



# NCUDPRB MINUTES OF MEETING

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## NCUDPRB Board Meeting

**Tuesday, April 19, 2022 – 10:00am**

NC811 Event Center, Greensboro & Virtual via Microsoft Teams

**Board Members Present:** Megan Riley (Chair), Jonathan Holt (Vice-Chair), Lisa D. Smith Perri (Treasurer), BJ Lanier, Chris Russ, Fred Young, Greg Puckett, Tony Konsul, Larry Sanders, Ann Rushing, Amy Barron, Keith Holden.

**Others Present:** Juliane Bradshaw (legal), Cyndi Sosa (board administrator)

**Guests Present:** Charles Buck- Greenville Utilities, Doug Hayes- AT&T, Dan Bare- Duke Energy

**Quorum Present?**      ☒ YES    ☐ NO

**Meeting called to order by Vice-Chair at 10:04am**

Vice-Chair took roll call and asked if there were any guests on the call, guests noted.

**January 2022 Board Meeting Minutes Approved?**    ☒ YES    ☐ NO

**Motion by Greg to approve January 2022 board meeting minutes**

- Seconded by Chris
- Discussion- none
- Opposed – none

**Motion Carries**

### **Finance Report – Board Treasurer**

- Financial reports reviewed by Board Treasurer. As of March 31, 2022, total liabilities & equity \$303,645.12. Profit & loss for 1<sup>st</sup> quarter reviewed.
- All outstanding DOJ invoices have been received and we should not have issues going forward.
- Budget worksheet reviewed. Invoices have gone out at \$70,000. The budget this year takes into consideration a snapshot of actual expenses in the past year. We are in the red now but will eventually move over to a zero-balance budget.

**Motion by Lisa to pass the January 2022 through December 2022 budget as presented**

- Seconded by Greg
- Discussion- none
- Opposed- none

**Motion carries**

### **Communication Chair Update**

- Amy and Ann met after the last board meeting. Went over some ideas and things they want to implement such as tying a docket # to a case file.
- Ann and Cyndi met with John Black to review the process of editing the content on the website. Some minor changes were made, and a second meeting will be set to make a few more updates.



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## Definitions of Circumstances, Gravity, Culpability & History for UDPRB file review process

- Megan put together the following definitions as relates to how we use the above terms when reviewing case files.
  - Circumstances- A fact or condition connected with or relevant to an event or action
  - Gravity- Extreme or alarming importance
  - Culpability- Responsibility for a fault or wrong
  - History- The number of cases that have been found to have a violation submitted to the UDPRB for that company within the last 24 months

## Motion by Megan to enter these definitions into our UDPRB board process documents

- Seconded by Ann
- Discussion- none
- Opposed- none

## Motion carries

## Discuss Hearing Request for Case # 290

Board Administrator provided background information on case # 290. July 2021 board reviewed case # 290 and had a motion carry for violation of 87-122(a) with a penalty of pipes plus training for Martin May and a \$1,000 fine. Fine allocation was risk & circumstance. Ham Farms sent in more information following the boards decision and asked the board to take the new information into consideration. Board re-reviewed case during January 2022 board meeting and found the new information did not change the fact that they were still in violation of the law. Notes from January case review below. Ham Farms requested a hearing after receiving the boards decision following the January board meeting.

### Case # 290 - January 18, 2022

*Recusals, Megan, Chris*

*Motion by Ann to move forward with original violation of 87-122(a) with pipes plus training for Martin May and a \$1,000 fine for gravity-\$500 and circumstance-\$500.*

- Motion seconded Freddie

*Discussion- No reply to original notice of violation received. Alleged violator says tickets were called in for other locations along same road 12/28/20, 12/31/20 and 1/13/21. Ticket was not updated by day 12 as required by law. Ticket was called in only after damage occurred. Gas pipeline markers were visible, alleged violator knew there were gas lines in the area which supports a gravity and circumstance fine.*

- Opposed – none

*Motion carries*

As far as the hearing, Juliane would be the prosecuting attorney. She would bring in another attorney to hear the case and there would be a court reporter on site. Some of her other boards set dates throughout the year for hearings, this might be something to consider so once a request comes in, we can notify them almost immediately of the scheduled hearing date. Once a date is determined, the board would need to serve notice of the hearing, legal counsel recommends (30) days prior. The hearing still takes place if the other party does not show up. These meetings are open to the public. Legal counsel reminded the board that they will need to focus on the information the attorney brings and what the other party brings. Board members cannot go into the hearing using prior knowledge of the case.



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Board would like to set hearing for 10am, at the start of the next board meeting. Megan reminded board that this will most likely cause our meeting to run late so please plan on a longer meeting. Board administrator has a scheduling conflict in July. Legal Counsel suggests changing the date of the board meeting so board administrator can attend. Board administrator will send out a doodle poll to coordinate availability for the July board meeting.

**Motion by Greg to have the hearing for case #290 at the beginning of our next board meeting**

- Seconded by Chris
- Discussion- none
- Opposed- none

**Motion Carries**

**Re-review case # 409 & case # 419**

**Cyndi reminded board of the following notes on case #409 from January board meeting-**

*Motion by Megan for ticket information to be added to this case and then Board review file again*

- Motion seconded Freddie

*Discussion- Alleged violator admitted ticket had expired. Board feels they could use some training. Based on their positive response they have a remark of critical facility, so they know the gas line was there. They updated the ticket but did not wait. This goes back to best practices. Alleged violator states they had previous locates for the same location that had expired. Can we pull the old locate tickets # C211600300 & C211600310 for the board to review at next board meeting?*

*Opposed – none*

**Motion Carries**

**Case file # 409 re-reviewed on 4/19/2022**

Recusals- none

**Motion by Megan for violation of 87-122(a) with Pipes Plus Training**

- Motion withdrawn

**Motion by Ann violation of 87-122(a) with Pipes Plus Training for Conrad Thomas and penalty of \$500 based on gravity**

- Seconded by Chris
- Discussion- Yes, they had other tickets that were consistently being updated but they didn't have a valid locate for this location. The locate was called in after the damage was done. The fact that they were digging near a gas line without confirming a valid locate is alarming and grounds for penalty.
- Opposed – none
- **Motion carries**

**Cyndi reminded board of the following notes on case #419 from January board meeting-**

*Recusals – Greg*

*Motion by Ann for violation of 87-122(C)(9)a1 with a recommend penalty of PIPES plus training for Michael Tucker and a \$1,500 fine for gravity-\$500, circumstance-\$500 and culpability-\$500.*

- Motion seconded Freddie

*Discussion- \$500 for gravity, circumstance \$500 and \$500 for culpability. Blind boring near gas line, failure to spot 8" main gas line.*

*Opposed – none*

**Motion Carries**



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## Case file # 419 re-reviewed on 4/19/2022

Recusals- none

Motion by Freddie penalty remains the same, violation of 87-122(C)(9)a1 with a recommended penalty of PIPES plus training for Michael Tucker and a \$1,500 fine for gravity, circumstance, and culpability.

- Seconded by Jonathan
- Discussion- Cannot core the road unless it is called out specifically on their encroachment contract. There needs to be clarity. They could have stopped working to make sure there was a clear understanding however this company decided to continue working. DOT needs to do something about the contracts, there seems to be conflicting information. Maybe the DOT could have been contacted to get a representative out to the site before progressing with the job. The law trumps the DOT in this case, legal counsel agrees.
- Opposed – none

Motion carries

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11:15am – Board will take a 10-minute break and resume with case file reviews at 11:25am

## Case # 421

Recusals –

Motion by Megan 87-122(a) with training for Joseph Kelly Jr.

- Seconded by Chris
- Discussion – none
- Opposed – none

~~Motion Carries~~ / Motion withdrawn

Jonathan requests motion for Megan to withdraw original motion and re-open case #421 for discussion

- Seconded by Chris
- Megan withdraws original motion

Discussion – Is the complainant trying to educate the violators or are they just sending all damage reports to us? Would it be appropriate for the board to send a letter to the complainant asking if they are educating these companies? The law is the law, and the law might not require them to educate. If they submit a report, we are required to review the report. Seems most reports they file are for damages where a ticket was not called in.

New Motion by Ann for violation of 87-122(a) with Pipes plus training for Joseph Kelly Jr. and a \$500 fine for circumstance and gravity

- Seconded by Freddie
- Discussion- none
- Opposed- none

Motion carries



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## **Case # 424**

Recusals –

Motion by Freddie for violation of 87-122(a) & 87-122(c)9 with Pipes plus training for Jason Avery and a \$1,500 fine for circumstance, gravity & culpability

- Seconded by Greg
- Discussion – none
- Opposed – none

Motion Carries

## **Case # 425**

Recusals- none

Motion by Ann for violation of 87-122(a) with Pipes plus training for Cristobal Santillan and a \$500 fine for circumstance and gravity

- Seconded by Greg

Discussion – none

Opposed – none

Motion Carries

## **Case # 426**

Recusals- none

Motion by Freddie for violation of 87-122(a) with Pipes plus training for Jared Donahue with a \$500 fine for gravity and culpability.

- Seconded by Megan
- Discussion – Photos were not clear as to where he was trying to place fence, but its clear damage was done. He was a contractor excavating and should have known to call NC811.
- Opposed – none

Motion Carries

## **Case # 429**

Recusals – Ann, Chris & Jonathan

Motion by Freddie for violation of 87-122(a) & 87-122(c)9 with pipes plus training for Christopher Hunt and a fine of \$1,500 for circumstance, gravity, and culpability

- Greg seconded motion
- Discussion- none
- Opposed- none

Motion Carries

## **Case # 432**

Recusals- none

Motion by Ann for violation of 87-122(a) with Pipes plus training for Derrick Kilgore and a \$500 fine for circumstance and gravity

- Megan seconded motion
- Discussion – none
- Opposed – none

Motion Carries



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## **Case # 433**

Recusals – Jonathan & Chris

**Motion by Freddie to dismiss case, not applicable, no violation of Article 8A**

- Ann seconded motion
- Discussion – none
- Opposed- none

**Motion Carries**

**This completes the case reviews for this quarter.**

**Final comments from the board –**  
none

**Comments from the public –**  
Dan with Duke Energy, “Awesome Job”

Meeting Adjourned – 12:05pm

Approved