



NCUDPRB MINUTES OF MEETING

NCUDPRB Board Meeting

Thursday, August 4, 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: Anne Brown (legal), Cyndi Sosa (board administrator)

Guests Present: Jake Joplin (Carteret Craven), Marcus Kunz (Duke), Jim Collins (Piedmont Natural Gas), Marc Worth (Dominion Energy), Heidi Bond (Piedmont Natural Gas),

Quorum Present? ☒ YES ☐ NO

Meeting called to order by Vice-Chair at 10:12am

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

Hearing Review Process by Anne Brown

Anne introduced herself and provided a brief overview on what the board can expect during a hearing. Any specific questions that get into confidential information will be tabled until after the board meeting. When new attorney is on board, Anne recommends we go into executive session to discuss any questions that are attorney/client privilege.

87-129(B) board tasked with enforcement of penalties. Board can either reverse or uphold their initial finding. Board is not in communication with the parties during the litigation process, but the attorney will discuss the evidence with the complainant.

After a party requests a hearing. Attorney will send out a notice of hearing to the party requesting a hearing. That party can represent themselves or hire an attorney at their expense.

Our attorney can be in contact with the person requesting the hearing.

During the hearing we can make an opening statement, closing statement, call witnesses etc. The attorney will walk us through the process. The board does not take on the responsibility of walking everyone through the hearing. The two parties involved are the board and person requesting the hearing. Complainant can be called as a fact witness.

Board Chair acts as presiding officer, will hear from both parties. Our attorney will put on a case for the board arguing why the boards' decision should be upheld. Board acts as a judge, opportunity for board members to ask questions after each party states their case. A court reporter would be present.

DOJ can provide an advising attorney to sit with the board in case Chair has any legal questions regarding the law and or process questions. The advising attorney will not represent either party.

Presentation of evidence. Board members will want to listen to the evidence and confirm the facts match the conclusions of law. Final decision of order- the board can go into executive session after the hearing. Instruct attorney to draw up an order with decision. Within 30 days the decision can be appealed. Appeal would go to the utilities commission.



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Date of the hearing:

- Do we want to set a date for the hearing in September to keep it separate from the next board meeting? Anne Brown, DOJ will be available to assist with the hearing. Jonathan would like to get the case resolved. Board agreed to set hearing for the end of September. Board Administrator will follow up with board to check everyone's availability.

Motion by Megan for off cycle board meeting for hearing alone before next scheduled board meeting.

Seconded by Larry

Opposed – None

Discussion – Does everyone have to attend in person? Per Anne Brown, yes, everyone should be in person.

Motion Carries

Communication

Board inquired Anne Brown, DOJ about case file search feature we plan on adding to the website. What details of the case file would be okay to provide in the search results? Board Administrator added the search would most likely be by someone affiliated with the case because they would need to search by either the case number or docket number. Anne suggests leaving out personal identifying information. If the board wants to send Anne a list of the fields they would like to provide in the search results, Anne is happy to review them and provide recommendations.

April 2022 Board Meeting Minutes Approved? ☒ YES ☐ NO

Motion by Larry to approve April 2022 board meeting minutes

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

Motion Carries

Vote on Vice Chair (waiting)

Megan's term is coming to an end at the end of the year, she will not be renewing. Jonathan is prepared to step up into Chair if asked. We are looking for someone that might be willing to take his spot as the Vice Chair when/if he moves up to Chair position.

If you have a term that is not ending in 2024, please expect an email or phone call to see if you are interested.

Finance Report – Board Treasurer

- Financial reports reviewed by Board Treasurer. Balance sheet as of June 30, 2022 was reviewed. This is marked DRAFT because Commerce has not reconciled our account yet for June. Profit & Loss budget vs. actual was reviewed. Everything is on target except for Technology Services, which is higher than budgeted. This is due to a website certificate fee of \$250. Treasurer advises against doing a budget amendment at this time, instead just make a note to add the \$250 line item to next year's budget.
- AR reviewed by Board Administrator for 2020, 2021 & 2022. For 2020 we have an outstanding amount due of \$3,981.00 for (Sprint & Palmettonet) which has been sent to collections. For 2021 we have an outstanding amount due of \$975.00 and for 2022 we have an outstanding



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amount due of \$2,577.96 most of which we should be receiving payments on in the next 30 days. In addition to Sprint & Palmettonet, the City of Winston-Salem, Crown Castle, Fayetteville Public Works, Town of Apex & Zayo/AGL Networks have also been sent to NC DOJ collections for assistance with collecting payments on their outstanding invoices.

Communication Chair Update

Ann and Cyndi met with John Black, website is very tedious and not user friendly. As long as the board sits under NC Department of Commerce, we should be using NCDIT for website updates. Maintenance and document uploads can be handled by NCDIT. Board Treasurer reminded board, CHMS contract includes website development with a \$ amount attached. Board budget has \$5,000 contingency for website development thought CHMS. Board Administrator reminded board that CHMS was ready and able to develop the website last year but many of the board members wanted to remain under the NC Dept of Commerce.

Do we want to stay under Commerce and what are the Pro's and Con's to that?

Pro's- legal support, fiscal support, IT (website & email) support and now collections support.

Is it possible to take the website and database out from under Commerce and leave everything else? Board Administrator will clarify and get answers by the next board meeting. A separate proposal for per diem IT services? John Blacks rate for making website updates/changes?

Possibly hire an IT tech to make updates to our current website on an as needed basis if NCDIT cannot assist.

Board Administrator will pull the boards' current MOU with Commerce.

11:38 break until 11:45pm.

11:45am – Roll call by Chair – Rufus Jackson not present

Case # 430

Recusals – None

Motion by Greg for Insufficient Evidence

- Seconded by Ann
- Discussion – How do we know they were digging without a ticket? There is no evidence, photos or documentation.
- Opposed – none

Motion Carries

Case # 434

Recusals – Larry

Motion by Freddie violation of 87-122(c)(6) \$500 penalty and pipes plus for Daniel Hull.

Circumstance & Culpability

- Seconded by Greg



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- Discussion – Locate was marked where sign 102 was, per the instructions on the locate but the damage was not in the area of where the sign was at. Stakes would say 102 where digging would take place. Locator found stakes but that was not where project was going on. Seems contractor might have put the stake in the wrong place. There was a facility there that was very present. If contractor noticed the facility and that it was unmarked that should have triggered a 3hr locate.
- Opposed – none

Motion Carries

Case # 435

Recusals-

Motion by Ann for violation of 87-122(a) \$500 penalty and pipes plus for AJ Sosa.

Circumstance & Gravity

- Seconded by Jonathan
- Discussion – none
- Opposed – none

Motion Carries

Case # 436

Recusals- none

Motion by Ann for violation of 87-122(a) and 87-122(c)(9)a.1. with penalty of \$1,500 and pipes plus training for Juan Lopez. Circumstance & Gravity.

- Seconded by Jonathan
- Discussion –
- Opposed – none

Motion Carries

12:20pm - Lunch break until 1:00pm

1:00pm – Roll call by Chair – Chris Russ not present

Case # 437

Recusals – Jonathan

Motion by Ann for violation of 87-122(a) for \$500 and Pipes Plus training but for who?

Motion by Ann to retract her original motion

New motion by Ann for Violation of 87-122(a) for \$500 and Pipes Plus training for Thomas Chalk

- Seconded by Megan
- Discussion- Clayton Properties is most likely the community. Mungo is building the homes and probably have contractors working for them. Alleged violator is named as Clayton Properties, but Mungo admits to their contractor doing the damage.
- Opposed- all but 2 board members opposed

Motion does not carry

Motion by Greg to dismiss case for insufficient evidence or correct party named

- Seconded by Whit
- Opposed- 2 board members opposed



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Motion Carries

Chris Russ returned to call

Case # 439

Recusals- none

Motion by Greg for 87-122(a) and recommendation for pipes plus training for Craig Johnson.

Culpability

- Seconded by Larry
- Discussion – none
- Opposed – none

Motion Carries

Case # 441

Recusals –

Motion by Ann for dismissal for insufficient evidence

- Seconded by Megan
- Discussion – none
- Opposed- none

Motion Carries

Case # 442

Recusals- none

Motion by Ann violation of 87-122(a) with penalty of \$500 and pipes plus for Adam Howington.

Gravity & Culpability

- Seconded by Jonathan
- Discussion – none
- Opposed – none

Motion Carries

Case # 443

Recusals- none

Motion by Freddie for violation of 87-122(a) with penalty of \$500 and pipes plus for Sean Murray.

Gravity & Culpability

- Seconded by Megan
- Discussion – none
- Opposed – none

Motion Carries

Case # 444

Recusals- none

Motion by Freddie for violation of 87-122(c)(9)a. with penalty of \$1,500 and pipes plus for Cameron Randall.

Circumstance, Gravity & Culpability.

- Seconded by Ann



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- Discussion – Digging in tolerance zone without spotting.
- Opposed – none

Motion Carries

Chris Russ dropped from call

Case # 445

Recusals- none

Motion by Jonathan for violation of 87-122(a) with penalty of \$500 and pipes plus training Scott Pindell.

Gravity & Culpability

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

Motion Carries

Case # 446

Recusals- none

Motion by Ann to dismiss case due to insufficient evidence

- Seconded by Megan
- Discussion – No evidence of a clear violation of the law from the contractor's side. Directions to hand dig were verbal and the law states they need to be written or they need to be present on site. Latest locate shows 999 for Peak Midstream locate and nobody was present while MasTec was digging on their pipeline.
- Opposed – none (Lisa did not vote)

Motion Carries

Case # 447

Recusals- none

Motion by Ann for insufficient evidence of a violation

- Seconded by Greg
- Discussion – none
- Opposed – none (Whit did not vote)

Motion Carries

Case # 448

Recusals- none

Motion by Jonathan for violation of 87-122(a) with penalty of \$500 and pipes plus for Thomas Hawkins.

Gravity & Culpability

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

Motion Carries



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Case # 449

Recusals- none

Motion by Freddie for violation of 87-122(c)(9)a.1. with penalty of \$1,500 and pipes plus for Jose Peralta.

Circumstance, Gravity & Culpability

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

Motion Carries

Case # 451

Recusals- none

Motion by Ann for wrong party identified. USIC is not called out in the law.

- Seconded by Keith
- Discussion – none
- Opposed – none

Motion Carries

Case # 452

Recusals- none

Motion by Freddie for violation of 87-122(a) with penalty of \$1,500 and pipes plus for Tim Howard
Gravity, Culpability & History

- Seconded by Ann
- Discussion – History. Prior violation of 87-122a with pipes plus recommendation.
- Opposed – none

Motion Carries

Case # 453

Recusals- none

Motion by Ann for violation of 87-122(c)(9)a. and 87-122(c)(9)b. with penalty of \$500 and pipes plus
Derick Ragadio.

Gravity & Culpability

- Seconded by Freddie
- Discussion – Didn't maintain required clearance.
- Opposed – none

Motion Carries

Case # 454

Recusals- none

Motion by Jonathan for violation of 87-122(a) for penalty of \$500 and pipes plus for Mike Fritelli.

Gravity & Culpability

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

Motion Carries



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This completes the case reviews for this quarter.

Final comments from the board –

none

Comments from the public –

none

Unfinished business –

Conversation regarding USIC reports. USIC is not recognized by the law. When reports come in naming USIC as the alleged violator, should we be correcting them based on the information received from the locate ticket? Board Administrator only corrects them IF the complainant named the type of utility (example: USIC did not mark the Spectrum Cable line) AND the locate ticket has a member response code of 30 next to that utility. If the alleged violator section is not clear, complete or correct on a report we receive, the report is returned to the Complainant with an explanation of why it is being returned and how it would need to be corrected for the board to accept it.

Meeting Adjourned – 3:20pm