

**Minutes Of
Engineering And Maintenance Committee Meeting
Of The Water Works Board
Of The City Of Birmingham
October 5, 2017**

An Engineering and Maintenance Committee Meeting of The Water Works Board of the City of Birmingham was held on Thursday, October 5, 2017, at 11:30 a.m., in the principal office of the Board, 3600 First Avenue North, Birmingham, Alabama, 35222, to discuss engineering and maintenance issues.

The following Committee members were present: Brett A. King and Ronald A. Mims. Other Board Members present were: Tommy Joe Alexander, Butch Burbage, Deborah Clark, Brenda J. Dickerson and George Munchus who do not serve on the Committee.

The meeting was also attended by: Mac Underwood, General Manager; T. M. "Sonny" Jones, Assistant General Manager of Engineering and Maintenance; Darryl R. Jones, Assistant General Manager of Operations and Technical Services; Michael Johnson, Assistant General Manager of Finance and Administration; Mark Parnell and Mary Thompson, Parnell Thompson, LLC; Brian Ruggs and Jerry Jones, ARCADIS; Kelvin Howard, KWH, LLC; Jesse Lewis and Dorian Kendrick, Agency 54; Birmingham City Police officer; Ben Sorrell, Chief Engineer; Jeff Cochran, Engineer; Stephen Franks, Engineer; George Anderson, IT Manager; Terrell Jones, Security Superintendent; Rick Jackson, Public Relations Specialist; Grace Amison, Executive Assistant to the Board of Directors; Tammy Wilson, Executive Assistant to T. M. "Sonny" Jones and Darryl R. Jones.

Chair of the Committee, Director Brett King called the meeting to order at 11:33 a.m.

Following, agenda item 1 was a request for the Committee to approve minutes of the Engineering and Maintenance Committee Meeting held April 11, 2017 and the joint Engineering and Maintenance/Business and Economic Development Committee Meeting held May 2, 2017. Director King made a motion to approve the referenced minutes and Director Mims seconded the motion.

Next, agenda item 3 was a request for the Committee to recommend to the full Board approval for replacement of the boat dock and boat slips at Inland Lake on Lot 9 with John McKibbin as the cabin owner. Ben Sorrell explained the details to the Committee and a handout was distributed (a copy of which is on file with the Committee meeting book). Director King asked if the individual owners have the responsibility of paying for their repairs with the Board simply approving them. Ben Sorrell responded that is correct, there is no cost to the Board. The boat dock on Lot 9 at Inland Lake and the boat slips need to be replaced due to deterioration with them being almost 40 years old. Photographs of the deterioration were shown along with a proposal from the cabin

owner for the new flotation replacement deck the cabin owner was requesting. All the existing slips would be hauled away by a barge and replaced by one large aluminum dock. Additionally, the debris will be hauled away with no responsibility to the Board. The Committee agreed to move the item to the full Board.

Following, agenda item 4 was a request for the Committee to recommend to the full Board approval for repairs to the existing boat dock walkway at Inland Lake on Lot 44A with Sam Haskell as the cabin owner. Ben Sorrell explained the details to the Committee and a handout was distributed (a copy of which is on file with the Committee meeting book). The cabin owner on Lot 44A requested to make repairs to the boat dock walkway and the gangway. Photographs of the walkway were shown to the Committee along with a proposal associated with the repairs. The cost for the cabin owner would be approximately \$16,200.00 and there would be no cost to the Board. The cost to the cabin owner for the barge company to remove the debris would be approximately \$1,200.00. The Committee agreed to move the item to the full Board.

Next, agenda item 5 was a request for the Committee to recommend to the full Board approval of two service contracts for THM – 100 Analyzers for Shades Mountain Filter Plant, one of which is for the mobile pilot plant currently at Shades Mountain Filter Plant. Jeff Cochran gave a presentation and explained the payment options available. The goal of Staff is to have the lowest THM's possible when water leaves the plants according to Mr. Cochran. Additionally, testing results are obtainable within two days using THM – 100 Analyzers compared to two weeks if they are processed through the Birmingham Water Works Board's (BWWB) lab. Four years ago, a unit was installed at Shades Mountain Filter Plant and one year ago we purchased a mobile pilot plant unit according to Mr. Cochran. The purchase of the unit and service contract are both sole source. A three-year contract comes with a 15% discount and a five-year agreement comes with a 25% discount. The total cost savings for the five-year service contract would be \$31,00.00 per unit if paid up front Mr. Cochran stated. Director Burbage asked if this item is exempt from the bid law since it is Sole Source. Director Burbage stated there is a three-year limit on extending service contracts under normal circumstances. Attorney Thompson responded with this being a sole source, it is exempt from these limitations. Some discussion occurred regarding a possible unit purchase in the future for the Western Filter Plant. Director King asked Mr. Cochran what a pilot plant is. Mr. Cochran explained that it is two different treatment processes housed in a trailer which mimic a full-scale water treatment plant. Director Munchus asked if the independent engineer has been involved in the process. AGM Darryl Jones responded no. GM Underwood explained that this is not a Capital Improvement Project. Therefore; ARCADIS is not involved. The Committee agreed to move the item to the full Board and recommended going with two 5-year contracts to take advantage of the reduced pricing and maximize the Board's savings.

Following, agenda item 2 was a request for the Committee to recommend to the full Board approval to re-bid versus extend the on-call contractor contract. Director Munchus asked if the contract is extended if the contractors would maintain their current pricing. AGM Sonny Jones responded yes, but the problem is that the existing contract

does not allow for the work to be rotated. Director Alexander asked why the low bidder was not getting all the work because rotating to other contractors was costing the Board more money. Director Munchus stated he disagreed. Some discussion occurred regarding miscellaneous charges on the back-end. GM Underwood stated the miscellaneous charges are not considered in the bid process. Director Clark asked if everyone is bidding the same way for the same thing. GM Underwood stated when the bids were evaluated it was based on the base bid amount, which is based on the hourly rate for the services or work provided. Director Alexander stated he was in favor of re-bidding the contract. GM Underwood stated the current contract is expired. Some discussion occurred regarding the Board not re-bidding this contract about a year ago. Director Munchus stated he would vote no if it is re-bid. Director Alexander stated he did not like awarding to anyone other than the low bidder. Some discussion took place regarding the legality of awarding a bid to 3 different contractors with 3 different amounts. Board attorney, Mary Thompson stated the letter of the law requires the award to go to the lowest responsible and responsive bidder. Director Clark stated she does not like contractors coming before the Board as has happened in the past adding that the Board needs to make everything clear to the bidders and the requirements should be the same for all. GM Underwood stated in the past we gave the work to the lowest bidder unless they were unavailable to complete the work and then it moved to the next lowest bidder. Director Munchus stated he was in favor of equal opportunity and companies are getting excluded by awarding contracts to only one bidder. Director Munchus stated he will continue to promote inclusiveness. Director Alexander said if we bid it out and the company cannot handle the job then we need to get someone else. In relation to the poor in Birmingham, when the Board makes poor decisions it affects the poor according to Director Alexander. More discussion occurred regarding the rotation process. AGM Sonny Jones stated it simply reduces our risk to have a back-up contractor. Director Dickerson asked what it means to have three contractors on hold. AGM Sonny Jones stated they only get paid if they do the work. Director King asked how many bidders we had when it was bid. AGM Sonny Jones stated that originally it was five about 8-10 years ago, but the last two contracts that were bid there have been three. The Committee agreed to re-bid to the lowest responsible and responsive bidder. Director Burbage stated it is against the law to award bids on a rotating basis. Director Munchus stated it was not against the law. Director King added that there are exceptions during an emergency situation if additional contractors are needed. Attorney Thompson reminded the Committee that there was a situation during a tornado several years ago at Shades Mountain Filter Plant where bids were let under the emergency exception, which only suspended the need to advertise. Director Clark asked how often on-call contractors were used. AGM Sonny Jones stated often. Attorney Thompson stated the original intent was to have a contractor in place for this type of work and if they could not perform the work a second contractor would be called on. Attorney Parnell stated what the Board should do is re-bid the contract and then ratify everything that has been done since February 2017. Director Munchus asked if it is a violation of state law to include the rotation. Attorney Thompson stated it is the opinion of all three attorneys to award the contract to the lowest responsible and responsive bidder. Currently what the Board is doing is violating the bid law according to attorney Parnell. Director Munchus stated we needed to stop hiding behind the bid law like it's the Bible. Director Burbage stated it can be a

felony not to abide by the state bid laws. Director Clark stated she did not think the higher prices contractors are charging in the rotation is fair and that getting with the attorneys to have the correct terminology is important. GM Underwood stated Staff will get with the engineers and attorneys and we will go through the document totally and show the Board how we are going to re-bid and provide a summary. Director Clark stated the current contract is not a good one and the Board needs to clean up its processes. Some discussion occurred regarding contacting The League of Municipalities and providing the entire Board with a copy of the state bid laws. Director King stated this information is available online. Attorney Parnell stated there is no gray area here. GM Underwood stated the state bid laws are uploaded in Diligent also. It was confirmed that Jones, Startley and Rast were the three contractors in the rotation under the current contract. Some discussion occurred regarding “for information only” prices with AGM Sonny Jones stating Staff would not ask for that again. Director Dickerson asked for the minority participation percentages of the three contractors. AGM Sonny Jones stated he would get that information to her.

Next, GM Underwood asked the Board to consider allowing Staff to prepare the appropriate resolutions to give the General Manager authority to approve certain items like agenda items 3 and 4 where there no cost to the Board. GM Underwood stated this would prevent bringing these types of minor issues before the Committee. The Committee agreed that Staff could draft the appropriate resolutions to bring before the Board.

Following, GM Underwood stated he would like to schedule another Engineering and Maintenance Committee meeting so ARCADIS could come before the Committee to discuss the improvements to the Shades Mountain Filter Plant. Director Munchus stated he would like for the meeting to be scheduled when he could be present. It was determined that the meeting would be held Tuesday, October 10th at 12:30 p.m.

Next Director Munchus asked Director Dickerson how far back she was requesting the minority participation percentages from the three on-call contractors. Director Munchus asked Director Dickerson if she was requesting from January 1, 2016 to the present. Director Dickerson responded yes. Director King asked if the on-call contractor bid would be ready before the end of the year. GM Underwood stated he believed so. Director Munchus asked GM Underwood if he thought Staff could get a better price by re-bidding. GM Underwood responded he did not know for certain. Directors Clark and Dickerson stated Staff should not bring contracts like the current one before the Board and that Staff should have it down to a science since so many are executed. Attorney Parnell stated this re-bid should be completed as quickly as possible and before the end of the year. Director Clark said if another contract like this one is brought to the Board that she wants it to be off with somebody’s head. Director Clark also stated the list that GM Underwood had that listed reasons for immediate firing should include bringing bad contracts to the Board, adding it should be put to the top of the list. Director Clark told Staff it is their responsibility to make the Board look good. Director Munchus stated he liked the statement Director Clark made.

As there was no further business to be brought before the Committee the meeting was adjourned at 12:38 p.m.

_____/S/
Mac Underwood
General Manager

_____/S/
Brett A. King, Esq.
Secretary-Treasurer