



NCUDPRB MINUTES OF MEETING

NCUDPRB Board Meeting

Tuesday, July 18, 2023 – 10:00am

NC811 Event Center, Greensboro & Virtual via Microsoft Teams

Board Members Present: Jonathan Holt (Chair), Lisa D. Smith Perri (Treasurer), Larry Sanders, Ann Rushing, Daniel Robinett, Jacob Joplin, Whit Wheeler, Freddie Myles Young, Keith Holden, , Amy Barron, Eric Lochner, Tony Konsul.

Others Present: Alex Ward (V) (board attorney), Katie Hertel (board administrator) Marc and Trevor Dominon Energy

Guests Present:

Quorum Present? ☒ YES ☐ NO

Meeting called to order by Board Chair at 10:01am

Meeting chair took roll call and asked if there were any guests on the call. No guests were noted.

April 18, 2023 Board Meeting Minutes Approved? ☒ YES ☐ NO

Motion by to approve April 2023 board meeting minutes as written by Jonahton

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

Motion Carries

Discussion around SB58

Alex led the discussion on SB58 which was signed into law by Governor Cooper. Protect Critical Infrastructure Act after the Moore County Substation attack in 2022. This bill increases the penalties for knowingly and willfully and intentionally damaging critical infractruture. Felony offence and \$250K fine. Alex does not believe this will impact the operations of the board because of the standard of intentionality which doesn't tend to exist in cases before NCUDPRB. If we did have a situation it's good to be aware this exists to let the appropriate authorities know. It comes into effect December 1, 2023.

Finance Report – Board Treasurer

The financial reports are provided for April, May and June.

- Balance sheet reviewed. We are in very good shape. This is a comparison of June 30 2023 to June 230 2022. The collections is \$5,000 less than what we are still owed compared to this time last year. Billinsa are up by \$20,000. \$264,000 of liabilities and equity as compared to 246K last year.
- Profit and Loss, Budget vs. Actual reviewed. We should be 50% of the budget at this time. Everything is running very close to that. Technology services was a lump sum payment. The \$5k in contingencies is for additional technology or needs.



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- Commerce remains behind in billing us.
- Legal is a little less. Technology services is up a little bit. The bottom line is we billed out 10K more this year than last year so we are doing quite well.
- A/R Aging. Follow up on the outstanding bills, including the 2022 bills. Jonathan would like to thank Lisa and staff for helping to get the invoices in and closed.

Communication Chair Update

- Ann shared an update on the website. The press release for Katie coming on to the board. Please provide photos – Eric, BJ, Freddie and one more to update the website. We are still waiting to hear back from John about searching cases. Why are there duplicate meetings listed on the UDPRB calendar page.
- Ann provides information about how many cases are heard, FIMSA, fines assessed. We are rated as verbally adequate. Still waiting for a letter to come in. Recommendation will be coming for the pipeline operators. It has really helped having this matrix to look at our cases. It has helped that we are consistent with our cases so that they see we are providing education, fining, etc, within parameters. There is no rating above 'adequate'. We are in compliance.
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Case File Reviews

Case # 477

Recusals –

- Discussion – Excavator failed to notify of the excavation. Photos showing the damage. Information within the report. No history for QueenScape and Steve Harris due to the fact of the gravity and culpability, Ann recommends that Case 477 by Dominion Energy Trevor. **Motion by Ann violation 87-122(a) for no one call ticket**
- No locate. \$500 + pipes plus training for Steve Harris due to gravity and culpability.
- Seconded Tony Konsul. No opposed.

Motion Carries

Larry Sanders – Photo of alleged damage doesn't actually show any damage. Tony Konsul said the report said it was a broken line. Had to replace a section of the actual gas line.

Case # 483

Recusals – None

If you follow the description on the ticket without seeing the map, it appears it is okay. If you look at the map, there is confusion. They do not have a violation of not having a ticket. But we need to send this company back to 'remote ticket entry' to do refresher education on the mapping. There was no damage based on the complaint. It was picked up on an aerial inspection. Ann recommends dismissal of the case for no violation but recommend the contractor be referred to NC811 for education on the mapping.

Whit – It is a large tract of land which makes locating difficult. They went from the edge of the easement to an open excavation area.



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Dan – As the landscape changed in this big project the landscape changed and road names changed, but the tickets weren't changed to reflect the work done.

Ann – The addressing is difficult. If you don't see the map but follow the written instructions, you are within the scope, but the map is wrong. The locator would find this very complicated.

Ann recommends dismissal of the case for no violation but recommend the contractor be referred to NC811 for education on the mapping.

Whit seconds this.

None opposed. Motion carries

Freddie – Procedural question. Why do we have discussion after we vote? Discussion should be before the vote.

Jonathan will ask for discussion after the first motion and before the first.

Case # 491

Recusals – Dan Robinette. Amy, Eric

Alex – this is the first case where complainant is alleging tickets are not being marked in a timely fashion. There are a number of these coming up today.

Keith - Duke acknowledges the locate wasn't done in a timely fashion.

Ann – The ticket was due by February 24, and they marked March 7. Clearly they weren't meeting that requirement. There is history from Duke. There was a prior violation within that time frame. This is a second offense based on our matrix, so it would take it to the second step. They had 10 tickets. That would be a major. Ann motion recommends case 491 from JDS Fiber versus Duke – Duke energy is in violation due to prior history, circumstances and other which is number of cases of late ticket 87-121-b-1 violation of late response, and \$1500 fine and no training due to the fact they've had it before

Whit – We're talking about the volume of tickets and the problem of marking. The right thing maybe would have been to follow up on part E. I want to get some clarification about being overwhelmed with tickets. You should be filing Part E stating you are overwhelmed and engaging in communication.

Freddie – It is not extraordinary circumstances to be overwhelmed by tickets. They don't have enough employees to meet the demand. The operator should address that. It is not the fault of the excavator. There is an immense amount of construction work going on and everyone is overwhelmed.

Ann – There has been one member that declared an extraordinary circumstance. If you look in the law, the definition of extraordinary circumstance does not have that listed. Circumstances that make it impossible for the operator to comply with this article including major weather events and acts of god.

Freddie seconds

None opposed

Motion Carries



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Case # 492

Recusals – Jonathan and Dan Robinette

ThAlex – This is the same alleged violation we saw in the previous case.

Ann – Charter does not have any history. Two violations, circumstances other. Ann motions Case 492 JDS Fiber vs Charter in violation of 87 -121-b- 1 \$500 fine with no training.

Motion seconded by Larry Sanders

Jake – Other is based on the amount of tickets? Ann yes that's correct.

Non opposed Motion Carries

Case # 493

Recusals –

Alex- The complainant, Karen Brooks, potential violator Mr. Battle. Mr Battle alleges there was a subcontractor who broke ground Alvarez Brothers. Both parties seem to agree on that. A threshold question the board may want to address is who had the excavator responsibilities – either the excavator or the subcontractor?

Jonathan – It says the homeowner contacted the sub without the prime knowing.

Freddie – The Board has a history that each excavator has to have their own ticket numbers. If the complainant is accusing the prime, but the prime isn't doing the digging, it's not a violation.

Ann – I think the wrong party is named.

Alex – In the past the board has recommended we send the allegation to the subcontractor, the party who may be responsible. That may be worthy of discussion.

Keith – This seems to be the homeowner trying to leverage the board to fault the construction company. My opinion is to dismiss the ticket.

Freddie – Dismiss it with wrong party named.

Ann seconds the recommendation.

None opposed.

Motion carries.

Note – send the complaint to the subcontractor.



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Case # 494

Recusals –

Ann – There was no response back from Gaylor.

KH – include the secretary of state info with registered office in the Teams case file.

Ann- Due to the gravity and culpability, 87-122-a, no locate ticket. Recommendation \$500 and pipes plus training for Charles Goodrich with Gaylor.

Jonathan – seconds the motion

They tried to contact them at least twice before they submitted the case.

None opposed

Motion carries.

Case # 495

Recusals –

Alex – This operator called in a number of other tickets that appeared to be appropriate and did not claim an emergency.

Ann – The only way to know for sure is to pull the recording, since we do keep the recording for four years. This gentleman does have a distinct accent. It does appear that he did want a 3 hour but because of his accent there was a communication barrier. This company does attend the local UCC and are very active.

Keith – There doesn't seem to be a history of this company doing that.

Ann – Had an operator listen to the recording who reported that he did appear to want a 3 hour ticket but due to a language barrier it was hard to understand what he was saying.

Freddie – The ticket had already expired when he was trying to call in a 3-hour locate?

Ann – The caller has to say it's an emergency or press a button to take them to another queue and the operator educates them about what an emergency is.



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87-125(c)

Ann – going in the emergency queue could have been part of the language barrier. They are actively involved and have had education training through the liaison. They have since corrected any action and are an RTE user now. Remote Ticket Entry user, so they would be able to access the type of ticket they are requesting.

Whit – Makes a motion to dismiss. Language barrier

Keith - Seconded

None opposed

Motion carries.

Case # 496

Recusals – Jonathan, Larry

Ann – Homeowner complaining about DOT not having a locate. The law does exempt DOT for reshaping of ditches. It seems more of a civil-type case. Based on the complaint there was no violation because there is an exemption 87-124

Freddie – Motion to dismiss due to the exemption and no violation of the law

Ann – Seconds

No discussion

No opposed

Motion carries.

Case # 497

Recusals –

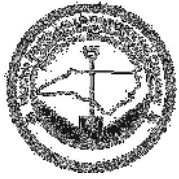
Homeowner who saw holes dug on someone else's property.

Ann – There is no evidence.

Alex – The allegation is a neighbor saw five septic holes dug on the property with no damage. They never saw the digging take place.

Jonathan – The response from the neighbor

Jonathon – Motion to dismiss



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Freddie – Second
No opposed. Motion carries.

Case # 498

Recusals –

Jonathan – Homeowner v city of Statesville. Statesville hit a gas line and had no located.

Ann – No locates for the City of Statesville.

Whit – My question is it an exemption 87-124-6. There is no cover on the service line.

Freddie – It should be a minimum depth for that service line. I don't see how you can be held at fault.

Ann – I wouldn't deem sidewalk repair as routine maintenance.

Others would (Larry, Amy, Whit) because it is a hazard.

Whit – I think it meets the spirit of the exemption.

Jonathan – The gas company would have filed a complaint if it wasn't an exemption.

Whit – motion to dismiss based on exemption due to type of work under 87-124-6.

Freddie seconded

Ann opposed

Amy – If gas company had submitted this, we would consider it, but since they didn't they feel it is an exemption.

No response from Statesville.

There was a ticket called in by Domionion for the Gas repair. An emergency ticket was placed.

Ann – Do not feel that sidewalk work is routine maintenance. Sidewalk is not called out specifically.

There are too many utilities within the area to not call in a ticket.

Jonathan – Does the City of Statesville call in locates when they are doing other stuff?

Ann – The law does allow for removal of pavement.

Freddie – If Domionion thought the city was at fault, they would have filed a complaint.

Ann withdrew her opposition after discussion

None opposed

Motion carries.

Case # 499

Recusals – None



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Ann – Bowden Contracting has two violations against them already, and we've provided fines. Still no locates.

Ann motions Domionion vs Dustin Bowden in violation of 87-122-A no locate, recommend a \$2,500 fine.

Jonathan would like to add Pipes Plus Training

Ann amends her recommendation to include Pipes Plus Training for Dustin Bowden with Bowden Contarcating

Jonathan seconds.

None opposed

Motion carries.

Case # 500

Recusals –

Alex – this is similar to other tickets not being acted upon in a timely manner.

Jonathan – There are two codes for the City of Charlotte. One is marked and one is not marked. They allude to this in the ticket.

Ann – They submitted a three hour request for Charlotte Water within the designated timeframe. They did not respond to the original ticket on time, but did respond to the three hour ticket. We have to look at each violation. The law says that if there's been no response, the excavator can request a three-hour ticket and Charlotte Water did respond to that three hour ticket. Violation of 87-121-b-1 not responding within the three full working days. There was no history so I recommend pipes plus training.

Jonathan seconds the motion.

Ann suggests amending the motion to say there was no violation on the three -hour ticket 87-122-c-6
Recommendation is Pipes Plus Training, City of Charlotte Water Carl Wilson

None opposed.

Motion carries.

Lunch break. Will reconvene at 12:30 per Jonathan.

Back from lunch 12:34

Case # 501

Recusals – Eric Lochner

Same complainant from #500, Queen City Hardscapes, naming PNG.

Ann -Based on the ticket they had not responded within the three working days so they did not meet the intent of 87-121-b-1 which is the three day response. The second violation is 87-122-6-c which is the



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three hour response. No history for Piedmont Natural Gas. Circumstances and other – 2 violations. I motion that Queen City Hardscapes vs PNG is in violation of 87-121-b-1 and 87-122-6-c recommend \$500 fine and Pipes Plus training for James Collins, Duke Energy.

Freddie seconded the motion

None opposed

Motion passes.

Case # 502

Recusals –

Ann – the homeowner called in a ticket for Everitt's Tree Service, but Molina did the work. Perhaps Molina was a sub? I am not seeing any valid tickets for Molina's Tree Service.

Jonathan – Dominion sent Molina a bill. Molina did not call the ticket in and they obviously hit the gas line.

Jonathan - Motion for Molina Tree Service 87-122-A for not calling in a locate and Pipes Plus training for Leonel Molina and \$500 fine because they hit the gas line.

Ann – Molina is not listed on the ticket, so they aren't covered under the ticket.

Freddie wants to avoid the situation where the prime calls in, but not the sub or the sub of a sub.

Jonathan – We've tried to set precedent that whoever is doing the digging is responsible.

Freddie – We've traditionally given the homeowners the benefit of the doubt since they aren't professionals.

Seconded by Ann

Motion passed

Case 503

Eric, Jonathan, Amy and Dan

Ann – Similar to the other cases we got, with no response on the first ticket and response on the second ticket. We do have history. Motion: We do have circumstances and multiple violations. 87-121-b-1

No response in three work days 87-122-c-6 no response in three hours, \$2,500 fine.

No discussion

Seconded by Keith Holden

None opposed.

Motion carries.

This completes the case reviews for this quarter.

Final comments from the board – Jonathan would like to discuss the terms ending. Freddie and Tony are ending 1/1/24. There are no plans for them to leave.



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Check with BJ as well about his plans. Jonathan will reach out to Hayes regarding Marcus.

Freddie – Instances where locators were late. We need to write a letter where we say the board is concerned we see a trend.

Jonathan – In the January meeting, we discussed testifying

Alex – There is nothing against the board crafting a letter and sending it out. That can be voted on in the normal course of business. I would be reluctant to tell violators why some fines were made and not others. The board has its duties to protect the public above all.

Ann – We have the LRPC committee, where we talk about a lot of this information. The locators can't control the volume. There is no money for locators.

Freddie – We need to tell them that they are falling down.

Ann – With the LRPC committee, there are two entities that are providing us data for no one call tickets. A letter goes out from Louis asking why they aren't placing a locate, so we can determine what education we need to do.

Freddie – If they don't have enough locators, the next letter needs to be what are you doing to get more locators.

The LRPC has no enforcement aspect. The Board is the enforcement piece.

Jonathan – Those utilities are more than likely involved in UCC meetings, so they are aware.

Ann – There are reports on the NC811 website that show data on no call damage. There are many different reasons people don't call in tickets.

Jonathan – Some of these are going to continue to accrue fines.

Ann – We try to encourage contractors to not dump tickets into the system if you aren't actively digging.

Dan – We put a lot of emphasis on the locators making the decision on the importance of a ticket. It is on its 107th update or is it a new one?

Ann- We do record the number of times it has been updated. We follow up to find out why they keep updating the ticket. Sometimes we can get it removed. Sometimes they say they can't remove it until some aspect of the project is completed.

Ann -We had talked about the potential to meet more often. Do we want to look at a threshold for how many complaints we want to see at one time?

Jonathan – How many cases we have heard per meeting in the last six meetings and what we have pending and adjournment time, nothing else taking a lot of time. (KH).

Comments from the public – No comments from the public.

None

Motion by to adjourn the meeting at 1:46pm

- Seconded by Ann

- **Motion Carries**