



TENNESSEE UNDERGROUND UTILITY DAMAGE ENFORCEMENT BOARD
Meeting on August 25, 2016

MINUTES

The second regular board meeting of the Tennessee Underground Damage Enforcement Board was called to order at 1:00 p.m. in the Ground Floor Meeting Room of 502 Deaderick Street, Nashville, Tennessee 37243

Board Members Present:

Wayne Hastings
Bill Hollin
Eddie Hood
Craig Jensen
Bob Lambert
Kevin Kruchinski
Scott Niehaus
Bobby Pitts
Kevin Raley
Thomas E. Suggs, Jr.
Kevin Tubberville, Chairman
Rick Tunnell
Bill Turner

Board Members Participating by Phone:

Steven Raper

Board Member(s) absent:

Kenneth W. King

Staff Present:

Chris Eaton
Kelly Grams
Jim Layman
Ryan McGehee

I. Opening of Meeting and Legal Update by TRA Staff

Chairman Tubberville, opened the meeting at 1:00 p.m. Roll-call was taken of the Board members. The Board considered the Minutes of the last meeting of July 12, 2016. With a correction to account for Mr. Wayne Hastings attendance at the last meeting, the Minutes were approved as corrected on a voice-vote.

The Board moved out of session to hear a legal update from Ryan McGehee, a TRA staffer. Mr. McGehee provided an overview of the Attorney General Opinion 16-25 which opines that members of the Board may receive travel expenses and per diem in accordance with State Travel Regulations and requirements under the Open Meetings Act as to when the Board may meet electronically without a quorum. Mr. McGehee reviewed the Conflicts of Interest Statement and Disclosure Form and the Board recessed from 1:09 p.m. to 1:16 p.m. to allow the Board members to review and complete the documents.

Mr. McGehee provided an over-view of the open seats on the Executive Committee which the Board must fill and a proposed policy providing that complaints received by the Board must have occurred or been reasonably discovered within ninety (90) days of the filing of the complaint.

Ms. Kelly Grams, the General Counsel of the TRA, discussed proposed drafts of a Memorandum of Understanding between the TRA and the Board, and a Memorandum of Understanding between Tennessee 811 and the Board.

During the review of MOU between the TRA and the Board, some Board members asked questions and discussed issues concerning the discretion of the TRA, as drafted in the MOU, to hire more Staff to assist the Board without agreement from the Board. Mr. Turner and Mr. Pitts expressed a preference for the Executive Committee to play a role in any decision of the TRA to hire additional staff or out of the ordinary expenditures.

During the review of Section 3.3 of the draft MOU, Chairman Tubberville, Mr. Suggs and Mr. Turner asked questions regarding the timing, mechanics and extent of information provided in quarterly invoices from the TRA to the Board. The Board members discussed whether the full Board should consider the invoices rather than solely the Executive Committee. Mr. Kruchinski recommended that invoices from the TRA be provided on a quarterly basis, with the Board having thirty (30) days to review the invoices and have Board

meeting to accommodate such reviews accordingly. Mr. Eaton, Financial Officer for the TRA, concluded he would do his best to accommodate that request.

Mr. Turner proposed a one year term for the MOU for the TRA and the Board which Mr. Hastings and Mr. Raper supported.

Ms. Grams reviewed the proposed MOU between the Board and Tennessee 811. Mr. Turner suggested an amendment to Section 1.1 adding “as authorized by TCA 65-31-114(b).” Ms. Grams inquired of the Board if Section 4 should have the same language as the proposed MOU between the TRA and the Board with respect to the term of the agreement. Mr. Turner suggested a one year term and then two years after that. Mr. Turner asked for the removal of Section 6.3 which provided to release the State from liability arising from activities related to the Board. Ms. Gram advised the Board that the language should not be changed.

Following the discussion of the proposed MOUs, Ms. Grams announced she would make amendments based on discussion by Board members to the proposed MOUs and present the edited documents to the Board later in the meeting for consideration.

Mr. Jim Layman, an attorney for the TRA, discussed the need for a Request for Information (“RFI”) to gather information and determine if there are vendors available to provide the compliance training. Mr. Layman asked the Board to discuss the specifications of a training program the Board desired for the RFI. Mr. Turner expressed Tennessee 811’s interest in providing the compliance training and the experience of his organization doing so.

The Board continued a discussion of the specifics of the compliance training program and potentially what specific party would be required to participate in the training.

Following the conclusion of the discussion, the Board moved back into formal session. Chairman Tubberville made a motion to have the Staff issue an RFI using the following criteria:

- Training should cover Title 65, Chapter 31 of the Tennessee Code Annotated, reporting requirements and Best Practices.
- Training should be available in each of the grand divisions of the State.
- Training would be held in-person and not through online courses.
- Training should be available during working hours and evening hours
- Training should be available in a bilingual if needed.
- Quality of the Training is priority rather than length of class
- Trainer will facilitate the location of training

Mr. Hollin seconded the motion. Mr. Turner announced that he was recusing himself from the vote due to his position as president of Tennessee 811. The motion was passed on a voice vote. Zero "No" votes were voiced.

Following the changes made updating the MOU draft which were provided to the Board, Chairman Tubberville made a motion to adopt the MOU between the Board and the TRA with modifications made by the TRA Staff. The Board engaged in additional discussions and concerns concerning the Board and the Executive Committee's input to the Staff with respect to resources allocated to the Board. The Board members and Staff discussed the provisions that had been made and provisions that were not amended. The motion was seconded by Mr. Hollin. Mr. Turner announced that he was recusing himself from the vote due to his position as president of Tennessee 811. The motion was passed on a voice vote. Zero "No" votes were voiced.

Chairman Tubberville made a motion to adopt the MOU between the Board and the Tennessee 811. Mr. Raper seconded the motion. Mr. Turner announced that he was recusing himself from the vote due to his position as president of Tennessee 811. The motion was passed on a voice vote. Zero "No" votes were voiced.

II. Seat B and Seat C Executive Committee Elections and Other Officers

Mr. Turner nominated Mr. Steven Raper to fill Seat B of the Executive Committee. Mr. Hollin nominated Mr. Eddie Hood to fill Seat B of the Executive Committee. The Chairman asked the Board if there were any seconds to either nomination. Mr. Kruchinski seconded the nomination of Mr. Raper. The Chairman asked the Board whether there was any second to the remaining nomination and there was no response.

Discussion was opened for the nomination of Mr. Raper. Mr. Hollin raised whether someone that works for a utility could fill Seat B of the Executive Committee, referencing the Board's discussion of Seat B at the July 12, 2016 meeting. The Chairman moved the meeting out of session to allow the Board to hear from Denise Paige, a representative of the Tennessee Municipal League, an entity charged with providing the Governor with a list of appointees to fill the seat created under Tenn. Code Ann. 65-31-114(c)(7).

The Chairman moved the meeting back into session. The Board took up Mr. Turner's nomination of Mr. Raper to fill Seat B of the Executive Committee. In a voice vote, a majority of Board voted to approve the motion. Mr. Hollin voted "No." Mr. Pitts abstained.

The Chairman opened the floor to nominations for Seat C of the Executive Committee. Mr. Turner nominated Mr. Bob Lambert to fill Seat C. Mr. Scott Niehaus seconded the nomination. The motion was passed on a voice vote. Zero "No" votes were voiced.

The Chairman made a motion to create the position of Vice-Chairman who would chair Board meetings in the absence of the Chairman. The Chairman made the motion based upon the fact his employment requires him to be on call for emergencies 24 hours a day and his desire for the Board to move forward if he cannot attend a scheduled meeting. Mr. Turner seconded the motion. The motion was passed on a voice vote. Zero "No" votes were voiced.

Mr. Turner nominated Mr. Wayne Hastings as the Vice-Chairman of the Board. Bob Lambert seconded the motion. The motion was passed on a voice vote. Zero "No" votes were voiced.

III. Complaint Policy, Scheduling Next Meeting

Mr. Turner made a motion for the Board to adopt the Staff's recommended ninety (90) day policy for complaints. The policy directs Staff to concentrate on complaints filed within ninety (90) days of the alleged violation or when the violation was reasonably discovered. Mr. Rick Tunnell seconded the motion. The motion was passed on a voice vote. Zero "No" votes were voiced.

The Chairman opened the meeting discussion of scheduling the next meeting. After discussion, the Board agreed the next meeting would take place on October 18, 2016, at 10:00 a.m. (Central). An Executive Committee meeting was scheduled to follow afterwards. Proceedings concluded at 3:37 p.m. (Central).