

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY

Wednesday, July 2, 2014

The meeting was called to order by Kevin Woolbright at 9:01 am in the Miss Utility One Call Center, 7223 Parkway Drive, Hanover, MD 21076. In attendance were Authority members Kevin Woolbright, Tom Hastings, Tom Baldwin, Tom Hoff, Art Bell, Walter Gainer and Marcia Collins. Laura Olander, Jim Barron and Bruce Bereano were also present. Guests included Scott Brown with Washington Gas, Thurman Smith with Utiliquest, Brian Compton and Manuel Brito with D&F Construction, Chuck Baker, Colin Redford and Vince Healy with Verizon, Kristopher Davis with Cossontino Contracting Company, Brian Townsend with A.C. Crane & Sign Company, and Matt Ruddo with Miss Utility. Bob Kipp, with CGA, also attended. Authority members Veronica Davilla Steele and Bernard Cochran were absent.

There is a quorum.

The Minutes from June 4th were approved.

Report of Authority Treasurer. Financials were handed out and Jim Barron gave an overview. Motion made to approve. All in favor.

Scheduled Hearings:

NPV #1318 - Washington Gas vs. D&F Construction - This is a no locate violation. Executive Director, Jim Barron began recording the hearing. Scott Brown, the representative from Washington Gas introduced himself. Brian Compton and Manuel Brito, the representatives from D&F Construction introduced themselves. Chairman Kevin Woolbright administered the oath to Jim Barron, as well as both representatives from D&F Construction, and Scott Brown from Washington Gas. Kevin discussed the Maryland Damage Prevention Guide regarding Hearings and the procedures for hearings and the steps thereafter. Next, Jim Barron introduced evidence against D&F Construction. All evidence was given to Laura Olander to document. Evidence #1 is the NPV as filed on the Authority's website. Evidence #2 is the research cover sheet. Evidence #3 is the ticket search on 13 Belmont Court in Silver Spring, Maryland where violation occurred. Evidence #4 is the search on Belmont Court in Silver Spring, Maryland. Evidence #5 is the results of four ticket searches. Evidence #6 is the emergency ticket by Washington Gas for an emergency gas repair. Evidence #7 is a standard ticket by D&F Construction to install storm drainpipe and inlets. Evidence #8 is Washington Gas' Damage Report (report indicates 15 Belmont Court - not 13 Belmont Court). Evidence #9 is page 3 of Washington Gas' Damage Report. Evidence #10 is page 1 of Utiliquest's Damage Report (notes on damage investigation report at the bottom regarding times and address of damage). Evidence #11 is Washington Gas' Damage Diagram. Evidence #12 and #13 are pictures showing damage to pipe. Evidence #14 is a picture showing D&F Construction's sign at the site. The findings showed that Washington Gas was contacted and had sent a repair crew to the site where the violation occurred. D&F Construction was called in after the damage occurred. There was no valid ticket for the date and time of the accident at the address called in, and it was shown that the ticket was indeed called in after the damage occurred.

Chairman Kevin Woolbright asked D&F Construction to introduce any evidence they may have in their defense. Brian Compton from D&F Construction began by thanking the Authority for giving them this opportunity and stated that all the evidence against them was true. He further explained why the construction is going on in that location and all the work that is involved. He stated that tickets began being called in early - 5 to 7 days early - in the area where the damage occurred due to the large scope of the project. He said they had no current locate ticket called in by their company but they started digging on another call because the locates were already there, in other words, he felt they weren't digging on unmarked territory. He further stated that they call in numerous tickets daily and have people checking on status all the time. When they saw fresh marks, they thought a ticket had already been called in and assumed it was a ticket called in by D&F Construction. When the damage was done, they scrambled to find their ticket and this is when they recognized the error in that they had not called one in and that there were no current tickets for Belmont Court. The area was marked but they hit the facility anyway. Jim Barron added that D&F Construction has filed over 10,000 Miss Utility tickets. Authority member Tom Hastings asked for the Fort Meyer ticket to be reviewed again to see locate instructions. A copy of the ticket was passed around. Authority member Tom Baldwin asked for a copy of this for evidence. Next, Washington Gas representative Scott Brown came to the table. Scott Brown explained how information comes in to them from the fire department when emergency tickets are called in. Scott further reminded everyone to call 911 when gas is smelled as they have immediate interaction with the fire department when this happens. Authority member Tom Baldwin asked about damage and whether Scott knew if it was within the marks. Scott said he didn't know. Kevin Woolbright reminded D&F that questions can be asked at any time and D&F declined. Kevin asked D&F Construction back to the table and asked if they had anything to add. Tom Baldwin noted the CGA best practices for excavation document stating each contractor has to have a ticket for each job and know that tickets are correct before working. Kevin Woolbright asked D&F Construction to please look over the excavation guide, specifically page 36, regarding excavation and ticket requests. Also, page 41, notifying damage or knowing area is unmarked, as well as to call 911 if there is a damage involving gas leaks. Kevin then explained the Authority's decision process and let them know they can appeal the decision made by Authority. Brian Compton from D&F Construction thanked the Authority for letting them speak their side of the events, and said they are looking for a waiver of any fine as well as setting up educational training. NPV #1318 was officially closed at 9:55 am.

NPV #1599 - Verizon vs. AC Crane & Sign Service - No locate request. Colin Redford, the representative from Verizon was asked to stand and state his name. Mr. Brian Townsend, the President of AC Crane & Sign Service, was also asked to stand and state his name. Chairman Woolbright administered the oath to Executive Director James Barron, Brian Townsend, and Colin Redford. Brian Townsend was asked to come to the table and was asked if he had the excavation guide. Mr. Townsend replied that he has the excavation guide. Kevin Woolbright read from the guide regarding hearings with the Authority, as well as appealing decisions so Mr. Townsend was clear regarding his rights. Jim Barron discussed a series of emails between himself and Mr. Townsend asking to postpone today's hearing due to a key witness who could not attend. Jim Barron said he is allowing Mr. Townsend to speak for him and all evidence was handed to Laura Olander for entry. Evidence #1 is the NPV filed on the Authority website. Evidence #2 is the research cover sheet. Evidence #3 is ticket search of 1806 Belmont Avenue. Evidence #4 are the results of the search that resulted in 6 tickets. However, none of the tickets were called in by AC Crane & Sign Service. Evidence #5 is an emergency ticket called in by Lamberts Cable Splicing to repair a cable for Verizon. Evidence #6 is another emergency ticket by Lamberts Cable Splicing to repair a telephone main for Verizon. Exhibit #7 & #8 are ticket searches for AC Crane & Sign Service. Exhibit #9 is a standard ticket to install a sign by AC

Crane and Sign Service. Exhibit #10 is a witness statement entered into evidence that Jim Barron read to the Authority. Exhibit #11 is the ticket filed by Long Fence Company to install a fence as referenced in witness statement. Exhibit #12, 13, 14, and 15 are pictures of damage.

Chairman Kevin Woolbright asked if there were any questions so far. None. Kevin then asked Mr. Townsend to speak on his behalf. Mr. Townsend asked if there were tickets prior to the Long Fence Company ticket. He stated he walked the property with the owner and the property manager and looked at the site on December 6th and he noticed it had been marked. They determined then where the exact placement of the sign would go based on the current utility markings and foundation for the sign. Then, a revised footer requirement was submitted and they were aware they had a very tight area to work within. Mr. Townsend passed around the survey drawing they worked with for sign placement. Mr. Townsend saw fresh markings on the ground that he learned were from Long Fence Company. He admits he did not call in a ticket because he saw markings on the ground and no interference in the area he was going to work. On the 20th, when damage occurred, he showed up with a backhoe with auger attachment and was told Verizon had bored a line through the area he would be working. He called summit and said there was some interference and they should hand dig. So, they hand dug the first foot which was frozen because this was January and very cold. They got 20 inches down and thought they were good to go. When they started the auger and got approximately 24 inches down they hit the Verizon line. The owner gave him clearance to hand dig and set foundation down but this had to be cancelled once they hit the line. Verizon asked them to stop and they did. This concluded his testimony. Chairman Woolbright thanked him and asked if there were any questions. Jim Barron clarified the only ticket search he did was within the time frame of the damage and there were no tickets found. Authority member Art Bell asked about the fresh marks and whether or not they dug test pits. Mr. Townsend said they were little flags and there were no test pits done and he didn't know what test pits were. Art Bell explained test pits and then asked if he knew there were no depth requirements under the law but that it doesn't matter - they have to be located prior to dig. Art Bell further questioned why, when even after the line was struck there were no tickets called in and whether or not a ticket was ever called in? Mr. Townsend said before they put the foundation back they called in a ticket. Art Bell asked if he knew what the ticket number was. Mr. Townsend said the one Jim Barron showed earlier is the ticket. Kevin Woolbright again asked if there were any more questions. None. Kevin then asked Verizon to come to the table. Colin Redford with Verizon came to the table. Mr. Redford said Mr. Townsend explained things pretty thoroughly. He added that Tony Mediros was working with Verizon's engineer, Mr. Barts, and they had explained to AC Crane that they were working without a valid ticket. The damage had occurred before Mr. Redford arrived and he asked them to stop working immediately. Chairman Woolbright asked if Mr. Townsend had any additional questions. He replied that he did not have any questions and that he was remiss in not calling in a ticket. Chairman Woolbright then asked Mr. Townsend to open the excavation guide to page 40 regarding due care in excavating and Kevin reiterated the law regarding tickets. Mr. Townsend said he is familiar with the law but thought because the ground was already marked, it was ok to dig. Authority member Tom Baldwin briefly discussed the law regarding tickets expiring and having a ticket in your own name. Chairman Woolbright then read another piece of the excavation guide regarding Authority decision-making steps and that decisions the Authority makes can be contested.

This concluded NPV #1599 at 10:49 am.

NPV #1799 - Verizon vs. Cossentino Contracting Co., Inc. - No locate request, notification of damage to facility, abuse of emergency ticket. This hearing began at 11:00 am.

The representative from Verizon is Chuck Baker. The representative from Cossentino Contracting Company is Kristopher Davis. The oath was administered to Jim Barron, Chuck Baker and Kristopher Davis. Jim Barron presented all evidence to Laura Olander for logging. Evidence #1 is NPV #1799 as filed on the website. Evidence #2 is the research cover sheet. Evidence #3 is the search done by Jim Barron for tickets called in to Dorsey Road & Coca Cola Drive. Evidence #4 is another ticket search. Evidence #5 is an emergency ticket called in on the date of damage by Cossentino Contracting Co., Inc. to repair a sewer main and a storm drain. Evidence # 6 - 12 are pictures of damage at the site.

The only ticket Jim Barron found in his research was an emergency ticket by Cossentino Contracting Company after the damage was done. There was no locate request, no notifying damage to facility, and there was abuse of the emergency ticket system. Jim Barron read the type of work performed as stated on the emergency ticket per Chairman Kevin Woolbright's request. Kevin reiterated this was called in after the damage, however, on the emergency ticket there was no indication of damage. Authority member Art Bell stated that nobody is sure when the actual damage occurred, but it is evident that an emergency ticket was called in after the damage. This was also an installation ticket, not a repair, clarified by Tom Baldwin. Kevin called Mr. Kristopher Davis to speak. Kristopher Davis said Cossentino Contracting Company has been in business for over 4 decades and were in process of transferring responsibilities of Miss Utility tickets. There was a misunderstanding and failure to call in a ticket. The damage was done on the same day as the ticket was called in. They were installing a new storm drain and they simply made a mistake and didn't call in a ticket, as well as another mistake of calling in an emergency ticket. He admitted that they were in the wrong. He also stated that this is the first time in 46 years they have done this. He brought examples of times when he stated that things weren't marked correctly by Miss Utility and, in turn, there were thousands of dollars of fines to his company. Authority member Walter Gainer reminded him he has recourse and he can file a complaint to the Authority against Miss Utility. Then, Marcia Collins asked Mr. Davis about why he didn't notify the facility owner and if his field crews have been trained to do so. Mr. Davis said yes, but again, they are in the middle of training a new person. Authority member Tom Hastings asked if this was first day on this job and Mr. Davis replied yes. Authority member Art Bell asked if there were any marks on the ground when he arrived at the site. Mr. Davis said there were not. He was also asked if he was aware there was no ticket. Mr. Davis said he was not aware of this because they always call in tickets. Authority member Tom Baldwin asked what triggered the call. Mr. Davis said that knowledge of the damage triggered the ticket call. Next, Chairman Woolbright called Verizon to the table. Mr. Baker from Verizon was made aware he is still under oath and came to the table. He discussed the emergency ticket and the damage. He was asked what happened when he arrived to the site the day after damage occurred. He said that there was a misunderstanding and in turn, extensive damage. Art Bell asked if Mr. Baker ever received a call about a damaged line and the answer was no. Chairman Woolbright read from the Damage Prevention Guide regarding abuse of the emergency ticket system and page 44 regarding no locate requests and damage penalties. Ticket requests as well as due care to avoid damage or interference was also read aloud. Chairman Woolbright concluded by reading the section regarding the Authority's decision process.

NPV #1799 concluded at 11:32 am.

Now that all NPV's are finished for the day, Jim Barron discussed the rest of the agenda which included appeals and post hearing updates. Also, post review/pre-hearing updates were discussed. Need to subpoena R&D Construction because they are not responding to certified letters. Motion made and all members of the Authority were in agreement to subpoena R&D Construction.

NPV #1216 - The August 6th hearing has been moved to November 5th.

NPV #1677 - A motion was made to subpoena. All in favor.

NPV #1723 - Mr. Beuchert asked for a reduction in his fine. Motion was made and the Authority voted no.

Next, today's hearings were reviewed by the Authority members. NPV #1318 - \$2,000 fine plus training is recommended. Walt Gainer said people cannot use other people's tickets and this needs to be widely known. Tom Baldwin said a company that obviously knows law should know better but they do not break law regularly and are trying to correct problem. Tom Baldwin moved for a reduction in fine. Scott Brown discussed that this company is very actively participating to do better. Motion was made for \$500 fine plus training. All in favor with exception of Art Bell who opposed. Motion passed.

NPV #1599 - \$2,000 fine plus training recommended. Jim Barron researched AC Crane and found that they very rarely call in tickets. Tom Baldwin made a motion to fully fine them along with training. A Motion for \$2,000 fine and training was made. All in favor with exception to Art Bell. Motion passed.

NPV #1799 - \$6,000 in fines with a \$2,000 discount for training. Guest Vince Healy with Verizon spoke and said Cossentino Contracting Company calls in a lot of tickets but they kept working even after the damage. He said bad decisions were made in this instance but he and Kristopher Davis from Cossentino Contracting Company are staying in touch. Another motion made for \$6,000 and training. Original \$6,000 in fines was reduced to \$4,000 plus training. A Motion was made and passed.

Other NPV's for Review by the Authority:

NPV #1954 - Washington Gas vs. Phoenix Fence & Deck and NPV #1955 - Washington Gas vs. LF Superior Framing Construction. Both are no tickets. Motion was made for \$2,000 fines and training. All in favor.

Non-Member Updates - Norfolk Southern Railroad needs to be sent a letter. A Motion was made to send a letter with a \$2,000 fine. All in favor.

The next meeting is August 6th with three hearings currently scheduled.

There being no further discussion or business of the Authority, the meeting was adjourned at 12:37 pm. The next Authority meeting is scheduled for Wednesday, September 3, 2014.