



TENNESSEE UNDERGROUND UTILITY DAMAGE PREVENTION BOARD
Meeting on August 15, 2018

MINUTES

The board meeting of the Tennessee Underground Damage Enforcement Board was called to order at 10:00 a.m. in the Hearing Room G-201 of 502 Deaderick Street, Nashville, Tennessee 37243 by Vice-Chairman Wayne Hastings.

Board Members Present

Earl Bolin
Wayne Hastings, Vice-Chairman
Bill Hollin
Eddie Hood
Craig Jensen
Kenneth W. King
Bob Lambert
Bobby Pitts
Kevin Raley
Kevin Tubberville, Chairman (Late Arrival)
Rick Tunnell
Bill Turner

Board Member(s) Via Telephone

Jonathan Campbell

Board Member(s) Absent

Kevin Kruchinski
Scott Niehaus
Steve Raper

TPUC Staff Present

Aaron Conklin, Legal Advisor to the TPUC Staff
Sharla Dillon
Chris Eaton
Ryan McGehee, Legal Advisor to the TUUDEB
Tim Schwartz

I. Opening of Meeting and Roll Call

Vice-Chairman Hastings opened the meeting at 10:00 a.m. It was announced that Chairman Tubberville would be joining the meeting late due to a work incident requiring him to be on the job-site. Vice-Chairman Hastings introduced the newest Board member, Earl Bolin. Roll-call was taken of the Board members.

II. Review and Adopt Board Meeting Minutes

The Board considered the Minutes of the last meeting of May 16, 2018. Mr. Turner proposed some corrections on page one to indicate that Bill Turner and Steve Raper were present in the attendance and Vice-Chairman Hastings was present via teleconference. After receiving a proper second from Mr. Lambert, the Motion to approve the Minutes, as corrected, passed unanimously on a voice-vote.

III. Election of Chairman and Vice-Chairman

Mr. King moved that Kevin Tubberville continue as Chairman. After receiving a proper second from Mr. Pitts, the Motion to Nominate Kevin Tubberville as Chairman passed unanimously on a voice-vote.

The position of Vice-Chairman was considered and Mr. Lambert moved that Mr. Wayne Hastings continue in that seat. After receiving a proper second from Mr. Eddie Hood, the Motion to Nominate Wayne Hastings as Vice-Chairman passed unanimously on a voice-vote, with Mr. Hastings abstaining.

IV. Rescheduling the November 14, 2018 Board Meeting

Mr. McGehee extended apologies, on behalf of the Commission for the inconvenience of rescheduling the November meeting. After deliberations in regards to the available alternative dates, conflicts and availability of each member, it was moved by Mr. Hastings that the meeting be rescheduled for November 16, 2018, at 10:00 a.m., Central Time, in Hearing Room G-201 of the Andrew Jackson Building in Nashville. After receiving a proper second from Mr. Hollin, the Motion to hold the November meeting on the 16th was approved unanimously on a voice-vote.

V. Orientation and Refresher Training of the Requirements of the Open Meetings Act, Public Records Act and Conflict of Interest Principles

Mr. McGehee provided to the Board an overview of the requirements of the Open Meetings Acts, Public Records Act, and Conflicts of Interest principles.

VI. Discussion by Board of the Considerations and General Obligations of Operators to Reasonably and Approximately Mark Utility Lines

The Executive Committee previously requested that the Board discuss two questions which had arisen in a recent citation: (1) What are the practical challenges to an operator knowing approximately where their lines are? (2) Are operators making a cost-benefit decision measuring the risk of repairing damage versus investing in marking their lines?

The Board had a general discussion with regard to this matter.

VII. Program Update by TPUC Staff

Quarterly Report

Mr. McGehee referred the Board to the Annual Report for 2017-2018 and the Quarterly Reports enclosed in their handouts and stated the latest numbers he had for July was 22 new complaints.

Year-To Date Report on Complaints and Enforcement Through Contested Cases

Mr. Conklin, the enforcement attorney for the Executive Committee, presented before the Board that 119 Complaints have been received year-to-date. The month of July brought forth 14 Complaints and 8 Complaints filed in August, producing a total of 22 Complaints year-to-date for the Fiscal year. Currently there are 25 investigation cases. Mr. Conklin provided an update on the status of several contested cases and show cause matters. Mr. Conklin fielded questions from Board members.

Legislative – Sunset Hearing

Mr. Schwartz, Director of Communications for TPUC, discussed the upcoming Sunset Hearing taking place before the Judiciary and Government Subcommittee of Government

Operations Committee. Mr. Schwartz stated that Chairman Tubberville will represent the Board, and that all are welcome to observe in person or via online through the State website.

Mr. Schwartz then gave a brief update with regard to Board vacancies. Mr. Schwartz stated that to his knowledge Mr. Mike Knotts of the electric cooperatives association and Speaker Harwell's office are handling the remaining vacant appointment.

VIII. Commission Invoice from January-March, 2018 Quarter

Mr. Chris Eaton, Chief Financial Officer for TPUC, presented the Third Quarter Invoice for the 2018 Fiscal Year reflecting a total of \$83,303.33, the Board was on track to be under budget by \$40,000.00 and fielded a variety questions concerning allocations, budgeting, supporting documentation, and whether there was a need for a Time Study at the present time, from the Board members.

The issue of a Time Study for the Staff's work was discussed. Mr. Eaton had stated that he agreed to conduct a time study when the program matures and reaches a stage without fluctuating legal costs. Mr. Turner made a motion requiring TPUC complete a Time Study to have the results ready in time for the next Board meeting on November 16th. There was deliberation on the matter by the Board.

Mr. Eaton informed the Board if the Motion carries, Director Taylor and possibly Chair Robin Morrison of TPUC will need to approve before the staff moves forward with the Time Study.

Mr. Jensen asked Mr. Turner to restate the Motion with a time frame. Mr. Turner restated his Motion that TPUC staff conducts a time study to include the months of September and October to be presented before the Board on November 16, 2018. Mr. Hastings seconded the Motion. Mr. Hollin requested a roll-call vote. Mr. Tubberville agreed and the voting on the roll-call vote took place as follows: Mr. Jensen (Abstain), Mr. Tunnell (Aye), Mr. Hollin (No), Mr. Raley (No), Mr. Lambert (Aye), Mr. Tubberville (Aye), Mr. Turner (Abstain), Mr. Bolin (Aye), Mr. Hastings (Aye), Mr. Hood (No), Mr. King (No), and Mr. Pitts (Aye). Mr. Campbell did not vote. The Motion to request the TPUC Staff to conduct a Time Study for September and October passed 6-4 on a roll-call vote.¹

Mr. Lambert moved the Third Quarter Invoice be approved. After a proper second from Mr. Pitts the Motion to approve the Third Quarter Invoice passed unanimously on a voice-vote.

¹ In light of the decision of the General Assembly's Judiciary and Government Subcommittee of the Joint Government Operations Committee on August 22, 2018, directing the State Comptroller to conduct a Time Study of the time TPUC employees work for the Board, the TPUC, by letter dated September 4, 2018, declined to perform an additional Time Study.

Mr. Turner requested Mr. Eaton to update the Board on the balance of the Board's Fund. Mr. Eaton stated at the end of the Fiscal Year 2016-2017 the balance was \$625 and at the end of 2017-2018 the balance was (unaudited) \$6,875. He continued to report that since the end of the Fiscal Year, the fund collected \$625 in July and \$1,250 bringing the total current balance to \$8,750.

IX. Update of Training Program by Tennessee 811

Mr. Turner reported the training is going well and the classes continued to be offered on the last Wednesday of every month at the TN 811 facility. Mr. Turner stated that year to date TN 811 has conducted 15 classes, with one being an off-site class.

Mr. Turner brought before the Board discussions regarding how the Board could set standardized pricing for the TN 811 off-site training classes to enable the class scheduling to be more expeditious without having to wait to appear before the Executive Committee for approval every time off-site training needed to be scheduled. Vice-Chairman Hastings suggested delegating that authority to the Executive Committee. Mr. McGehee stated such matters should be addressed by the Executive Committee under the statute.

X. Tennessee 811's Request to Discuss/Review Memorandums of Understandings Between Tennessee 811, the Board and the TPUC

Mr. Turner moved that a committee be set up to review the MOUs. After receiving a proper second by Chairman Tubberville the Motion passed unanimously. Vice-Chairman Hastings, Mr. Lambert, Mr. Turner, and Mr. Jensen volunteered to be on the committee. A meeting will be coordinated between those members on the Review Committee.²

XI. Tennessee 811's Request for the Next Proposed Budget

Mr. Eaton projected a budget of \$350,000 based on past performance. Mr. Turner stated the budget projection needs to be provided in detail. Mr. Turner explained he would like to see the budget reflective of the staff costs, the administrative costs, legal costs, direct costs, and allocated costs. Mr. Eaton agreed to prepare the budget as requested and send to all Board members via email within the next 10 business days.³

² The scheduling of the sub-committee was set aside on the recommendation of Advisory Staff to avoid a potential conflict of interest or the appearance of a conflict of interest and the matter was placed on the agenda for the next full Board meeting for November 16, 2018.

³ Mr. Eaton sent budget information to the Board via e-mail on September 7, 2018.

Mr. Pitts moved the Board approve that next year's budget is not to exceed \$350,000. After receiving a proper second from Mr. Lambert, the Motion passed unanimously on a voice-vote.

XII. Discuss Future Topics for Next Meeting

Mr. Turner requested the time study report be added to the November 16th agenda.

The Board meeting was adjourned at 12:25 P.M.