

# Maryland Underground Facilities Damage Prevention Authority

AUTHORITY MEETING Minutes  
Wednesday, December 2, 2015

Agenda Items 1, 2 & 3

## **Call to Order, Attendance Roll Call & Welcome**

The meeting was called to order by Authority Chairman, Kevin Woolbright at 9:00 a.m. in the Miss Utility One Call Center, Conference Room, 7223 Parkway Drive, Hanover, MD 21076.

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

In attendance were Authority members Kevin Woolbright, George Taylor, Matt Ruddo, Veronica Davila-Steele, Tom Hastings, Vince Healy, Jeff Garner, Art Bell and Marcia Collins for the meeting. Susan Stroud and Jim Barron were also present.

Guests Included: Dora Parks, Miss Utility; Scott Brown, Washington Gas; Marc Haines, BGE, Charles McCadden, BGE and Erik Phillips, Utiliquest.

Agenda Item 4: (Handout)

## **Approval of Minutes:**

A motion was made to accept the amended October 7, 2015 minutes was made, seconded and approved by acclamation. They will be posted on the Authority website.

Agenda Item5: (Handout)

## **Authority Financial Report:**

The Executive Director provided financial statements as of November 30, 2015. He reported that the Operating Account has a balance of \$118,317.49 and the Education and Outreach Account has a balance of \$18,470.35. There are no outstanding bills at this time. The Executive Director also noted that legal fees for the Authority to-date are \$90,962.41. Member Ruddo requested information regarding the establishment of a budget. A budget for 2016 will be prepared now that there is an expense history to use as a guide. There is currently a budget utilized for the PHMSA grants. A motion to accept the financial report was made, seconded and approved by acclamation.

Agenda Item 6:

**Appeals:**

- Pinpoint/WSSC v. MD Underground Authority - (NPV's 316a, 316b & 408) – Oral arguments were heard on October 13, 2015. NPV's 411a and 411b were not appealed. A decision was rendered by the Court on October 22, 2015. The document will be addressed in Executive session.
- Reliable Contracting v. MD Underground Authority – (NPV# 283) - Oral arguments will be held on January 8, 2016 at 9:30 a.m. in front of the Maryland Court of Appeals. This case specifically addresses the constitutionality of the Authority.
- Pinpoint/WSSC – (NPV's 1216, 1834, 1841 & 1853) were appealed to the Circuit Court of Anne Arundel County on March 25, 2015. Oral arguments were scheduled for January 4, 2016, however the plaintiff's attorney has asked for a stay pending the decision on the Reliable Contracting case.

Agenda Items 7 & 8:

**Scheduled Hearings:**

There are no hearings scheduled at this time, however a request has been made for a hearing at the January 6, 2016 meeting. (NPV# 3921 Washington Gas v. The Bartley Corporation). Since the January meeting will be the first meeting of the new year, a number of administrative matters will have to be addressed as well as new members seated, the Executive Director will work to have the hearing(s) moved to February's meeting.

Agenda Item 9:

**Post Hearing Updates:**

Please refer to the December 2, 2015 agenda for the disposition of the post hearing NPV's. There was general discussion regarding the Authority's ability to track and flag repeat violators. There is currently a tracking document for all NPV's to-date, but no mechanism to filter by company etc. It was suggested that once a statutory funding stream has been established, it might be possible to request in the 2016 PHMSA grant application monies for tracking software. Currently 1<sup>st</sup> Offense status is only used for "no call" and there is a mechanism to assess further fines on subsequent "no call" violations by the same violator. This is addressed in statute. It was asked if prior behavior of a violator could be taken into consideration when reviewing a case. The Executive Director said he would run it by the Authority attorneys. There was also discussion about the violators who have paid their fines but have not completed training. There is currently no process for enforcement. This issue and other enforcement issues will be addressed in future rewrites.

Agenda Item 10:

**Accepted Recommendation and Waived Hearing:**

NPV# 2130 – Washington Gas v. Mulford Construction - \$4,000 fines plus training for no call and clear evidence. Fine has been paid, no training scheduled as yet.

Agenda Items 11 & 12:

**Post Review/Pre Hearing Updates & Collection:**

Please refer to the December 2, 2015 agenda for these updates.

Agenda Item 13:

**NPV's for Authority Review:**

<b>PV#</b>	<b>Case</b>	<b>Status</b>
NPV# 3923	Wash. Gas v. Magnum Magno Excavation & Construction.  Failure to Maintain Marks; Duties of Excavator & Clear Evidence.	7-1-1-0 approved on second motion \$1k fine + training for non-maintenance of marks training. \$1k Clear Evidence
NPV# 3952	Wash. Gas v. Fence & Deck Connection, Inc.  Ticket not cleared or marked; Clear evidence.	9-0 approved \$1k fine for ticket not marked or cleared \$2 fine + training for clear evidence. Reduce fine by \$1k if training is completed within the specified time limit.
NPV# 4047	Wash. Gas v. The Deck & Fence Connection, Inc.  Maintenance of marks, Clear Evidence.	9-0 approved Waive fine for maintenance of marks. \$2k for clear evidence + training. Fine will be reduced to \$1k if training occurs within the specified time limit.
NPV# 4048	Wash. Gas v. Cherry Hill Construction  Duties of Excavator; Clear Evidence.	6-2-1-0 Approved  \$2k for duties of excavator \$2k for clear evidence Reduce total fine by \$2k and waive training due to having proactively taken training.
NPV# 4196		Tabled until next meeting
NPV# 4197		Tabled until next meeting
NPV# 4205		Tabled until next meeting
NPV# 4206		Tabled until next meeting
NPV# 4207		Tabled until next meeting
NPV# 4274		Tabled until next meeting

Agenda Item 14:

**New NPV's for Research and Review (35 reviews):**

Please refer to the December 2, 2015 Agenda for a listing of the new NPV's

Agenda Item 15:

**Non-Member Updates:**

- MML & Municipalities
  - Baltimore County – After sending a letter to County Executive Kevin Kamenetz, the Authority was contacted by Ed Adams, Baltimore County DPW Director to set up a meeting. Jim Barron and Kevin Woolbright attended the meeting. Ed Adams, Tom Kiefer and Steven Walsh with the county were also in attendance. At the meeting the discussion surrounded the marking policies of the County. They stated that they are now marking all forced mains, but not gravity lines since there is such a low (1) incidence of damage to these lines. The Authority received a letter on December 1, 2015 from Mr. Adams restating their new policy for forced mains. They also plan on improving lateral connections cards. The Vice-Chair suggested that the Executive Director draft a letter for the Chairs signature as a follow-up to the county's letter, indicating their need to mark gravity lines, as proscribed by Title XII.
  - Montgomery County – The Authority received a response to their letter to County Executive Leggett via the Acting Director of the MoCo Department of Transportation. It stated that they are marking their fiber-optic cables and that most of the underground facilities in their county are privately owned. They acknowledged that there are some electrical connections for street lighting that is theirs and they intend to start marking them when their mapping is completed. The Board agreed to send a follow-up letter to Montgomery County DOT and cc. the County Executive regarding their response.
  - Municipalities – In process

Agenda Item 16:

**Old Business**

- Fining Matrix – In process
- Revised NPV review process – In process, waiting for matrix.
- Revenue Stream – Legislation will be introduced at the 2016 session of the Maryland General Assembly to add \$0.05 to each outgoing ticket (MML & MACo will be exempted). Delegate Derek Davis and Senator John Astle will be the bill sponsors.
- Authority Member Terms Status – Letters have gone out to all nominating organizations regarding expiring terms. Marcia Collins the MACo representative will be replaced by Jim Dipietro; Veronica Davila-Steele, the public member will seek a second term;

Agenda Item 16 cont'd:

Walter Gainer with the PWCA has been replaced by George E. "Bucky" Taylor; Tom Hastings the Locator representative is seeking a second term; and' Kevin Woolbright who is term limited, Scott Brown has been nominated to replace him as a facility owner representative.

- PHMSA Grant Status – We have been authorized to invoice for the first \$50,000 of the 2015 grant. The 2016 grants have not been advertised as of this date.

Agenda Item 17:

**New Business:**

- Member Art Bell stated that the new Tracer Wire policy as a result of legislation passed this year by the MD General Assembly is not being followed by the counties. There is one exception; Carroll County is adhering to the new policy.
- The Chairman asked the Authority members to begin thinking about new leadership for the 2016 term. The Authority will need to elect a new Chair, Vice-Chair; Treasurer and Secretary.

Agenda Item 18:

**Future Meeting Dates:**

- The Authority unanimously approved the 2016 meeting calendar.
- All meeting will be scheduled as day-long meetings with lunch provided since the review and hearing schedule will be very busy next year.

Agenda Item 19:

**Adjournment and Move to Executive Session**

- The Chairman called for a motion to adjourn the meeting at 12:20 p.m. The motion was approved by acclamation.
- The Chairman motioned to go into Executive session. A roll-call vote was taken; which passed unanimously.

Respectfully submitted by:  
Susan A. M. Stroud  
Assistant to the Executive Director