

**MINUTES OF THE REGULAR BI-MONTHLY MEETING OF DIRECTORS OF THE
WATER WORKS BOARD OF THE CITY OF BIRMINGHAM
August 10, 2022**

The regular bi-monthly meeting of the Directors of The Water Works Board of the City of Birmingham was held on Wednesday, August 10, 2022, at 11:30 a.m., at 3600 First Avenue North, Birmingham, Alabama – In Person, Training Room. The Public has the option to listen by phone by calling (888) 398-2342 Code: 5608731.

The following Directors were present via roll call: Lucien Blankenship, William “Butch” Burbage, Jr., Tom Henderson, Tereshia Huffman, George Munchus, Dalton NeSmith, Jr., Chris Rice and Larry Ward. Director Mims was present by phone.

Others present were: Michael Johnson, General Manager; Iris Fisher, Derrick Murphy and Jeffrey Thompson, Assistant General Managers; K. Mark Parnell, Parnell Thompson Law, LLC; Kelvin Howard, Kelvin Howard, LLC; Tiffanie Agee, Agee Law, LLC; Cynthia Williams, Board Administrator; Anitra Clark, Corporate Governance Specialist; Tammy F. Wilson, Executive Assistant to Assistant General Managers Derrick Murphy and Jeff Thompson; Colandus Mason, Information Technology Manager; Rick Jackson, Public Relations Manager; David Walker, Security Manager; Tim Garret, Technical Support Analyst I; Charles McGee and Jeff Wade, Electrical and Mechanical Shop; Joyce Perry, Safety and Risk Management Supervisor; Rosalind Jones, Accounting Manager; Geraldine Davis, Customer Support Services Manager; Olivia Martin, Office of the Attorney General; Michael Bell, Birmingham Construction Industry Authority; Martha Bozeman and Tommy Palladino, Agency 54; Chandra Abesingha, CE Associates; Gregory Jones, Jefferson County Commission; Patrick Flannelly, ARCADIS U.S., Inc.; Phillip Moultrie and Kurt Close, Valent Group; Heather Gann, Al.com; Mac Underwood and Michael Parker, Underwood Financial Consultants, LLC; William R. Muhammad, speaker.

Chairman Rice called the meeting to order at 11:31 a.m. Assistant General Manager, Iris Fisher opened the meeting with prayer.

Following a roll call, eight directors were present, so a quorum was in attendance. The agenda was amended moving Item 13 to Item 12 and moving Speakers to follow Unfinished Business.

Next, 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. Dalton NeSmith and seconded by Mr. Larry Ward, that the Board of Directors hereby approves the August 10, 2022, Regular Board of Directors’ meeting agenda, amending it, moving Item 13 to Item 12, and moving Speakers to follow Unfinished Business.

Resolution No. 9086 is hereby adopted by unanimous vote.”

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Following, under Minutes for Approval, there were none. Under Reports of Committee, Director Rice asked if the Request For Qualifications (RFQ) was sent for the security services contract. General Manager Johnson responded that the security item should be ready to present at the September 14, 2022, Engineering and Maintenance Committee meeting. Chairman Rice also asked the General Manager to send Board members all of the professional services contracts by next Monday close of business. Assistant General Manager Thompson added that the existing security contract expired June 30th and the Board approved to continue services month to month until a new contract was approved.

Next, under Reports of Officers, Assistant General Manager Iris Fisher presented the Finance and Administration Division update for the 2nd quarter 2022. Net position as of June 30, 2022, was \$186,260,222.00. Year to date net operating revenues came in at \$42,250,448.00. Power costs were over budget \$744,381.00. Consulting, salary survey, insurance and labor costs were under budget. There were 76 open employee positions. Contractor charges, travel expenses, employee health costs and paving charges were also under budget. Jefferson County Sewer billing and collections as of June 2022 was at 88%. Paygo balance as of June 2022 was \$59,340,139.00. HUB participation was at 111% of the 30% goal. HomeServe commissions June year to date were \$431,168.16.

Following, Assistant General Manager Jeffrey Thompson presented the Operations and Technical Services Division update for the 2nd quarter 2022. Finished water pumpage was down for the quarter. Raw water production has been on track to produce 40 billion gallons this year. Rainfall was down, but above average. Inland Lake was well above the average and Lake Purdy was full at the end of the 2nd quarter. Raw water pumpage was down, due in part to losing ERP Coke. Power costs are up considerably and possibly a power audit should be considered next year. Chemical usage was a little under for the quarter; however, next quarter will show an increase due to increases in costs for chlorine and other chemicals. A few highlights from the EnviroLabab, Industrial & Commercial Accounts and the Security Departments were mentioned.

Next, Assistant General Manager Derrick Murphy presented the Engineering and Maintenance Division update for the 2nd quarter 2022. A booklet was provided to the Board members on the 2022 Capital Plan and Related Projects (a copy of which is on file with the Board meeting book). The focal point is the Distribution Systems’ leaks due to aging water pipes. AGM Murphy stated currently 15 to 17 miles are being replaced annually. The top four 2022 expenditures are: distribution main replacement, SMFP filter improvements, maintenance & repairs to existing facilities, and replacement of distribution services. The leakage is being driven by galvanized steel and un-lined cast iron pipes. According to AGM Murphy we are behind on our pipeline replacement program due to supply chain issues, whereas we have focused on hydrant

and valve work. FY2022 Initiatives & Updates include Infrastructure Funding, Geographic Information System (GIS) and Leak Detention. Director Ward asked for an update on the Lake Purdy Pump Station and Transmission Line project. AGM Murphy responded that the design would be ready December of 2022.

Following, there was no Unfinished Business. Speaker, William R. Muhammad was recognized. Mr. Muhammad spoke on “Save BWWB” and stated that he would like the Board to take a vote of no confidence or not with Senior Staff. Mr. Muhammad stated Automatic Meter Reading (AMI) was not a quick fix for the billing issues that the Board is currently experiencing, because there would be a period of at least four to six years to replace the number of meters in the distribution system. Legal fees were mentioned, and Mr. Muhammad asked if there would be a quarterly report on legal fees.

Next, under New Business, the Board was asked to approve an invoice for payment to Hilliard, Smith & Hunt, LLC, as set forth in agenda Item 1. On a motion duly made and seconded, and 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. George Munchus and seconded by Mr. Larry Ward, that the Board hereby approves payment of an invoice to Hilliard, Smith & Hunt, LLC, for professional services rendered July 2022, in the amount of \$13,000.00.

Resolution No. 9087 is hereby adopted. Director Huffman abstained.”

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Following, the Board was asked to approve payments of invoices to Terminus Municipal Advisors, LLC, Pat Lynch & Associates, Agee Law, LLC, Perkins Law, LLC, Agency 54, and Birmingham Construction Industry Authority, as set forth in agenda items 2.1 through 2.6. 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. Larry Ward and seconded by Ms. Tereshia Huffman, that the Board hereby authorizes staff to approve payments of invoices to the following:

- 2.1 Terminus Municipal Advisors, LLC, for professional services rendered July 2022, in the amount of \$8,500.00.
- 2.2 Pat Lynch & Associates, for professional services rendered July 2022, in the amount of \$10,000.00.
- 2.3 Agee Law, LLC, for professional services rendered July 2022, in the amount of

\$10,500.00.

- 2.4 Perkins Law, LLC, for professional services rendered July 2022, in the amount of \$12,405.00.
- 2.5 Agency 54, for professional services rendered June 2022, in the amount of \$25,000.00.
- 2.6 Birmingham Construction Industry Authority, for professional services rendered May 2022, in the amount of \$25,000.00.

Resolution No.9088 is hereby adopted. Director Blankenship voted no.”

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Next, the Board was asked to adopt a resolution administering access to the details of invoices paid for legal expenses, as recommended the Executive Committee, and set forth in agenda Item 3. Director Munchus asked if this was an attempt to deny Directors or the public copies of legal bills. Director NeSmith that it was not and that detailed copies of the legal expenses are available to the Directors in the Executive Office, due to some sections containing confidential information. On a motion duly made and seconded, the following resolution was adopted:

“WHEREAS The Water Works Board of the City of Birmingham (the Water Works Board”) has retained legal counsel to represent it on any number of legal issues and court cases; and,

WHEREAS, said legal counsel(s) regularly submit invoices to the Water Works Board for payment for their services; and,

WHEREAS, said invoices are submitted to the Water Works Board’s General Manager for review and recommendation for payment; and,

WHEREAS members of the board of directors of the Water Works Board are encouraged and entitled to be kept informed of the legal services being provided to the Water Works Board by its various legal counsel(s); and,

WHEREAS members of the board of directors’ desires to be informed of legal matters and ensure that all appropriate measures are taken to protect and maintain the attorney-client privilege.

NOW, THEREFORE, BE IT RESOLVED by the Water Works Board of the City of Birmingham, on a motion duly made by Mr. Dalton NeSmith and seconded by Mr. William “Butch” Burbage, as follows:

1. Subject to the following provisions and consistent with their various fiduciary responsibilities, members of the board of directors for the Water Works Board are entitled, and in fact encouraged to educate themselves on the various legal issues and cases for which the various legal counsel(s) are providing representation:
 - a. When submitting invoices for payment, the Water Works Board’s legal counsel(s) shall submit an invoice detailing the services being provided to the Water Works Board as well as a separate summary page containing the total of said invoice.
 - b. Due to their sensitive and confidential nature, invoices detailing the legal services being provided the Water Works Board by its legal counsel(s) shall only be maintained in the offices of the General Manager and the Board Administrator for the board of directors.
 - c. The summary page submitted with each invoice shall be the only portion of the invoices for legal services included with the information supplied with agendas for board of director meetings as well as submitted to the Accounting Department for payment.
 - d. Any member of the board of directors desiring to review the detailed portions of any legal services invoice may only do so by reviewing the invoice in the possession of either the General Manager or the Board Administrator at the executive offices for the Water Works Board.
 - e. All directors are encouraged to contact any of the Water Works Board’s legal counsel(s) to have any questions they may have addressed in a manner that will preserve the attorney-client privilege.

Resolution No. 9089 is hereby adopted. Directors Blankenship and Munchus voted no.”

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Following, the Board was asked to approve an Easement Agreement with Alabama Power Company on Cahaba Beach Road, as recommended by the Engineering and Maintenance Committee, and set forth in agenda Item 4. 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. Larry Ward and seconded by Mr. Dalton Nesmith, that the Board hereby approves an Easement agreement with Alabama Power Company on Cahaba Beach Road; and authorizes the General Manager and/or the Assistant General Manager to execute the

agreement, as recommended by the Engineering and Maintenance Committee.

Resolution No. 9090 is hereby adopted by unanimous vote.”

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Next, the Board was asked to approve a Scope of Services Agreement with Underwood Financial Consultants, LLC, to conduct a detailed review and analysis of customer billing and collections from January 1, 2022, through July 31, 2022, as recommended by the Finance Committee, and set forth in agenda Item 5. Director Huffman stated that under then General Manager Mac Underwood, there were issues with 20,000 customers’ accounts, according to an Al.com article dated in 2017. Director Huffman asked who else was looked at to perform this work. Chairman Rice stated that there was a 60-day period in which all issues were resolved, as there is with all new implementations such as this one. Director Huffman asked what the next steps would be after this work was performed. Chairman Rice stated the current billing issues have been ongoing since last year. Chairman Rice stated there was not anything wrong with having another set of eyes on this issue to see if what everyone is being told is accurate. The reason Underwood Financial Consultants, LLC was chosen was because they are familiar with the unique operation system already. Director Blankenship asked Mr. Underwood if he currently works with Greene County. Mr. Underwood responded that he does do work for Greene County. Director Blankenship stated he believed attorney Parnell was the attorney of record for Greene County, and that Mr. Underwood sat in on that selection process. Director Blankenship asked to seek an Attorney General opinion on this issue because it raises a red flag. Director Blankenship stated morale is being killed he believed. The employees have provided all of the information the Board has asked for, in regard to the current billing concerns. 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 “Butch” Burbage and seconded by Mr. Larry Ward, that the Board hereby approves a Scope of Services Agreement with Underwood Financial Consultants, LLC., to conduct a detailed review and analysis of customer billing and collections from January 1, 2022, through July 31, 2022, at an amount not-to-exceed \$14,500.00; and authorizes the General Manager and/or the Assistant General Manager to execute the agreement, as recommended by the Finance Committee.

Resolution No. 9091 is hereby adopted. Directors Blankenship and Huffman voted no.”

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Following, Director NeSmith made a request to consolidate Items 6 through 11; various agreements, a purchase, rescinding a purchase and awarding of bids. The items were read into the record by GM Johnson. Director Munchus asked if BCIA had provided their information on HUB performance. AGM Murphy responded that they had. Some discussion occurred regarding

Item 7, an agreement with Carr Riggs & Ingram, LLC, and if BCIA had been involved in this approval. Michael Bell, with BCIA stated they do not get involved in professional service agreements. Director Henderson stated he believed the state bid list regarding Items 9 & 10 happened only once per year. AGM Murphy stated we did have pre-approval on the original purchase, but we have no control should the state decide to modify that. Attorney Parnell confirmed that this action is allowable by the Public Examiner's Office. Regarding the previous Item 5, Director Munchus asked about the effective date of the Underwood Financial Consultants, LLC agreement. Attorney Parnell responded that the agreement would become effective today when the item was approved. 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. Dalton NeSmith and seconded by Ms. Tereshia Huffman, that the Board hereby authorizes staff to approve agreements, rescind an approval to purchase and award bids to the following, as recommended by the Engineering and Maintenance Committee or the Executive Committee:

6. Valent Group, LLC., effective August 1, 2022, through July 31, 2023, to serve as broker of record for the Board's property and casualty insurance policies, at an estimated out-of-pocket cost of \$150,000.00; and authorizes the General Manager and/or Assistant General Manager to execute the agreement.
7. Carr, Riggs & Ingram, LLC, Certified Public Accountants, to conduct the 2022 Financial Statement Audit at a cost not-to-exceed \$175,000.00; and authorizes the General Manager and/or the Assistant General Manager to execute the agreement, pending review and approval by the Board's Attorney.
8. Schneider Electric, a sole source provider, for Schneider Electric Customer First Premium Level Support and Services, at a cost of \$188,979.00 for the first year, \$194,197.00 for the second year and \$199,574.00 for the third year, at a total estimated out-of-pocket cost of \$582,750.00; and authorizes the General Manager and/or the Assistant General Manager to execute the agreement.
9. Kenworth/Truckworx, rescinding of four (4) Heavy Duty Leak replacement vehicles. On March 23, 2022, the Board approved the purchase of four (4) Heavy Duty Leak replacement vehicles at a cost of \$201,316.00 each, for a total out-of-pocket cost of \$805,264.00. The same day the Board approved the purchase, the vendor notified BWW that the price had increased to \$211,608.00 each, for total out-of-pocket cost of \$846,432.00.
10. Kenworth/Truckworx, for the purchase of four (4) Heavy Duty Leak replacement vehicles, at a cost of \$211,608.00 each, for a total out-of-pocket cost of \$846,432.00, under the Sourcwell negotiated contract #060920-KTC.

- 11.1 Consolidated Pipe & Supply, the lowest responsible and responsive bidder, for estimated quantities of 1" Double Coppersettlers at an estimated out-of-pocket cost of \$238,350.00; and to authorize the General Manager and/or the Assistant General Manager to execute the agreement.
- 11.2 Consolidated Pipe & Supply, the lowest responsible and responsive bidder, for estimated quantities of Copper Meter Setters/Resettlers, at an estimated out-of-pocket cost of \$399,506.47; and to authorize the General Manager and/or the Assistant General Manager to execute the agreement.
- 11.3 Tren-Tay, Inc., the lowest responsible and responsive bidder, for the replacement of approximately 4,850' of 2" galvanized steel pipe / 2" unlined cast iron pipe, 1,160' of 2" cast iron cement lined (CICL) pipe and 410' of 8" unlined cast iron pipe with approximately 2,300' of 8" DICL pipe; 2,650' of 6" DICL pipe; 1,300 of 4" DICL pipe and related appurtenances; and 66 water services along Linthicum Street; Brewton Street; Wharton Avenue; East Norman Street; Day Avenue; Cooper Street; Princeton Avenue and East Lake Boulevard located in the City of Tarrant, at a bid amount of \$1,069,675.50; plus estimated cost of materials and Water Board labor in the amount of \$487,585.53; for a total estimated out-of-pocket cost of \$1,557,261.03.

Resolution No. 9092 is hereby adopted. Director Blankenship abstained. Director Munchus voted no."

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Next, Attorney Parnell certified an Executive Session would be to discuss general reputation and character; legal ramifications of and legal options that the Board may take that could result in pending litigation becoming litigation; and controversies that are not yet being litigated depending on action the Board may take which could result in litigation, as set forth in agenda Item 13. Due to an emergency, the meeting was recessed until Tuesday, August 16, 2022, at 11:30 a.m. 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 Ms. Tereshia Huffman and seconded by Mr. Dalton NeSmith, that the meeting was recessed until Tuesday, August 16, 2022, at 11:30 a.m.

Resolution No. 9093 is hereby adopted by unanimous vote."

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The meeting reconvened on Tuesday, August 16, 2022, at 11:33 a.m. The Board moved to agenda Item 13, a request for the Board to enter an Executive Session. Board Attorney Mark Parnell certified that the Executive Session would be to discuss general reputation and character, legal ramifications of and legal options that the Board may take that could result in pending litigation becoming litigation; and controversies that are not yet being litigated depending on action the Board may take which could result in litigation. Mr. Parnell stated the Executive Session would last 45 minutes and the Board would take action afterwards. A discussion then ensued. 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. Dalton NeSmith, and seconded by Mr. Thomas Henderson, that the Board hereby enters Executive Session.

Resolution No. 9094 is hereby adopted by unanimous vote.”

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Following, the Board entered Executive Session at 11:37 a.m. Director Larry Ward arrived at the meeting at 11:38 a.m.

Next, Director Burbage made a motion to come out of Executive Session and Director NeSmith seconded the motion. The Board voted unanimously to come out of Executive Session. The Board came out of Executive Session at 12:24 p.m. The Board then moved to agenda Item 12, a request for the Board to award bid to Ardent Enterprises, LLC, the lowest responsible and responsive bidder, for Janitorial Services at an out-of-pocket cost to the Board of \$121,800.00; and to authorize the General Manager and/or Assistant General Manager to execute the agreement. Director Burbage then made a substitute motion stating The Water Works Board hereby rejects Ardent Enterprises, LLC and Hill’s Janitorial Services as not being responsible. This determination is based on staff’s review of Ardent Enterprises, LLC’s bid submittal and the lack of references, and Hill’s Janitorial Services’ past performance with its previous contract and interaction with employees of The Water Works Board. Accordingly, the Board of Directors determined Pritchard Industries was deemed to be the lowest responsible and responsive bidder and the bid was awarded to Pritchard Industries. Director NeSmith seconded the motion. 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 Burbage, and seconded by Mr. Dalton NeSmith, that the Board hereby rejects Ardent Enterprises, LLC and Hill’s Janitorial Services as not being responsible. This determination is based on staff’s review of Ardent Enterprises, LLC’s bid submittal and the lack of references, Hill’s Janitorial Services’ past performance with its previous contract and interaction with employees of The Water Works Board. Accordingly, the Board of Directors determined Pritchard Industries is deemed to be the lowest responsible and responsive bidder and the bid is hereby awarded to Pritchard Industries at an out-of-pocket cost to the Board

of \$294,930.00; and authorizes the General Manager and/or Assistant General Manager to execute said contract.

Resolution No. 9095 is hereby adopted by unanimous vote.”

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Next, Director NeSmith then made a motion to adjourn the meeting and Director Henderson seconded the motion. On a motion duly made and seconded, the motion was approved, and the meeting was adjourned at 12:25 p.m.

_____/S/
Chris Rice
Chairman/President

Attest:

_____/S/
Larry Ward
Secretary-Treasurer