



TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD
Meeting on February 14, 2018

MINUTES

The board meeting of the Tennessee Underground Damage Enforcement Board was called to order at 10:00 a.m. in the Ground Floor Hearing Room of 502 Deaderick Street, Nashville, Tennessee 37243 by Chairman Kevin Tubberville.

Board Members Present:

Kevin Tubberville, Chairman
Rick Tunnell
Bobby Pitts
Kenneth King
Jonathan Campbell
Kevin Raley
Bob Lambert

Bill Hollin
Kevin Kruchinski
Bill Turner
Scott Niehaus
Wayne Hastings

Board Member(s) absent:

Craig Jensen
Steve Raper
Eddie Hood

Staff Present:

Ryan McGehee
Aaron Conklin
Sharla Dillon
Chris Eaton

Chairman Tubberville opened the meeting at 10:00 a.m. Roll-call was taken of the Board members. The Board considered the Minutes of the last meeting of November 29, 2017 meeting minutes. Mr. Turner proposed a correction from “February” to “October” on the second page in the fourth paragraph regarding when a report was due. Mr. McGehee added for the record that the quarterly report due in October had been provided to the Board on October 19, 2017, and that Staff had fielded questions from a Board member about the report. Mr. Turner stated there was no discussion about the proposed budget in the November minutes and that he was unaware of the proposed budget being provided to date. Chairman Tubberville advised that Mr. Eaton, the TPUC fiscal officer was present and could address his questions. The Minutes were approved, as corrected, on a voice-vote.

I. October-December Quarterly Report, Training Schedule and Legislation

Mr. McGehee indicated the October-December quarterly report was sent to the board in January and hard copies were also on their desk. New complaints filed in 2018 to date included twelve (12) complaints filed in January and two (2) complaints in February. Mr. McGehee stated that progress had been made in efforts with the CPO regarding the RFP for training purposes with CPO agreement for a one year extension. He commended Ms. Tory Lawless of TPUC staff for her handling of the progress and pointed out it was a cost-savings measure. Mr. McGehee recommended that action be taken as it will eliminate any potential gap in training between the expiration of the original special contract and the proposed legislation.

Mr. Aaron Conklin stated that there was a single civil penalty that was overdue, due to the violator’s accounting mix-up, which was expected to be paid by the violator soon

Mr. Conklin stated there are a few cases being actively contested and three (3) that are pending scheduling a hearing by the hearing officer. Two other cases had reached an agreement whereby the entities had sent individuals to training. In another matter, the entity did not respond to investigators until the citation was received. Information was subsequently provided by the alleged violator which indicated that there should not have been a citation issued and the citation was dismissed.

Three (3) cases are also pending scheduling a hearing to show cause why the hearing officer should not order them to attend training. Twenty six (26) final notice letters have been sent to cited entities stating that a show cause action will be instituted if they do not respond. Two (2) letters have been re-sent, sixteen (16) responses have been received. Three of those indicated that they attended training and were verified as having done so. Eight (8) have scheduled training for the end of the month and five reported that they would be scheduling

training. Positive responses have been received and tracking will be continued to ensure progress. Mr. Conklin stated that the enforcement process has been evolving and we're making refinements to bring violators into compliance.

Mr. McGehee then introduced Mr. Eaton. Mr. Eaton appreciated the Board members bearing with him during his previous absence. Mr. Eaton stated that the first quarter's invoices had been sent and were in line with previous invoices. The invoice for second quarter was anticipated sometime in March. He did not feel the numbers would be substantially different in any way. Mr. Eaton stated that the first quarter billing was \$72,000 with projections at \$140,000 for half the year. Mr. Turner indicated a projected budget of \$350,000. Mr. Eaton indicated the Board was well on track to come in within budget for the year.

Mr. Turner questioned the rate at 30 percent billing rate for Mr. Tracy Stinson on the quarterly invoice. Mr. Eaton stated that the 30 percent figure listed was a mistake on the invoice and that 20 percent was the rate actually billed and offered to correct and email a revised copy to Mr. Turner. Mr. Turner then asked for clarification about postage amounts. Mr. Eaton clarified that there is no physical invoice on postage; rather the invoice rate was an allocation of a journal entry billed to the Commission by the State.

Mr. Turner then asked about the projected budgetary information to have been shared with the Board and the amount of civil penalties in the utility fund. Mr. Eaton provided clarification on the budgetary information and also offered to provide a running total of the amount of civil penalties.

The Board then returned to the vote regarding extension of the training contract for one year. The motion was made and seconded and the motion passed, with Mr. Turner abstaining.

An update of Tennessee 811 training program was provided by Mr. Turner. Mr. Turner stated that from of the program to the end of last month, one hundred and four (104) individuals, representing eighty eight (88) organizations that have completed training. Fifty one (51) individuals, representing forty five (45) organizations have not yet been scheduled and may be some of the matters Mr. Conklin referred to. Fourteen (14) individuals representing thirteen (13) organizations have scheduled for the next meeting which is the end of February and no pending offsite is scheduled.

Mr. Turner also stated that twelve (12) new members had been signed. Mr. Turner also provided an update on the legislative process, stating that the bill had been filed and is on notice for 26th of February to go into committee. Senator Bill Ketron and Representative Pat Marsh are the sponsors. No challenges are anticipated.

At the request of the Chairman, Mr. McGehee discussed the conflict of interest documents that had been provided to the Board members, including a basic statement and a disclosure of potential conflicts of interest. He requested completion and asked the members contact him if anyone had questions.

Mr. Turner stated that it was his belief that the invoice had been voted upon in the last few meetings. Mr. Tubberville inquired if everyone had time to review the invoice. The motion was made and seconded and passed without abstention except by Mr. Turner.

II. Schedule and Discuss Future Topics for Next Board Meeting

Mr. Turner inquired about some board members' terms that expired in 2017. Mr. McGehee offered to check the records to verify that if a member's term expired – if a term expired but no one had been appointed, then the member was still a board member. Mr. Raley and Mr. King informed the Board that they had received letters of reappointment. Mr. McGehee requested copies for the Board's records.

Mr. Turner asked for clarification of how appointments and reappointments are handled, Mr. Tim Schwarz stated that the agency will try to assist where it can and reminds the appointing agencies there is a vacancy and offers assistance. Mr. Schwartz stated that the letters had gone out. Mr. King suggested that copies of each member's appointment be sent to the members for clarification.

Mr. Pitts provided his opinion that board members who wish to continue to serve on the board have some conversation with the appointing authority. Mr. Eaton provided the balance of the total amount of civil penalties was \$2,500. Mr. Tubberville reminded everyone the next board meeting would be held May 16 at 10 a.m. The Board meeting was adjourned at 10:40 a.m.