

Maryland Underground Facilities Damage Prevention Authority

MINUTES OF MEETING OF AUTHORITY Wednesday, August 6, 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, Art Bell, Walter Gainer, Veronica Davilla Steele and Marcia Collins. Bernard Cochran and Tom Hoff were absent. Guests included Mark Posten with Mark Posten Excavating, Tad Miller with Columbia Gas of Maryland, Dora Parks with Miss Utility, John Berrettini with A/I Data, Thurman Smith with Utiliquest, Champe McCulloch with Maryland AGC, Jon Fisher with American Turf, Robert Glidewell, Scott Brown, and Travis Day with Washington Gas and Vince Healy with Verizon. Bruce Bereano was also in attendance.

Official roll call was given by Chairman Kevin Woolbright.

There is a quorum.

Report of the treasurer - Jim Barron presented copies of the treasurer report. So far this year, the Authority began with a balance of \$19,320.78. The Authority has been given grants accumulating \$75,000 from Subscribers and an NPV filing fee of \$200, totaling \$75,201 this year. Majority of expenses went to the Executive Director position and legal fees. Total disbursements have been \$65,931.75 which leaves a cash balance of \$28,500.03. Scheduled to pay attorneys again soon. Jim Barron also noted there is an Education fund with \$37,733.08. Several checks will be going out soon to also pay for educational needs (Spanish training video done by MGH and children's coloring book on damage prevention) which will slightly reduce this balance.

There will be two hearings taking place today: NPV #1677 and NPV #1872.

Next, Chairman Woolbright introduced Mr. Bruce Bereano and said Bruce was going to give a presentation regarding a proposal for new legislation. Bruce Bereano said he also represents Washington Gas among other utilities and has been working toward following the example of what Virginia did years ago when they added provisions to their laws regarding cross boring. Bruce pointed out that there is a copy of this proposed legislation for everyone to review. Under the current 811 law, the Authority is required by law to submit an annual report to the Governor of their activities along with any proposed legislative recommendations. Bruce said he will work to get appropriate sponsors for this new bill. He further stated that there have been many stakeholder meetings regarding this proposed new legislation, and wants the Authority to consider recommending this piece of legislation into law. Robert Glidewell from Washington Gas spoke next and said he works with special projects and has been involved in this issue. Travis Day from Washington Gas who is also in attendance, is also involved. Mr. Day went on to discuss the issues. He stated that cross bores, and their presence over time along gas lines have potential for great damage in the future. The methods and placement of cross boring and potential for damage are the issues at stake. There are two types of risk: one from past installations and one involving future installations. CCTV was briefly discussed and other technology being used. The call before you clear program was also briefly discussed for on-site response before damages happen. Some areas of pipe are not locatable but they are proposing new installations with plastic locatable pipe and tracer wire. Mr. Bereano then discussed that

this is currently being done in Virginia and is highly recommended doing the same in Maryland. This will be the first request for proposed legislation by the Authority. The effective date of this new proposal would be October 1, 2015 and only concerns sewer lines that are new and replacement non-metallic sanitary sewer piping. What is already in the ground is not applicable.

Tom Baldwin asked if there is a reason why new water installation isn't included in the proposal. Bruce Bereano said it was discussed at workgroup meetings but they are going to begin with this first because getting into water installations would entail getting involved with MACO and MML and would cause a lot of difficulties and legislative politics they would rather avoid for now. Scott Brown clarified that there are two reasons they are only dealing with sewers for now: 1) there is more of a significant chance of injury with sewers and; 2) this is the first legislation from the Authority and was an easy sell in Virginia. In other words, this is just a first small step along the way and this is the easier route to begin with.

Chairman Kevin Woolbright thanked them for the brief overview and said the Authority will return to this later but to please think about this until they revisit the issue. Kevin officially tabled the cross bore issue for now.

Five minute break.

Chairman Woolbright officially began the meeting again at 9:44 am.

Kevin Woolbright discussed there is a quorum present so they can move forward with the hearings scheduled today. The only two members absent are Bernard Cochran and Tom Hoff. There are seven Authority members present as listed above in introductory remarks. He noted for the record that the hearings are being recorded.

First hearing is NPV #1677 - Washington Gas vs. Mark Post Excavating. Representative Scott Brown from Washington Gas and Mark Post from Mark Post Excavation are present. Kevin Woolbright then asked if those in attendance for the hearings had a copy of the excavation guide. Kevin made sure everyone had a copy so they could follow what he was reading. From page 32, Kevin discussed how the hearings would work and the Authority's decision-making process. Kevin administered the oath to Mr. Scott Brown, Mr. Mark Post and Executive Director Jim Barron. Mr. Post came to the table. Jim Barron introduced all the evidence, logged it and made sure everyone had copies. First piece of evidence was NPV #1677. Jim said he researched and verified location. Then he went to the ITIC website and entered the date and address of the violation and did a search. 10276 Stewards Chance Lane - there were no Miss Utility tickets found for this location so he expanded his search. Eventually, he found a ticket called in by a homeowner but for a different address close by. He never found a ticket for the address or for Mark Post Excavating through all his searches. The damage was on gas service. Washington Gas submitted a damage report and they noted they had a 3/4 inch gas service that was damaged by Mark Post Excavating while installing water and sewer but there were no tickets called in for this work. Mark Post politely interrupted and said the diagram Jim Barron was showing was wrong but he admitted his company did the damage and no ticket was called in. He further stated that the employees on this job were terminated and this was his company's first offense in 25 years of business. He is asking for leniency. He is no longer working and will be officially out of business at the end of December. He is leaving Maryland because there is no money to be made here anymore. The past 5 years he has lost money. Chairman Woolbright asked Mr. Post if he was sure they didn't want the Authority to move forward with the evidence. Mr. Post said he has already written a check for the damage and none of this matters at this

point. No, he doesn't want the Authority to present any more evidence. He is too frustrated with this business and all the laws and the fact he just can't make money anymore doing this. Mr. Post discussed all the problems he has encountered. Mr. Woolbright, for the record, made sure Mr. Post didn't want any more evidence presented regarding this NPV. Mr. Post said he was sure he did not want to move forward with this by the Authority or by Washington Gas. He admitted fault in this NPV and just wants some leniency. Tom Baldwin asked him how many tickets he believes he has called in over the years and Mr. Post said every day, 6 days a week for 25 years. Jim Barron added that he looked into this from 2013 thru 2014 and found 75 tickets in Maryland and Mr. Post is correct about this. Chairman Woolbright asked if there were any more questions from Authority members. Marcia Collins said she was sorry he was leaving the industry and thanked him for his honesty. Kevin Woolbright also thanked Mr. Post for coming to the hearing and for his honesty.

This officially ended NPV #1677. It is 10:06 am.

Chairman Woolbright began NPV #1872 - BGE vs. American Turf at 10:07 am.

Mr. John Fisher, the representative from American Turf, was asked to come to the table by Chairman Woolbright. John Fisher is the Operations Manager with American Turf. He and Jim Barron were sworn in by Chairman Woolbright.

Chairman Woolbright began by referring to the excavation guide, page 30, 12-109 regarding the quorum. Again, on the record, there is a quorum as listed above.

Kevin Woolbright also read from page 32 12-113 for the record regarding how the hearing works along with the decision making process. BGE representatives involved with NPV #1677 were not yet present.

Jim Barron entered all the evidence against American Turf and provided copies for everyone. The original NPV against American Turf that was filed on April 9th was discussed. Jim said he reviewed all the information in the NPV and then performed a search on the address where damage occurred in Hanover, Maryland. There were no tickets found for this location. Search was expanded and Jim found four tickets for the address where damage occurred. American Turf showed up in Jim's search with a ticket on the 7th but the incident occurred on the 3rd so this ticket was called in after damage was done. Jim pulled the ticket and confirmed this was called in after damage was done. Jim eventually looked for any tickets from American Turf around this time period and, again, this same ticket was the only one found that was filed on the 7th. Jim reviewed BGE's complaint. In their complaint, BGE stated they had asked someone from American Turf if a ticket was called in and the answer was no. Next Jim showed photos taken where damage occurred and the actual damage. The final photo Jim presented was the address in front of the house where damage occurred. The final piece of evidence Jim presented was a letter he received from American Turf where they admitted that a Miss Utility ticket was not called in and also admitted to the damage to the gas line. This concludes the evidence. Kevin Woolbright asked if there were any questions from the Authority. Kevin then asked John Fisher if he had anything to add. Mr. Fisher said they already paid BGE for the cost of the repairs to the damage they did. The financial impact has been addressed so he wasn't sure why he had to be in front of the Authority today. BGE reps just walked into the meeting as this question was being asked and Kevin went ahead and explained to Mr. Fisher why he was in front of the Authority even though they already paid BGE for the damage. Chairman Woolbright explained that on top of the damage, even though they paid for it, they can also be penalized with fines by the

Authority for the violation. Mr. Fisher said he had been in this business for a number of years and he has been calling in tickets for 13 years. As the economy has changed, they have expanded their services and in this case they were installing a drain line and this particular division of the company doesn't have as rigid procedures as other divisions in their company and they are still learning. They can't always respond as fast to their customer needs because of the ticket process and the delays it causes. Since this issue, they have taken the offered training class at Miss Utility. They also had training in 2005. This was their first offense and he would like their safety record taken into account because they have a very good background. Authority member Art Bell brought up clear evidence and that they were too close to a gas line and nobody seemed aware of this and this was bothersome. John Fisher said the site superintendent who was there swore he knew where the line was but agreed that this will not happen again. Authority member Tom Baldwin thanked Mr. Fisher for already taking the training but cautioned that they not take it upon themselves to do their own locating. They are not allowed to do that. Locating has to be done independently. Kevin asked Mr. Fisher if he wanted to hear the evidence from BGE since he has admitted fault. Mr. Fisher said it wasn't necessary to call BGE to the table to present evidence. Dave Miller introduced himself as the representative from BGE in this matter. Kevin Woolbright then asked, for the record, for Mr. Fisher to turn to page 36 of the excavation guide regarding calling in tickets before excavation. Then on page 38 of the excavation guide, Kevin discussed that the law states you have to wait 2 days for a facility to be marked after calling in a ticket. Mr. Fisher said the challenge is patience and dealing with customers who don't understand the delays. Tom Baldwin further explained the reason for the laws. Kevin then read from page 41 regarding unmarked areas and clear evidence and excavation cannot take place if there are no markings. Then Kevin read from page 32 regarding the Authority hearing process and the decision making process as well as recourse for the violator if they want to appeal the decision. Mr. Fisher said he understood. Kevin suggested that Mr. Fisher thoroughly review the excavation guide and that they are provided to all his workers for educational purposes. Kevin said training should be provided for all his employees out in the field involved in excavating. Authority member Tom Hastings also recommended he attend the damage prevention meetings on the 4th Tuesday of every month. Chairman Woolbright asked if there were any more questions or anything anyone wanted to add. There were no more questions. Kevin thanked Mr. Fisher for attending today's hearing. NPV # 1872 was officially over at 10:51 am.

Hearings have been completed. The Authority members entered into an Authority Revenue Subcommittee meeting.

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