

**MINUTES OF THE REGULAR BI-MONTHLY MEETING OF DIRECTORS
OF THE WATER WORKS BOARD OF THE CITY OF BIRMINGHAM
December 18, 2019**

The regular bi-monthly meeting of the directors of The Water Works Board of the City of Birmingham was held on Wednesday, December 18, 2019 at 11:00 a.m., in the principal office of the Board, 3600 First Avenue North, Birmingham, Alabama.

The following Directors were present: William Burbage, Jr., Deborah Clark, Ronald A. Mims, Tommy Joe Alexander, William Muhammad, Brett King, George Munchus, and Brenda Dickerson.

The meeting was also attended by: Michael Johnson, General Manager; Sonny Jones, Jeff Thompson, and Derrick Murphy, Assistant General Managers; Grace Amison, Executive Assistant to the Board of Directors; Anitra Hendrix, Executive Assistant to the General Manager; George Anderson, Rick Jackson, Paul Lloyd, Terrell Jones, Drusilla Hudson and Carolyn White, Board Employees; K. Mark Parnell and Mary Thompson, Parnell Thompson, LLC; Kelvin Howard, Kelvin Howard, LLC; Martha Bozeman and Andy Mitchell, Agency 54; Brian Ruggs, and Trisha Brown, ARCADIS, U.S.; Olivia Martin, State of Alabama Attorney General; Kim Baylor Bivins, Birmingham Industry Construction Authority; Walter Lewis, Piper Jaffrey; Angela Hoskins, Craig Hoskins, Eddie Griffith; Studio 2H Design; Chandra Abesingha, CE Associates; Mark Peeples, MAP Development; Cory Pettway, City of Birmingham; Jonathan McCoy; Isaac Ballard; Priscilla Lowery; Allan Isom; Nelda Thompkins; Denise LeCroy; Barbara Rhodes; Emily eilllott; Tricia Sheets; Peggy Gargis; Maria Alexander; Harry Corely; and Officer Rosato.

Inasmuch as eight of the directors were present; Chairman Burbage declared a quorum in attendance.

Chairman Burbage called the meeting to order at 11:30 a.m. Mr. George Anderson opened the meeting with prayer.

Following, the General Manager stated agenda item 10 was withdrawn from the agenda due to the Cahaba River Society needing to reschedule.

Following, the General Manager asked the board to approve minutes of the October 9, 2019 Regular Board of Directors' meeting, as set forth in agenda item 1. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Dr. Brenda Dickerson and seconded by Mr. Ronald A. Mims, that the Board hereby approves minutes of Regular Board of Directors' Meeting held October 9, 2019. Resolution No. 8232 is hereby adopted by unanimous vote on.”

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Following, the General Manager asked the board to adopt a resolution approving a revised formal policy for corporate minutes, as set forth in agenda item 2. Director Mims questioned whether this revision had come before a committee. The General Manager responded no, but

indicated drafts were sent to the directors. A discussion then ensued. Board Attorney Mark Parnell stated there is a formal policy and there's a revision to take care of the future. He stated the Executive Assistant to the Board of Directors' position and the Corporate Governance position have been reconstituted; therefore, the policy needed to be revised. A discussion then ensued. Director Muhammad questioned what did the previous resolution state regarding minutes. Mr. Parnell stated under the articles of incorporation the secretary is responsible for keeping the minutes. He stated that responsibility was delegated to the Executive Assistant to the Board of Directors. He stated since that time the other Executive Assistants have been drafting minutes. He indicated the revision to the policy clarifies who is responsible for keeping the minutes, which includes processing and approval. Mr. Parnell indicated the current position held by Grace Amison, Executive Assistant to the Board of Directors, will not be there once she retires; therefore, the revision would cover the two new positions that will be created. He indicated the revision of the policy will formalize what is currently happening with minutes. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Brett King and seconded by Ms. Deborah Clark, that the Board hereby approves a revised formal policy for corporate minutes. Resolution No. 8233 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to approve payments of the following invoices, as set forth in agenda items 3.1 through 3.3. Director Muhammad questioned who are Ellis, Head, Owens & Justice. Director Clark stated they represent the BWW employees in the Startley case. Director Munchus stated the firm can appear before the board; however, they cannot share any information with the board. Mr. Parnell stated that is correct due to attorney client privilege. On a motion duly made and seconded, the following resolutions were adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Brett King, and seconded by Dr. Brenda Dickerson, that the Board hereby authorizes staff to execute payment to the following:

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| 3.1 | <u>NeSmith, Lowe & NeSmith, LLC</u>
For professional services rendered during November 2019 | <u>\$ 500.00</u> |
| 3.2 | <u>Ellis, Head, Owens & Justice</u>
For professional services rendered for the period of
November 6, 2018 through June 27, 2019 | <u>\$ 12,738.90</u> |
| 3.3 | <u>Parnell Thompson, LLC</u>
For professional services rendered during November 2019 | <u>\$ 93,588.75</u> |

Resolution No. 8234 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to take bids, as set forth in agenda items 4.1 through 4.3. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William R. Muhammad, and seconded by Mr. Ronald A. Mims, that the Board hereby authorizes staff to take bids on the following, as recommended by the Engineering and Maintenance Committee:

- 4.1 For Line Locating Services within the service area of the Birmingham Water Works at an estimated out-of-pocket cost to the Board of \$2,524,400.00.
- 4.2 For the FY2020 Pipeline Replacement Projects at an estimated amount of \$17,633,705.00.
- 4.3 For continuing utilization of a cloud-based vehicle tracking system which utilizes GPS modules installed in company vehicles to monitor, track and report on vehicle usage activity at an estimated out-of-pocket cost to the Board \$66,432.00.

Resolution No. 8235 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to award bids, as set forth in agenda items 5.1 through 5.8. Director King made a motion and Director Clark seconded the motion. Director Muhammad questioned whether a vendor stated they would have zero historically underutilized business (HUB) participation. Director Munchus stated he would vote no on this item due to vendors doing everything they can to avoid equal opportunity and supplier diversity. Director Mims requested a roll call vote and the motion failed on a vote of 4-4.

Following, the General Manager asked the board to award annual chemical bids as set forth in agenda items 6.1 through 6.10. Director Munchus requested a roll vote. Director King questioned whether the chemicals were needed to clean BWW’s water. Assistant General Jeff Thompson responded yes. The General Manager stated the chemicals are a need and management is sensitive to the board’s request to raise HUB participation and are working diligently to improve that. Director Mims questioned whether the contracts could be extended. The General Manager stated some of the vendors are new. Director Dickerson questioned which contracts could not be extended. Director Clark responded the direct manufacturers could not be extended. The General Manager stated the manufacturers make the chemicals and they ship directly to BWW. He stated it is difficult for the manufacturers to add anything to their supply chain. Director Munchus stated his reason for voting no is due to supplier diversity and equal opportunity, and not the HUB program. Director Alexander questioned whether the chemicals are needed right now, and will this affect the public’s drinking water if BWW does not have these chemicals. The General Manager responded yes and indicated chemicals are not stored to last for an extended period. Director Muhammad stated staff has all year to work on the chemicals. He questioned whether chemicals could be purchased as needed. Mr. Parnell stated under the bid law, the chemicals do not have to be bid because they are consumed in the operation of the system. He stated the contracts that terminate on December 31, 2019, staff can still purchase chemicals, but they would be at market price. He indicated their advice would be for staff to continue to buy the chemicals

to treat the water to distribute to customers, but the supplier would no longer be bound by the terms of the contract. Director Munchus stated they are trying to create competition. A discussion then ensued. Director Dickerson stated the board has been assured this item would be looked at and she suggested working on this item at the beginning of the year versus the end of the year. Director Alexander stated the Shades Mountain Filter Plant project had a bid for \$35 million and the board turned it down. He stated when the bid went out again it increased to \$46 million. He indicated the board cannot afford to make that kind of mistake again. He stated that kind of mistake will cost BWB customers. Director Munchus stated the contractor in that case came back with a low-ball price. He indicated he voted no based on the bid not being responsible nor responsive. Director Dickerson stated she does not disagree with the supplier diversity issue; however, she is concerned about the treatment of the water and she wants it to stay safe. Director Muhammad stated he voted against the Shades Mountain Filter Plant project due to the 30 percent supplier participation. Chairman Burbage then called for a vote. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Brett King, and seconded by Ms. Deborah Clark, that the Board hereby authorizes staff to award annual chemical bids on the following, as recommended by the Engineering and Maintenance Committee:

- 6.1 GEO Specialty Chemicals, the lowest responsible and responsive bidder, for Polyaluminum Chloride BI18-05-16(H), at an estimated out-of-pocket cost to the Board of \$8,250.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.2 Harcros Chemicals, the lowest responsible and responsive bidder, for Orthophosphoric Acid BI19-05-16(H), at an estimated out-of-pocket cost to the Board of \$21,222.50; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.3 Cabot Norit Americas, Inc., the lowest responsible and responsive bidder, for Powdered Activated Carbon BI19-05-16(K), at an estimated out-of-pocket cost to the Board of \$43,500.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.4 Allied Universal Corp, the lowest responsible and responsive bidder, for Liquid Chlorine BI19-05-16(F), at an estimated out-of-pocket cost to the Board of \$159,465.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.5 Univar USA, Inc., the lowest responsible and responsive bidder, for Hydrofluosilicic Acid (Fluoride) BI18-05-16(C), at an estimated out-of-pocket cost to the Board of \$170,050.00; and to authorize the General Manager and/or the

Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.

- 6.6 Mississippi Lime, the lowest responsible and responsive bidder, for Bulk Hydrated Lime - BI18-05-16(A), at an estimated out-of-pocket cost to the Board of \$388,270.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.7 Allied Universal Corp, the lowest responsible and responsive bidder, for Liquid Sodium Hypochlorite BI19-05-16(G), at an estimated out-of-pocket cost to the Board of \$479,400.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.8 Polytec, Inc., the lowest responsible and responsive bidder, for Liquid Calcium Hydroxide (Lime) BI19-05-16(E), at an estimated out-of-pocket cost to the Board of \$495,000.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.9 GEO Specialty Chemicals, the lowest responsible and responsive bidder, for Dry Pounds of Liquid Aluminum Sulfate BI19-05-16(D), at an estimated out-of-pocket cost to the Board of \$815,850.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.
- 6.10 Kemira Water Solutions, the lowest responsible and responsive bidder, for Ferric Sulfate - 19-05-16 (B), at an estimated out-of-pocket cost to the Board for \$2,772,000.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions, as recommended by the Engineering & Maintenance Committee.

Resolution No. 8236 is hereby adopted by Directors Burbage, Muhammad, King, Dickerson, Clark and Alexander; Directors Munchus and Mims voted no.”

Following, the General Manager asked the board to exercise its bid option to extend a final 12-month contract, as set forth in agenda item 7. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Ronald A. Mims, and seconded by Dr. Brenda Dickerson, that the Board hereby exercises its bid option to extend a final 12-month contract; and authorizes the General Manager and/or the Assistant General Manager to execute a contract with Wade, Sand & Gravel, the lowest responsible and responsive bidder, for estimated quantities of Crushed Limestone-Backfill Materials (Annual), per bid awarded on July 13, 2017, at an estimated out-of-

pocket cost to the Board of \$562,218.00, as recommended by the Engineering & Maintenance Committee. Resolution No. 8237 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to approve a scope of services agreement with CE Associates for the design and inspection of a water main replacement project, as set forth in agenda item 8. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Ronald A. Mims, and seconded by Dr. Brenda Dickerson, hereby approves a scope of services agreement with CE Associates for the design and inspection of a water main replacement project located at 77th Way South; 78th Street South; 80th Street South; 8th Avenue South; 8th Court South; 8th Terrace South; 77th Street South; Sparta Avenue; and Vanderbilt Road located in the Eastlake Community of the City of Birmingham, Alabama; and to authorize the General Manager and/or the Assistant General Manager to execute said agreement, at an estimated out-of-pocket cost to the Board for \$140,775.00, as recommended by the Engineering & Maintenance Committee. Resolution No. 8238 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to approve a resolution to amend the Retirement Plan for employees of the Water Works Board of the City of Birmingham to provide a one-time payment, as set forth in agenda item 9. The General Manager stated research was completed regarding the financial impact of a one-time payment for pensioners from the Pension plan. He stated he contacted Segal Company to perform an analysis of the impact a one-time payment of \$310,000 would have on the plan. He indicated Segal stated there would be no material impact. He stated plan earnings would pay for the increase. In addition the board’s annual contribution would not change. The General Manager stated not every pensioner would get the same amount, but it would be based on how long they have been retired. He stated the rate would range from 10 percent to 70 percent of their monthly pension payment. Director Mims then made a motion to move the item and Director Dickerson seconded the motion. Director Mims questioned how many retirees are there. The General Manager responded 316. Director Mims stated he didn’t think it was fair to overpay a retiree over another retiree. The General Manager stated the payments should not be the same. He then gave an overview of the percentages. Director Munchus questioned whether this item had been discussed with the retirees’ association. The General Manager responded no. Director Munchus recommended tabling this item. Director Mims and Dickerson withdrew their motion. Director Munchus then made a motion to table the item and Director King seconded the motion. The General Manager stated the item would be moved to the Executive Committee. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. George Munchus, and seconded by Mr. Brett King, hereby tables agenda item 9, Amendment Number Six to the Retirement Plan, and refer it to the Executive Committee.

Resolution No. 8239 is hereby adopted by unanimous vote.”

Following, the General Manager asked the board to discuss New Business, as set forth in agenda item 11. Director Muhammad made a motion for the board to adopt a nondiscrimination policy that states that every contract with goods or services that exceeds \$50,000.00 shall contain a certificate that will serve as proof that the vendor does not discriminate in the employment of his personnel on account of race, creed, color, gender or national origin and Director Munchus seconded the motion. Director King questioned the attorneys whether the motion sounded ok. A discussion then ensued. Director King stated he would second the motion; therefore, Director Munchus withdrew his second to the motion. Chairman Burbage clarified that this motion would apply to every contract over \$50,000.00. Director Clark requested Director Muhammad amend his motion to include all contracts regardless of their amount. Director Muhammad then amended his motion. Mr. Parnell clarified the amended motion would include that every contract would be required to have a certificate regarding the nondiscrimination policy. Chairman Burbage then called for a vote. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William R. Muhammad and seconded by Mr. Brett King, that the Board hereby approves the following:

Effective, immediately, every contract entered into with The Water Works Board of the City of Birmingham for goods or services shall contain a provision or certificate that the contracting party will not discriminate against any employees or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin.

Resolution No. 8240 is hereby adopted by unanimous vote.”

Following, Director Muhammad made a motion for the board to renegotiate the contract with Jefferson County Sewer to pay the board what it collects opposed to what is billed. Director Alexander stated that amount would be half a million dollars. Director Muhammad stated it would be \$1.7 million. Chairman Burbage questioned the attorneys whether there would have to be renegotiations with Jefferson County. Mr. Parnell responded the board can not do this unilaterally, Jefferson County would have to agree. He indicated the board and the county are bound by the current contract. Director King questioned whether the board would be directing the powers that be to renegotiate a new deal. Director Muhammad responded yes and stated the current contract is for 7.7 percent based on what is billed and leaves the board with the responsibility to collect monies that are losses. He indicated Jefferson County Commissioner LaShunda Scales asked the board to contribute \$1.2 million to a customer assistance program. He stated the board is already paying \$1.7 million in sewer charge offs and contributing \$100,000.00 to the Help to Others (H2O) Foundation. He indicated he feels that is putting too much burden on the board. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William R. Muhammad and seconded by Mr. George Munchus, that the Board hereby approves renegotiation of the contract with Jefferson County Sewer to pay the Board what it collects opposed to what it is billed. Resolution No. 8241 is hereby adopted by

unanimous vote.”

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Following, Director Muhammad made a motion to move all board meetings to the Training Room for comfort for everyone who attends board meetings. Director King then asked the General Manager his thoughts on moving the meeting to the Training Room. The General Manager stated if a large crowd is anticipated for a meeting, the meeting could be moved to the Training Room; however, for most meetings the board room is adequate. A discussion then ensued. Director Dickerson stated the board should be diligent about accommodating the public. Director Alexander stated he would not mind going to the Training Room if large crowd is anticipated; however, he would not like for every meeting to be held in the Training Room. Chairman Burbage then called for a roll call vote. The motion failed. Director King then made a motion to authorize the General Manager to move meetings to the Training Room as he deems appropriate. A discussion then ensued. Director Mims stated this was not staff’s meeting, but the board’s meeting and it shouldn’t be up to staff to dictate where the board meetings will be held. Chairman Burbage stated he didn’t feel staff would be dictating where the meetings would be held, but staff would analyze what’s going on with a particular board meeting. Chairman Burbage then called for a roll vote. The motion failed on a vote of 4-4.

Following, Director King made a motion to adjourn the meeting and Director Alexander seconded the motion. Director Munchus opposed to adjourning the meeting. Chairman Burbage stated when there is a motion to adjourn, it takes precedence over everything else. He stated the motion had to be voted on due to parliamentary procedure. Chairman Burbage then called for a roll call vote and motion failed on a vote of 4-4.

Following, Director Munchus questioned the number of people in BWWB’s service area whose water is cut off as of this meeting. The General Manager responded between 2,000 to 3,000 customers. Director Munchus questioned whether there are veterans, senior citizens and children living in these homes that have their water shut off. The General Manager responded yes. Director Munchus stated he would write a check for \$1,000.00 to provide assistance to get water restored to either a home that contains children or a veteran. He indicated he did not want his name to be identified in making the donation and asked who the check should be made to. The General Manager responded the check should be made to the H2O Foundation.

Following, Director Muhammad made a motion to put the board on record as fully supporting construction of a new EnviroLab. Director Clark stated the board needs to look at its budget first before constructing a new one. She stated a new EnviroLab is needed, but it has to be considered with finances, so it does not result in a rate increase. She stated it needs to go before a committee. Chairman Burbage stated this topic has been discussed in the Engineering & Maintenance Committee. Director Clark stated this topic may come up under the strategic plan. The General Manager stated once the priorities have been established for capital projects, it is conceivable to be in the budget for 2020. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William R. Muhammad and seconded by Mr. George Munchus, that the Board hereby approves fully supporting construction of a new EnviroLab. Resolution No.

8242 is hereby adopted by unanimous vote.”

Following, Director Munchus questioned where the board is on setting up a plan for the \$1.2 million assistance for Jefferson County Sewer. The General Manager stated a resolution has not been brought forth to move money; however, an area where the money could come from has been identified. Director Munchus then asked when the resolution would to move the money be brought forth. Chairman Burbage stated Jefferson County needs to provide more information other than an appropriation. Director Munchus stated he does not feel the board needs to wait on Jefferson County.

Following, Chairman Burbage recognized various speakers who made comments regarding the board’s hunting lease agreement at Lake Purdy.

As there was no further business before the Board, Chairman Burbage entertained a motion to adjourn the meeting. A motion was duly made and seconded, and the meeting adjourned at 1:14 p.m.

/s/
William Burbage, Jr.
Chairman/President

Attest:

/s/
Ronald A. Mims
Secretary-Treasurer