



Maryland Underground Facilities Damage Prevention Authority
AUTHORITY MEETING
Minutes

Wednesday, March 4, 2020

Agenda Items 1 and 2:

Call to Order/ Welcome:

The meeting was called to order by Chair, Erik Phillips at 9:08 a.m. in the Miss Utility Call Center, Conference Room, 7223 Parkway Drive, Suite 200, Hanover, MD 21076.

Mr. Phillips welcomed all present, made a few introductory remarks and introduced the guests which included: Dora Parks, Miss Utility; Tom Hastings, OCC Locating; and, Mark Hamrick, Verizon.

Agenda Item 3:

Seat MACo Representative:

The Executive Director introduced Paul Kwiatkowski with the Howard County Department of Public Works, who replaces Doug Levine as the MACo representative. Mr. Kwiatkowski will complete Mr. Levine's term and be eligible for two (2) additional full terms.

Agenda Item 4:

Attendance Roll Call:

The Recording Secretary conducted a roll call of the Authority members. A quorum was present. In attendance were Authority members: Erik Phillips, Amber Brengel, Tamara Neal, Joyce Brooks, Walt Gainer, Derek Shreves and Paul Kwiatkowski were present. Jim Barron and Susan Stroud were also present. Kelly Ruddo and Michael Jewel were absent.

Agenda Item 5: (Handout)

Approval of Minutes:

Chairman Phillips continued the meeting, calling for the review and approval of the January 8, 2020 Open Session minutes. There was no February meeting. A motion to accept the minutes as written was made by Vice Chair Joyce Brooks and seconded by Ms. Neal. The motion carried and the minutes were approved.

Agenda Item 6:

Hearing Scheduled for Today:

NPV# 18232 – Verizon vs. Solid Brick Contracting, LLC, submitted 01/22/18

Alleged Violations occurred on 12/18/17; §12-124 (a) – Notice to one-call system – 1st Offense and §12-127 (d) (1) – Did not notify facility owner of damage. Recommendation was \$4,000 fine reduced to \$2,650.00 through the SFM a discount of \$1,000.00 for completion of Damage Prevention Training netting a \$1,650.00 fine.

The hearing began at 10: 16 a.m. in the Miss Utility Conference Room. Chairman Phillips read instructions and asked for representatives from both parties to come forward. Mark Hamrick was present for Verizon; No one was in attendance for Solid Brick Contracting, LLC. An attendance roll call was conducted and recorded by the Recording Secretary. There were seven (7) members present. The Chairman then swore in the Executive Director, Mr. Barron and Mr. Hamrick. Mr. Barron was instructed to present his evidence against Solid Brick Contracting, LLC. The recording secretary entered the official evidence package into the record and distributed copies to the Authority, and Verizon, the complainant.

During the hearing, Mr. James Barron, Executive Director of the Authority presented evidence and entered it into record substantiated facts supporting the findings of the Authority Recommendation letter dated May 9, 2018 to Solid Brick Contracting, LLC at 182 Ferring Court Abingdon, MD 21009-3216 attention Mr. Oscar Padilla outlining the Recommendation of the Authority, options available to Solid Brick Contracting, LLC, requirements of Maryland's Administrative Procedures Act that apply to the Authority's Administrative Proceedings and a copy of Invoice No. 05.09.18.18232.001. The letter was received on May 17, 2018.

With no response to the May 9, 2018 Recommendation Letter a "Second and Final Notice" letter was sent by Certified Mail on June 25, 2018 with a copy of Invoice No. 05.0918.8232.02 attached. The letter was returned unclaimed July 23, 2018. We then sent the same 05/09/18 "Final Notice" letter by Process Service on July 27, 2018. Oscar Padilla of Solid Brick Contracting, LLC was personally served on August 4, 2018 at 8:03 AM.

Mrs. Padilla telephoned the Authority on August 8, 2018. She said her husband asked her to take care of this and asked me to send her documents on the case. The recommendation package was e-mailed on August 8, 2018 at 2:39 PM with instructions on what they needed to do along with a copy of the upcoming training schedule.

With no further response from Solid Brick Contracting, LLC, The Authority voted at their January 8, 2020 meeting to move NPV 18232 to a Formal Hearing. A Notice of Hearing Letter was sent on January 10, 2020 by Certified & Regular US Mail to Solid Brick Contracting, LLC at 182 Ferring Court, Abingdon, MD 21109-3216 Attn: Mr. Oscar Padilla. The Executive Director called Mr. Padilla on February 14, 2020 at 11:27 AM and left him a voicemail reminder the call about the upcoming Formal Hearing scheduled for March 4, 2020. Mr. Padilla returned and said he did not want to go forward with the Formal Hearing, would pay the fine and scheduled damage prevention training. He asked Mr. Barron to please e-mail him another copy of the invoice; which was emailed on February 14, 2020.

The Executive director concluded his presentation by stating that there was damage to a Comcast Cable TV line crossing in front of 712 Orems Road, Essex, Maryland servicing 714 Orems Road, Essex, Maryland. The damage was caused when the contractor was excavating with mechanical equipment to perform landscaping and to build a retaining wall at the end of the driveway to 712 Orems Road, Essex, Maryland. Solid Brick Contracting, LLC was identified by Mrs. Patricia Gillman of 714 Orems Road, Essex, Maryland on the date of the incident and then again by Mr. Mark Hamrick of Verizon through telephone conversations with Solid Brick Contracting, LLC. named the company responsible for the damaged to the Comcast Cable TV line crossing in front of 712 Orems Road, Essex, Maryland servicing 714 Orems Road, Essex, Maryland. Solid Brick Contracting, LLC did not have an active valid Miss Utility Ticket for the date, time and location of the damage. With no questions or comments from the Authority, the Chairman closed the hearing at 10:44 a.m.

The open meeting reconvened at 10:46.

Agenda Item 7 and 8:

Authority Financial Reports:

The Executive Director provided financial statements for January and February 2020. He reported that the January Operating Account had a balance of \$146,949.62 and, the January Education and Outreach Account had a balance of \$59,690.01. There were \$1,982.50 in fines and \$600.00 in filing fees during this period. There no legal fees for the month of January. In addition, revenues from the 5 Cent ticket surcharge continues to improve. Mr. Barron stated that for the month of November, \$15,448.35 was received, which is a \$671.80 increase over November of 2018. Chairman Phillips made a motion to accept the January financial reports, which was seconded by member Bregel. The motion was approved by acclamation.

The February Operating Account had a balance of \$220,989.02 and, the January Education and Outreach Account had a balance of \$57,864.787. There were \$1,260.00 in fines and \$200.00 in filing fees during this period. There no legal fees for the month of February. Mr. Barron stated that the ticket surcharge revenues for the month of December were \$14,250.40 was received, which is a \$702.60 increase over December of 2018. Member Shreves made a motion to accept the February financial reports, which was seconded by member Gainer. The motion was approved by acclamation.

Agenda Item 9:

Future Scheduled Hearings:

Hearings Recommended for May 6, 2020. Both NPV's were postponed from January at the request of the violator. Violator has made no attempt to settle.

- NPV# 18306 – Washington Gas vs. Arundel Excavation**
§12-124 (a) – Notice to one-call system – 1st Offense
- NPV# 27366 – Washington Gas vs. Arundel Excavation**
§12-124 (a) – Notice to one-call system – 2nd Offense

Agenda Items 10 &12:

NPVs to Move to Hearing	February 5, 2019
	None at this time
NPVs for Further Review	Case
NPV# 19577	Gaines & Co. v MCI/Verizon Business §12-126 – Marking Violation
NPV's Post Hearing Review	
NPV# 18232	Verizon v. Solid Brick Contracting, LLC §12-124 – No ticket §12-127 – Did notify owner of damage
New NPV's for Review	
NPV# 29872	Verizon v. Reliable Contracting Co., Inc. §12-124 (a) – No Ticket – 1 st Offense §12-124 (c) (3) – 12 Day Live of Miss Utility Ticket §12-125 (a) (1) – Failure to Repeat Notification if Excavation Not Complete §12-125 (a) (2) – Failure to Repeat Notification if Excavation is Expanded §12-127 (c) (1) – Due Care When Performing an Excavation §12-127 (c) (3) – Use of Mechanical Equipment within 18 inches of an Exposed Facility

<p>NPV# 29916</p>	<p>DXI vs. BGE §12-126 (b) (1) – Failure to mark within 18 inches §12-126 (b) (2) (ii) – Failure to use proper color codes §12-126 (c) – Failure to mark within 2 business days</p>
<p>NPV# 30088</p>	<p>Gaines and Company vs. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches §12-126 (c) (2) – Failure to report “Marked” to ITIC within 2 Business Days</p>
<p>NPV# 30174</p>	<p>Gaines and Company vs. BGE §12-126 (a) (1) – Failure to mark within 5 feet §12-126 (b) (1) – Failure to mark within 18 inches §12-126 (c) – Failure to mark within 2 business days §12-126 (c) (1) – Failure to report “Marked” to ITIC §12-126 (d) (1) – Unable to mark due to scope of work §12-126 (d) (1) (i) – Failure to notify ITIC & Contractor §12-126 (d) (1) (ii) – Failure to create a marking schedule §12-126 (d) (2) – Failure to proceed if no agreement §12-126 (d) (3) – Failure to mark after 48-hour delay</p>

Agenda Item 11:

New NPV’s for Research and Review (please see Handout)

Please see 03/04/19 handout for updates on these cases. There are currently five (5) NPV’s awaiting review. Currently complaints from contractors are the leading category of NPVs.

Agenda Item 13:

Old Business:

- The Title 12 re-write draft HB1330 & SB877 had hearing on February 27 and 25th respectively. Several amendments were proposed and will be voted on at second reader. The amendments consisted of changes to the emergency ticket time frame, changes to the homeowner exemption and some minor housekeeping amendments.

- Warning Letter Recommendations - Bryant Concrete Construction warning letter for an incident on 2/28/20.

Agenda Item 14:

New Business:

- Approval for Flywheel video production proposal for Online Safety Training module (closed executive session)
- The 2019 Financial Disclosures are due by the end of April 2020. In addition the members were asked for photographs and bios for the new website.

Agenda Item 15:

Next Meeting Date:

- April 1, 2020, 2020 @ 9:00 a.m. – **CANCELLED**
May 6, 2020@ 9:00 a.m. There will be Open and Closed sessions and two (2) hearings.

Agenda Item 15:

Adjournment and Move to Executive Session

- The Chairman asked for a motion to adjourn the open meeting and go into closed Executive session the meeting at 10:48 a.m. A motion was made and seconded. The motion was approved and recorded via roll-call vote.

Respectfully Submitted By:
Susan A. M. Stroud
Recording Secretary/Deputy Director