

Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes Wednesday, August 5, 2015

Agenda Items 1, 2, 3 & 4:

Call to Order, Attendance Roll Call & Welcome

The meeting was called to order by Authority Chairman, Kevin Woolbright at 8:59 a.m. in the Miss Utility One Call Center, Conference Room, 7223 Parkway Drive, Hanover, MD 21076.

The Chairman recognized the new Board Appointees prior to the attendance roll call.

A roll call of the Board of Directors was conducted by Ms. Stroud. A quorum (8) was present for the morning session.

In attendance were Authority members Kevin Woolbright, Walter Gainer, Matt Ruddo (new member), Art Bell (second term), Veronica Davila-Steele, Tom Hastings, Jeff Garner (new member) and Vince Healy (new member), were present for the morning session. Board Member Marcia Collins was absent. Susan Stroud and Jim Barron were also present.

Guests included: Tom Rother, T.R. Electric, LLC; Dora Parks, Miss Utility; Scott Brown, Washington Gas; and Thurman Smith, Utiliquest.

Agenda Item 5: (Handouts)

Approval of Minutes:

The July 8, 2015 minutes were approved and will be posted on the Authority website.

Agenda Item 6: (Handouts)

Authority Treasurers Report:

The Executive Director provided financial statements for July. He reported that the Operating Account has a balance of \$114,764.94 and the Education and Outreach Account has a balance of \$24,674.62. There are no outstanding bills at this time. The Executive Director also noted that legal fees for the Authority to-date are \$49,285.93. He also stated that the other half of the PHMSA grant has been released, but there is a problem with the Delphi e-payment log-in. Also, the Exec. Dir. reported that the move to the new office is complete and noted the outlay for office furniture in the financial report. The financial report was approved by acclamation.

Agenda Item 7: (Handouts)

Appeals:

- Oral arguments for Pinpoint/WSSC (NPV's 316a, 316b, 408, 411a and 411b) are set for hearing in the Maryland Court of Special Appeals in October of 2015.

- The Court of Special Appeals ruling on NPV# 283 (Reliable Contracting v. MD Underground Authority) was filed on April 30, 2015. The Authority filed its “Opposition to Petition for Writ of Certiorari” on June 15, 2015. There has been no answer from the court at this time.
- Pinpoint/WSSC – NPV’s 1216, 1834, 1841 & 1853 were appealed to the Circuit Court of Anne Arundel County on March 25, 2015. No date has been set for Oral Arguments. Also, Pinpoint has hired new Counsel, who has filed a PIA request with Authority.

Agenda Item 8:

Hearings:

NPV# 2504 & NPV# 2514 (these two NPV’s were held together)

At 9:15 the Chair called the hearing open and requested that the recorder be turned on. The violations for NPV#’s 2504 and 2014 were mismarked and not marked respectively, the Board recommendation was for a \$2,000 fine for each violation as well as training. The Chair swore in Thurman Smith, the Verizon representative and Jim Barron. There was no one present from Cossentino Construction. The Chairman explained the process. The Verizon representative stated that they had no dispute with the charges and waived the presentation of evidence by the Authority. Board Member Vince Healy (Verizon) recused himself from the proceedings.

Mr. Thurman stated that his concern was that they had been assessed two (2) fines for the same job, which he claimed was “double jeopardy”. He also stated that the training provided by the Authority was not suitable for the type of activity the locator engages in. And that their in-house training was more apropos. He also queried why the maximum penalty was assessed for a 1st violation.

Member Gainer asked what caused the mismark and the non-mark and was told that the technician failed to connect with the 3rd wire on the street and that there was no trace wire at the intersection. The technician has already been retrained. Since there was only one ticket, Mr. Smith was asked if this was the same locator. The answer was yes. Member Ruddo noted that the ticket covered almost a mile stretch of Sugarcone Road. Prior to closing the hearing for both violations, the Executive Director gave the evidence file to the Secretary to be entered into the record. The hearing was closed at 9:36 a.m.

NPV# 2896

The Chairman called the hearing for NPV# 2896 at 9:37 a.m. The violation was for no notice to the one-call center (1st violation). The recommended fine was \$2,000 and training. After explaining the process, the Chair swore-in Mr. Thomas Rother, TR Electric, Scott Brown, Washington Gas and Jim Barron, Executive Director. Mr. Barron then entered the official evidence file into the record and proceeded to present the evidence for the Board.

Mr. Rother stated that he was working for “Sign of the Times” to install a new sign at Mother Seton Parish Church. At the time of the damage, Mr. Bender told the Washington Gas crew that he worked for TR Electric. Mr. Rother stated that Mr. Bender was not an employee, but a friend, who was a plumber, who helped him out from time to time. Mr. Bender was to dig a trench for electrical conduit across the church drive-way from a light post to the new sign location. While “hand-digging”, Mr. Bender hit and damaged a dead end 3/4” main, on a 2” purge “T”.

Mr. Rother stated that there were marks on the driveway, but did not know if they were where the damage occurred or what color they were. He was not present at the site when the damage was done.

Mr. Barron testified that there was no ticket in TR Electric's name or the excavator, Mr. Bender. A ticket was found in the system, presumably filed by the church or Signs for Tomorrow. Mr. Rother stated that he was guilty of not having the ticket in his name. He stated that he does not excavate and does mainly residential work and "...always calls Miss Utility". When searching for previous tickets, no tickets were found in the company's name for 2014. After a few more questions by Board members, the Chair called the hearing to a close at 10:10 a.m.

Agenda Item 9:

New NPV's for Research and Review (September meeting)

Note: Please refer to the August 5, 2015 Agenda for a listing of the new NPV's

Agenda Item 10:

Non-Member Updates

- MML & Municipalities
 1. Baltimore County – Ms. Stroud, Authority Assistant has been in touch with Mr. Adams' assistant as a follow-up to the letter sent to him, requesting a meeting. Mr. Adams' assistant stated that she would respond if he "was interested" in meeting with us. We will follow up next week with another phone call. In addition, it was reported that Baltimore County has hired KCI engineering to mark their fiber optic lines. KCI is direct billing contractors which if true is not permissible. Four (4) representatives from Baltimore County did attend the last DPC meeting. Dora Parks reported that Montgomery County has a fully executed agreement, but is only marking fiber optics, their locator of record is Pinpoint. Also, the town of Funkstown is now up and running.

Agenda Item 11:

Old Business

- Fining Matrix – In process
- Revenue Authority – The Subscribers Committee is due to report back to the Revenue Committee with new recommendations. It was mentioned that the Subscribers, namely Verizon, feel they cannot maintain the current \$20,000 grant level to the Authority.
- Authority Appointments – New appointees have been seated.
- Revised NPV review process – In process, waiting for matrix.
- PIA Request – No action. Waiting for Attorney response.
- Change November Meeting Date – Board suggested that the November and December meetings be "blended". Exec. Dir. to offer new dates at Sept. meeting.
- PHMSA Grant – waiting for the next installment/issues with Delphi e-payment system.
- NPV# 2898 (Washington Gas v. Diversified Site Works, LLC) – Defendants have accepted the recommended fine and training, but would like to set up a payment plan. Five (5) payments of \$400. A motion was made to accept the payment agreement, which passed by acclamation.

Agenda Item 12:

New Business

- New appointments: The Executive Director will be preparing letters in the next week to solicit nominations from the Authority member organizations for the new terms. Members Walter Gainer and Kevin Woolbright are “termed-out”. Public member, Ms. Davila-Steele is eligible for one more 1-year term, as is Locating Contractor Representative, Tom Hastings. The Board will seek advice on the status of Ms. Collins status from MaCo.
- The new Board members were advised to file their financial disclosures with the Maryland Ethics Commission ASAP. The reports will be for the 2014 reporting period. Also, the Executive Director requested that the new members send him bios and photos within the next 30 days.

Agenda Item 13:

Future Meeting Dates

- The next meeting will be held on Wednesday, September 2, 2015. This meeting was originally scheduled for a business only meeting, however a hearing has been requested for NPV# 3165- Washington Gas v. Civil Construction.

Agenda Item 14:

Adjournment/Executive Session

- The August 5, 2015 Authority meeting was adjourned at 10:00 a.m.
- A motion to go into Executive Session was approved via recorded roll call and began at 10:10 a.m.

Respectfully submitted by:
Susan Stroud