

190416 NC Underground Damage Prevention Board (UDPB)

Tuesday, April 16, 2019
9:59 AM

Attendees: Meghan Plaussman Riley from Piedmont Natural Gas - Duke- Acting Chair
Christopher McGee- former Chair
Louis Panzer- 811 Chair
Tom West- Colonial Pipeline seated by NC 811 and SC 811
Carl Barclay- NCDOT- seated by NCDOT and NC 811
Lisa Smith Perri- West Carteret Water Corp-
Richard (Rick) Gould- Century Link-
Ann Rushing- Education Manager with 811
Ken (Didn't get his last name) - retired excavator
John White API- board placement is not finalized. Attended as the General Public for this meeting
Daniel (Dan) Bare- Duke Energy- seated by the Electric company- board placement is not finalized. Attended as the General Public for this meeting
Julian (didn't get her last name) Attorney for AG's office to assist the board with any questions that may occur
Greg Puckett- Surry Atkin Electric- seated by the coops
Hope Morgan- NCEM- Seated by the GICC- Surveyor

Extensive discussion on how the board works, how information is submitted and requirements for the group. Tasks for the board:

- Decide on as a group- the chair is appointed by the GOV- need to create a note taker and a Vice Chair. Capture as much as possible. Need a Dictaphone-
- Location of the meeting- held the meeting in this facility- where do we want to have the meetings? Is there somewhere else that makes sense? Operations building will always be available. Scheduled the meetings with the secretary of state at the operations building 2550 operations way, Raleigh,
- Need a set agenda for the meeting- there are no meetings from the last meeting
- These are 4 year terms and this is the 2nd group of individuals selected.

Process-

1. Ethics should be renewed every 2 years- everyone should have taken the ethics training
2. There were some confusion from people wishing to report about who could be reported on. The form and the website were modified to specify that it had to be the against a utility issue,
 - a. For that particular locator- Still receiving issues that are not identifying the correct entity.
 - b. For these issues 811 sends a letter that says the wrong party has been listed in the complaint.
 - c.
3. Everything comes in by mail. Staff that checks and there is a 10 day window to send out a notice to the parties. Letter goes to both group's reporter and identified party. Both parties have the ability to respond.

4. We send the letters certified. If they decide they want a hearing they have 30 days to request or they can just submit information.
5. After they review the determination and send the letters out after the meeting 30 days to determine if there is a hearing. Parties could come and formally request a hearing. They are communicating the recommendation of training and financial penalties,
6. The UDPB then requests a docket number and identified party by the 811 and they issue the order from there.
7. Training is Pipes plus with the training. When a recommendation is made it would be training for the identified party it has been determined that if the identified party is the company said company can determine who would do the training. Training is 90 min training online and free. A certificate is produced that allows the party to show as proof.
8. When recommendation is made a letter is sent to the identified party and they would get that from the utilities commission. When it goes to the commission, the board is done and there is potentially a hearing that the board would be included in.
9. The UDPB is somewhat limited on the basis of what is provided to us. No additional research on the board's part. If someone claims there is not ticket, they have an ability to provide more information.

Each UDPB member will have drop box access- Chris will provide data on how the process works once process is determined in the system. The board takes action that ensures that everyone has the process for how things move forward. Where does this go from here?

- Is there a compiled list of who the appointments are and what group appointed them? How do we get access to that information to show who is appointed?
- Is there maintained a current listing of all the boards that exist. This is an issue across the boards we need a comprehensive list and there are questions about do these groups have formal. Had a conversation about Daniel Bare for Duke Speaking with Hope (this is someone at the state board group, Louis provided this name and ay be able to provide more information). Asked about the roles of the members and trying to secure the chair.

Can we organize a little differently? Can we archive the cases that have been reviewed? Yes from Louis

Last case heard was 199- 226 will be the last on the agenda. The remainder have not cleared the 30day response timeframe per the rules.

Call the meeting to order officially- 4-16-19 at 10:09

We do have a Quorum. Roberts rule of order

Louis made a motion to address with a letter to the parties that the wrong person had been identified reports include: 201,203,204,205,207,208,216,217,218,219 Louis Made the Motion, Richard Gould seconded.

Motion carried by the group

Each person will get a letter that they do not have the correct person Identified. Reporters can resubmit with the correct party identified.

For 201 there is a question about the request asking to redirect. They are waiting for the notice from the board to resubmit therefore the letter motioned above does fit the process.

200. Violation of GS 87.122a with a recommended with Pipes plus training.
- a. Louis Motioned. Richard seconded
 - Discussion- issue is that the one call ticket didn't wait the 3 full days. Caller did this on the way to the site. Went to the location on the ticket from the same day. Had done the work and did the ticket at the last minute. Richard agreed.
 - Motion- Carries
201. Violation of 122a on an penalty of pipes plus training for Mr. Anil Hedap
- a. Richard motioned, Louis seconded
 - b. Discussion- appears to be 2 neighbors in dispute- did dig- didn't cause the damage. This is 2 home owners against one another- training is 1st time offender. Used a trencher (mechanized equipment). Front side back which is in the right of way, which is not exempt- if there was a shovel it would be a different answer.
 - c. Motion- Carries
202. Violation of 122a on an penalty of pipes plus training
- a. Motioned
 - b. Discussion
 - c. Motion- Carries
203. Thru 205- these are already motioned upon
204. Motion for insufficient Evidence- send a letter to explain lack of information
- a. Louis motioned, Megan seconded
 - b. Discussion- for a survey design ticket there is not a requirement that marks be placed. If the complaint is marked has the expectation that there would be marks. That is not the requirement. Letter that supports to them that marks are not required.
 - i. Response says the water is marked. What proof do we required. If no water there would be code 10 which shows no water in the area. Code 20 is water and water sewer is one mark. Are there areas that are sewer with no water but they do exist.
 - c. Motion- Carries
206. Motion of insufficient evidence- part of what they are provided when they are filing. They can resubmit.
- a. Richard motions, Hope seconded
 - b. Discussion- had there been a copy of the ticket. Or with the information provided. Code 50 is marked code 55 is not marked. In favor of leaning the other way because there is no response from the accused. Had there been a response the answer could have been different.
 - c. Motion- Carries
207. **Motion violates 87.122 Pipes plus training** (please check)
- a. Tom motioned, Richard seconded
 - b. Discussion- met the burden of proof with no rebuttal
 - c. Motion- carries
208. Megan recuses-
- a. Violation of 87-121a1 recommendation pipes plus training
 - b. Motioned by Richard, Louis second
 - c. Discussion- recommended the person to take the training as the CEO- is this the appropriate person to take the pipes plus training. Letter and recommendation to take Pipes plus training. If you send a letter to the company they can determine who will take the training.
 - d. Motion- carries
209. 87-121a1 recommendation - pipes plus training
- a. Motion by Louis, Richard second

- b. Discussion- submitted by a previous person
 - c. would this be 121a or b. 121a is correct, It is incorrect in the submittal
 - d. Motion- Carries
- 210. Insufficient Evidence
 - a. Louis Motions, Richard second
 - b. Discussion- basis 1st part of the complaint is difficult to determine what actually happened. Did he hit a line or was this marked correctly. Obviously the person submitting was upset
 - c. Motion- Carries
- 211. Insufficient Evidence
 - a. Richard Motions, Louis second
 - b. Discussion- in the original complaint. Homeowners are responsible for the marking. Contractor's responsibility if there is a contractor. We don't know how this was done. If this was non- mechanized there is no issue. If it was mechanized there is a potential violation but there is not proof that this was mechanized. Pile looks like post whole diggers.
 - c. Motion- Carries
- 212. Insufficient Evidence
 - a. Megan Motion, Richard second
 - b. Discussion- would they know where lines are marked. Is there a right of way or a gas line?
 - c. Motion- Carries
- 213. Through 219 are covered under a previous motion
- 220. Motion Insufficient Evidence
 - a. Louis motions and Megan seconds
 - i. Louis withdrawals the motion and 2nd is withdrawn.
 - b. Motion 2. 87-122a by Mike Floyd with pipes plus training.
 - i. Motion Louis, Richard second
 - ii. Discussion- is the issue a permit or an 811 call, there could be an easement on the private Right of way or a permitted use. Floyd Enterprise didn't do the damage, it was done by the private resident Mike Floyd.
 - iii. On the 2nd page in the provided response it is listed that there is no reason to believe any line from AT&T was on the grounds based on notes- Mike Floyd wanted to have AT&T service for their house and they were told by AT&T there was no service.
 - iv. There was not call in an 811 ticket so is this is a clear violation?
 - v. Do we have enough information to say there is a violation? On a private road we do not know how the property easement. We do not know how this was done with mechanism or by hand. More information is needed to determine clear determination from the board.
 - c. Motion - fails.
 - d. 3rd Motion is insufficient Evidence
 - i. Tom motion hope 2nd-
 - ii. Motion- Carries
- 221. Motion of no violation against Gary Robinson homes.
 - a. Richard motion and Louis second
 - i. Motion and 2nd withdrawn
 - b. Discussion- The Landscaping Company that did the work cause the issue.
 - i. This was another person's issue with the landscaping group. There is a violation and technically he is the wrong party. The party responsible for making the excavation is the responsible party to call in the one call ticket. It is a complication if the subs are not on the one call ticket. Funneled up to the contractor. Whomever is on the ticket

is the responsible party. If they do work without being on the list they are working without a ticket.

- ii. No one has put in a one call ticket. Is the GC responsible to get a ticket or make sure it was received? If the work is contracted it is on the contractor to get the ticket. Subcontractor is responsible for getting the ticket.
 - iii. How does the complainant know that they should refile with the correct party? How do we define Wrong Party
 - 1. Wrong Party- there are 2 people that could have done the work and choice was incorrect.
 - 2. Wrong Party- who in the eyes of the law is responsible.
- Entertain a new motion.
- c. Second motion of violation 87-122a however the wrong party.
 - i. Motion Tom, Louis second
 - ii. Motion- carried

222. Megan Riley recuses herself

- a. Motion 87-122a with a penalty with pipes plus training
- b. Richard motion, Louis second
- c. Discussion- no discussion
- d. Motion carried

223. Tom West Recuses himself

- a. Motion of violation 87-122a with a penalty of pipes plus training
- b. **Missing who made the motion**
- c. Discussion - no one call made- emergency call- for the person that got out there and realized what was happening.
- d. Motion Carried

224. Megan Riley recuses herself

- a. Motion for insufficient evidence
- b. Motion from Louis and Richard second
- c. Discussion- is this an issue of no notification of the silk fence installed or no notification of the damage. Did not acquire a ticket for the correct location. Seems to imply that there is more information that would assist with a decision. Did they not extend the one call ticket with enough of a location? Is this a violation of 121a? Outside of the scope.
- d. Original motion withdrawn and 2nd
- e. Motion that 87-122a occurred and recommend pipes plus training
 - i. Motion Tom West, Louis second
- f. Motion Carried

225. Megan Riley Recuses Herself

- a. Motion 87-122a with pipes plus training
- b. Motion Tom West, Louis second
- c. Discussion- none
- d. Motion carried

That concludes the cases we will hear and discuss today

Open the floor to questions or comments. - None

Discussions- money goes straight to general funds. For any fines all go directly to education.

Motion to adjourn- Tom West- 2nd Chris- motion carried.