolbright and Jim Barron said they will attend.

Scheduled Hearings:

Victor Harris from Harris & Sons Home Improvement appeared for his hearing regarding NPV #576. Kevin Woolbright asked him to come to the table for the hearing. Kevin explained to Mr. Harris what was going to take place and that the hearing will be recorded.

Recorder turned on. Kevin announced that NPV #576 officially begins. Victor Harris stated his name. Scott Brown, representative from Washington Gas also stated that he was present. Chairman Woolbright administered the oath to Victor Harris, Scott Brown and Jim Barron. Jim Barron proceeded with the evidence.

Exhibit #1 is entered into evidence. Jim Barron explained Exhibit # 1 is the ITIC search for tickets at the location of damage on April 24 by Harris and Sons Home Improvement. The complaint was no ticket and clear evidence. Exhibit #2 was presented next and is the research cover sheet. Exhibit #3 is the first ticket search. Exhibit #4 & 5 are additional ticket searches. Exhibit #6 is page 1 & 2 of the Washington Gas damage report. Exhibit #7 are pages 1-3 of the Utiliquest damage report. Exhibit #8 - 12 are pictures from the site. There were no tickets found and there was clear evidence. The violation reported by Washington Gas appears to be completely valid. Kevin Woolbright repeated that there is a quorum at today's hearing. Laura Olander named all Authority members present for the record. Jim Barron added that Mr. Harris has received additional training from Dora Parks with Miss Utility. Mr. Harris spoke next and stated he was asked to help someone install a fence and he accidentally hit a gas line. He is not really a company but does this to make extra money. Chairman Woolbright asked him if he was aware of the excavation laws. Mr. Harris said he is now aware of the laws having been through

some training with Miss Utility. He thought Miss Utility had to be paid and didn't know it was free to call before you dig. Chairman Woolbright read part of the law to Mr. Harris. Kevin Woolbright asked Scott Brown from Washington Gas to come to the table. Scott Brown had nothing additional to add. Chairman Woolbright called Mr. Harris back to the table. Mr. Harris asked out of curiosity why people thought that he was a company. Mr. Barron said the information came from the damage investigation report. Next, a discussion on fines took place. Jim Barron said since Mr. Harris has since been to training, the fine will be reduced. Chairman Woolbright said a decision will be mailed within 30 days.

The next four hearings are Verizon vs. Village Concrete and no one has showed for the hearing.

Kevin Woolbright asked if there were any representatives from Verizon. Charles Baker, John Pendleton and Vince Healy were here and all are from Verizon.

More time was given to Village Concrete to show up.

Kevin Woolbright wanted to discuss the first hearing while waiting for Village Concrete. Tom Hoff said this is a difficult situation because he is being fined personally and he is just a hard working handyman type of person. This is more of a homeowner thing. Walt Gainer added that Mr. Harris is not even a company. Scott Brown said his responsibility is to provide safety and this guy made a mistake. He spoke with the guy and he understands now and he is not in a position to pay any fines. Scott Brown would like to reduce or relieve him of the responsibility for Washington Gas' repair costs. Kevin Woolbright said typically a no ticket would not be waived, but he is making a motion to waive. Marcia Collins suggested if it happens again, there should be no consideration since the Authority needs to stay consistent. Tom Hastings added that in the letter that is sent to Mr. Harris, this should be noted to him. A motion to waive the fine this time but let Mr. Harris know that if it happens again he will be fined. Motion was made. All in favor.

NPV #576 closed.

Village Concrete arrived for their hearing.

Kevin asked Agostinho Costa from Village Concrete to come to the table, explained the hearing process, and swore him in. Recording began.

NPV #285 - Washington Gas vs. Village Concrete. Scott Brown from Washington Gas and Agostinho L. Costa, the owner from Village Concrete are present. Kevin Woolbright asked Laura to state for the record, all Authority members present. Jim Barron, Agostinho Costa and Scott Brown took oath again for the record. Next, Jim Barron presented evidence. Evidence #1 is NPV #285. D.R. Horton is initially named as the violator. Jim contacted D.R. Horton knowing they are the builder and subcontract their work. Jim explained how he found out who was actually present and did the damage described in the NPV. No locate ticket and clear evidence. Jim presented all his evidence. Exhibit #1 is the original NPV #285; Exhibit #2 is NPV #285 research cover sheet; Exhibit #3 is the Google map of the location at 2314 Tulson Lane, Bowie, Md.; Exhibit #4 is the email trail where D.R. Horton identifies Village Concrete as the company who did the damage. Exhibits #5 - 8 are all ticket information searches. Exhibit #9 is the first and second pages of Washington Gas's Damage Report. Exhibit #10 is Utilquest picture series showing damaged area (9 pictures); Exhibit #11 is a picture disk from Washington Gas, and Exhibit #12 is an email.

Jim Barron went through the colored pictures (Exhibit #11) that Scott Brown presented as evidence.

Based upon all this evidence, it appears Village Concrete did not have a valid ticket and there was clear evidence of gas facilities when the damage occurred.

Chairman Woolbright asked Village Concrete if they had anything to say. Mr. Costa from Village Concrete said this was the first time he heard about the gas. He said this is a brand new house so why is there a gas line there? He doesn't know how the pipe got there. This is the first time he said he saw the pictures and nobody said anything to him about gas. Chairman Woolbright asked if he worked at this location and he said yes. Walt Gainer asked if he turned in a Miss Utility ticket and he said yes but it was probably a week before this happened but now that he sees a broken pipe he doesn't know. He said he needs to look at his records. Walt Gainer said if he had a ticket he should have brought the evidence and it's pretty visible there is a gas pipe there. Tom Hoff asked who did the back fill; there's a hole and without the hole there's nothing to back fill and didn't anyone look in the hole. Tom Hoff said a ticket isn't necessarily needed for a back fill but a due care is expected. Kevin Woolbright read part of the law to Mr. Costa regarding excavation and due care, etc. Jim Barron said in response to Village Concrete saying they didn't know about this, he showed the return receipt of certified mail and acknowledgement from an office worker which is now Exhibit #12. Mr. Costa said they don't call Miss Utility when they do backfill because they only call when they dig the hole. Do they need to call for back fill? Walt Gainer said they have to keep tickets alive for each job. Jim Barron read the definition of excavations. Chairman Woolbright called Washington Gas (Scott Brown) up to the table. Scott said two people from Washington Gas respond to a reported damage. They ask questions on site. Scott explained what the responder reported and that the end cap had been replaced. Scott Brown was excused and Village Concrete was asked to come back to table. Mr. Costa was reminded he was still under oath and was asked if he had anything to add after hearing from Scott Brown. Mr. Costa said he had nothing further to say.

Chairman Woolbright said the Authority will submit their decision in writing within 30 days.

This concluded NPV #285.

NPV #1304 - Verizon vs. Village Concrete. Mr Agostinho Costa remained at the table. Mark Hamrick, Charles Baker and John Pendleton are all present to represent Verizon.

Mr. Woolbright asked Mr. Hamrick, Baker and Pendleton from Verizon to stand and be sworn in. Jim Barron was also sworn in. Jim Barron handed the evidence to Laura Olander for documenting. There are 11 Exhibit's entered into evidence. Exhibit #1 is NPV #1304; Exhibit #2 is NPV #1304 research cover sheet; Exhibit #3 is Google map of damage location; Exhibit #4 is a statement provided by Chuck Baker, Investigator for Verizon on this incident; Exhibit #5, 6 & 7 are searches; Exhibit # 8-11 are pictures of the damage.

Jim Barron discussed Exhibit #4 since Mr. Baker was present. Ticket search was briefly discussed (#5, 6 & 7) and no ticket was found for 501 Bricker Drive where the NPV took place. Exhibit #8 - 11 were viewed by everyone which are the pictures Verizon submitted of damage. This is now the 2nd no call for Village Concrete. This allows the Authority to fine up to \$4,000 according to the law.

Mr. Costa from Village Concrete said the Verizon cable should be dug deeper but is only 6 inches deep. Normally they do not call Miss Utility for this but this was too close to the top of the ground. He asked why the cable is not where it is supposed to be. It's too close to the concrete. Walt Gainer said if Village Concrete had a ticket it would have been marked and they would have known where the line was or they should have dug a test hole as the depth varies all the time with underground lines. Chairman Woolbright asked if there were any more questions. The three Verizon representatives were called to the table. Kevin asked them to discuss the NPV. Mr. Baker said he was at the site where the damage occurred and this was the second damage at exact location, however the prior damage wasn't submitted. This happened before with no ticket. He added that all they needed to do was contact Verizon to take care of the line being deeper if that was an issue. Mr. Baker said while he was there he spoke to Peter Wolf with D.R. Horton and was put in touch with Village Concrete and asked why they had no ticket. They were forming up sidewalks at that time. Mr. Baker spoke with John Sousa at the site who works for Village Concrete. Mark Hamrick said they didn't have a ticket and there were comments made about the shallowness of the line, but during excavation he had no idea where the line was because he never called Miss Utility. Tom Hastings asked about the second damage at the same site but nobody could say who the contractor was. Tom Hoff asked if Verizon provides the contractor with depth when a job is called for. Tom Hastings asked Verizon if they had a depth requirement in the law. Mark Hamrick said there was no way to control the depth and therefore no law requiring depth. Kevin Woolbright asked Village Concrete if they had anything to add. Mr. Costa added that he knows the cable is there. Kevin read part of the law regarding due care with interference of a facility and then discussed the Authority decision process to Mr. Costa. NPV #1304 ended.

NPV #1310 - Verizon vs. Village Concrete

This is a no locate request, and no ticket violation. Kevin reminded everyone they are still under oath. Jim Barron gave copies of evidence to Laura Olander. Jim Barron showed the Authority all of the evidence. Exhibit #4 - damage case witness statement was read out loud by Jim Barron. Ticket search results were discussed. No ticket found. Pictures in evidence were shown. Surface boxes along with cable were damaged and clearly seen in photos. Root cause was no call to Miss Utility. This is now a 3rd no ticket violation for Village Concrete. Jim Barron finished presenting evidence. Mr. Costa asked if he had anything to say. Mr. Costa said this is the same situation from before. His machine was in pictures because they had to prepare the sidewalk but he doesn't believe his company did damage to the box. Walt Gainer asked why they didn't call in another ticket and then just update. Mr. Costa replied it would take too long to get things done but they called for foundation digging but not for sidewalk. Tom Hoff asked if it was possible the person who put in the request gave the wrong address. Mr. Costa said he will find out. He said they call for digging but for back fill they don't call. Kevin asked if he was on these sites during these jobs. Mr. Costa said he stopped over one time. He said the superintendent on the jobsite is supposed to watch over things. Kevin read part of the law to Mr. Costa regarding excavation and demolition and then excused Mr. Costa. Verizon was invited to the table and reminded they are still under oath. Mr. Pendleton said he was contacted about multiple outages - the fiber optic cable was cut in this case. Mark Hamrick said they did a search after talking to Village Concrete and they stated they only call in once. Mark said there was a ticket called in much earlier but it had expired by the time this damage occurred. Mark also said that the box that was damaged will be further dealt with by Verizon but has nothing to do with a no ticket. Jim Barron said the hand hold (box) was damaged but also the fiber optic line was severed. Walt Gainer said if wires were sticking out, they should have been protected. Mark Hamrick added that he hopes Village Concrete are appropriately fined. Village Concrete was

again asked back to the table and given an opportunity to ask any questions or comment on what was just said. Village Concrete had nothing more to add. Chairman Woolbright read some more of the law regarding excavation and no tickets and the penalties that can be imposed. He also briefed Village Concrete again that the decision made by the Authority will be made in writing within 30 days and a request for judicial review can be requested in the Circuit Court. Chairman Woolbright officially closed NPV#1310.

NPV #1311 - Verizon vs. Village Concrete

Mark Hamrick and John Pendleton from Verizon and Mr. Costa from Village Concrete are all still sworn in for NPV #1311. Jim Barron, for the record, submitted all the evidence to Laura Olander. All Exhibits were discussed in detail by Jim Barron. This is a no ticket and no locate request and was confirmed with Jim's research. There was, however, a ticket called in for another company on the date of the incident. Marcia Collins asked for some date clarifications with some of the tickets that were called in by Village Concrete. Once all the evidence was discussed, Kevin Woolbright turned it over to Village Concrete for any comments or questions. Mr. Costa from Village Concrete said this was a similar situation as the other violations with cables being almost on top of the ground. Kevin said there were a lot of tickets called in after the damages. Village Concrete said he had to call to do the house and then realized they had to call again for the sidewalk. Kevin now asked Verizon to come to the table and reminded them they are under oath. Mark Hamrick and John Pendleton came to the table. Kevin asked what, if anything, they wanted to add. John Pendleton said he was called by the fiber optic crew because of the damage that had been covered up. They discovered the conduit and the fiber that was damaged when John Pendleton showed up and it had been backfilled. Verizon reached out to Village Concrete for an off-site meeting and Mr. Costa and Verizon went over the Miss Utility law, gave them materials, and explained the laws to Village Concrete. Verizon was excused and Village Concrete was called back up to the table for additional comments/questions. Kevin read some of the law to Village Concrete and asked Mr. Costa if he understood what he had read to him. Mr. Costa said yes. Again, a decision will be made and mailed within 30 days. This concluded NPV #1311.

Recorder off.

Tom Hoff said there is no requirement for calling in a ticket for back filling.

The following was decided:

NPV # 285 - \$3,000 fine and training
NPV #1304 - \$4,000 fine plus training
NPV #1310 - \$4,000 fine plus training
NPV #1311 - \$4,000 fine plus training

Motions were made and all in favor.

The following prior NPV decisions were also made:

NPV #1497 - letter with \$2,000 fine and training will be sent.
NPV #1677 - letter with \$2000 fine and training will be sent.

It was agreed that an interpreter will need to be hired.

There being no further discussion or business of the Authority, the meeting was adjourned. The next Authority meeting is scheduled for Wednesday, May 7, 2014.