

MINUTES OF THE REGULAR BI-MONTHLY MEETING OF DIRECTORS
OF THE WATER WORKS BOARD OF THE CITY OF BIRMINGHAM
JANUARY 12, 2017

The regular bi-monthly meeting of the directors of The Water Works Board of the City of Birmingham was held on Thursday, January 12, 2017, at 9:00 a.m., at 3600 First Avenue North, Birmingham, Alabama.

The following Directors were present: Sherry W. Lewis, Tommy J. Alexander, Deborah Clark, Brett A. King, William "Butch" Burbage, Jr., George Munchus, William R. Muhammad, and Brenda J. Dickerson. Director Ronald A. Mims was absent.

The meeting was also attended by: Mac Underwood, General Manager; Michael Johnson, T. M. "Sonny" Jones, and Darryl Jones, Assistant General Managers; Grace E. Amison, Executive Assistant to the Board of Directors; K. Mark Parnell and Mary H. Thompson, Parnell Thompson, LLC; G. Courtney French and Samuel Ford, Fuston, Petway & French, LLP; Dr. Jesse J. Lewis, Sr., Dorian Kendrick, Jamesha Lewis, and Max Rykov, Agency 54; Jerry Jones and Brian T. Ruggs, ARCADIS US, Inc.; Danny Meadows, S. S. Nesbitt & Company, Inc.; Theo Johnson, Volkert, Inc.; Stanley Graves, GRACO Resources, Inc.; Kent Hartzog, GSP; Johnny Brunson, Blount County Commission; Juanita S. Jones, Securities Capital Corporation; Greg Burchell and David Searcy, Morgan Stanley; Yvonne Davis, Yvonne Green-Davis, P.C.; John Archibald, The Birmingham News; Chandra Abesingha, CE Associates; Frank Matthews, Nelda B. Thompkins, Charles Hicks, Olivia Martin, Iva Williams, and Melvin Williams, visitors.

As there was a quorum, the meeting was called to order at 9:01 a.m. The General Manager informed the meeting body that Director Ronald A. Mims was absent from today's Board meeting. Following, Information Technology Manager George Anderson opened the meeting with prayer.

Before proceeding with the business of the Board, the General Manager asked the directors and senior executive management to introduce themselves wherein introductions were made.

Following, the General Manager proceeded with the agenda and he asked the Board to adopt a resolution expressing its condolences in the death of employee Joyce Brickey, as set forth in agenda item 1, who was a Customer Service Specialist III in the Revenue Water Department. The General Manager pointed out Mrs. Brickey was employed by the Board for 30 years, and indicated she was a loyal employee. Subsequently, he indicated staff recommends approval of the referenced item. On a motion duly made and seconded, the following resolution was adopted:

"WHEREAS, Joyce Brickey passed away on Friday, December 23, 2016, wherein The Water Works Board of the City of Birmingham (hereinafter known as the "Board") mourns the death of Joyce Brickey; and

WHEREAS, Joyce Brickey had been a dedicated and valued employee of the Board since October 27, 1986; and

WHEREAS, This Board wishes to pause from its Board of Directors' Meeting on Thursday, January 12, 2017, to convey its respect and deepest sympathy to the family, friends and co-workers of Joyce Brickey; and

NOW, THEREFORE, BE IT RESOLVED, That The Water Works Board of the City of Birmingham does hereby perpetuate the memory of Joyce Brickey, who was a Customer Service Specialist III in the Revenue Water Department of the Engineering and Maintenance Division, and hereby expresses its condolences to her family, friends, and co-workers.

BE IT FURTHER RESOLVED, That a copy of this Resolution be spread upon the minutes of The Water Works Board of the City of Birmingham, and that a copy be presented to the Brickey family. Resolution No. 7392 is hereby adopted by unanimous vote.”

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Next, the General Manager asked the Board to amend today’s agenda by adding item 1.1. Following, Chairwoman Lewis was recognized and she asked the Board to adopt a resolution commending Director Kevin B. McKie for his nearly two (2) years of service as a Board of Director at the Birmingham Water Works. On a motion duly made and seconded, the following resolution was adopted:

“WHEREAS, on February 24, 2015, Kevin B. McKie, Esq., was appointed by the City Council of the City of Birmingham to serve as a member of the board of directors of The Water Works Board of the City of Birmingham; and,

"WHEREAS, Mr. McKie has served admirably and with distinction as a director for nearly two years, in a manner which has been honorable, forthright, supportive and beneficial to the Water Works Board’s success; and,

WHEREAS, during Mr. McKie’s tenure on the board of directors of the Water Works Board, Mr. McKie held the offices of Assistant Secretary-Treasurer, and First Vice Chairman/First Vice President; and,

WHEREAS, in addition to holding the offices of Assistant Secretary-Treasurer and First Vice Chairman/First Vice President, Mr. McKie has dutifully and faithfully served on the following Water Works Board committees: Executive Committee, Communications Committee, Engineering and Maintenance Committee, and Finance Committee; and,

WHEREAS, in his capacity as a member of the board of directors, as well as in serving on the above committees and holding the above offices, Mr. McKie has served as a wise and powerful advocate while exhibiting his steadfast dedication and lasting contributions to the Water Works Board, its employees, customers, and retirees of the Board; and,

WHEREAS, Mr. McKie has provided consistent and thoughtful advice to the directors and to the Water Works Board’s management teams that have spanned the length of his service as a director and First Vice Chairman/First Vice President; and,

WHEREAS, BE IT FURTHER RESOLVED, the board of directors formally expresses its sincere appreciation to Mr. McKie for his excellent and untiring contributions to the success of the Water Works Board during his tenure; and,

NOW, THEREFORE, BE IT RESOLVED BY the below signed members of the board of directors of The Water Works Board of the City of Birmingham, that members of the board of directors unanimously extend their sincere and heartfelt appreciation to Mr. McKie for his past service, exceptional leadership, hard work and dedication, and his continued efforts toward ensuring that the Water Work Board’s reputation for excellence continues.

BE IT FURTHER RESOLVED, that in recognition of Mr. McKie's services to the Board, a copy of this resolution be spread upon the minutes of The Water Works Board of the City of Birmingham and a copy be presented to Mr. McKie.

Resolution No. 7393 is hereby adopted by unanimous vote”

Next, the General Manager asked the Board to approve minutes of the Board of Directors' Meetings, as set forth in agenda item 2. He indicated staff has reviewed the minutes and recommends them for approval. After the motions were made, Director Muhammad commented that at a recent Board meeting he watched such meeting being filmed and streamed live on Facebook, he commented Chairwoman Lewis stated at said meeting that he met with the General Manager and a consultant. Director Muhammad said this is untrue and he asked what he could do when these minutes are presented for the Board's approval to have them reflect he has never met with the General Manager in a meeting that included anyone else. Following, Director Muhammad said his policy is not to meet with anyone that wants to do business, or is doing business, with the Water Works. Director Muhammad said perhaps the Board should consider filming its meetings, pointing out he would not have known Chairwoman Lewis made this statement if he had not seen it on Facebook. Following, Chairwoman Lewis said she would be glad to address Director Muhammad's issue and she asked the directors to complete the motion for the referenced item, Chairwoman Lewis indicated the motions have been made, and she called for the vote. After several directors indicated they would abstain from voting because they were not present at the referenced meetings, Chairwoman Lewis asked for a roll call vote. During the roll call vote, the directors voted as follows:

“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. Tommy Joe Alexander, that the Board hereby approves minutes of the following meetings:

- Regular Board of Directors' Meeting held October 13, 2016
- Regular Board of Directors' Meeting held October 25, 2016

Resolution No. 7394 is hereby adopted by Directors Lewis and Munchus. Directors Alexander, Clark, Burbage, King, and Dickerson abstained from voting because they were not present at said meetings; and Director Muhammad voted nay.”

Following, the General Manager asked the Board to approve payments of invoices for professional services, as set forth in agenda items 3.1 through 3.5. After the motions were made, Director King indicated that he is aware that Attorney David Sullivan is working on the lawsuit relative to the expansion of the Board, and he asked what said attorney was doing relative to sewer collection fees for Jefferson County. Following, the General Manager explained that Attorney Sullivan was hired to work on matters relative to the Legislative Acts to expand the Board wherein the directors amended said attorney's contract at a separate Board meeting to work on the Jefferson County Sewer Collection Agreement issue at a one-time fee up to \$5,000.00. Following, Director Munchus asked when said amendment was voted on and Ms. Amison replied that said amendment was voted on at the November 10, 2016 Regular Board of Directors' Meeting. After discussion, Chairwoman Lewis called for the vote.

“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. William R. Muhammad, that the Board hereby authorizes staff to execute payments to the following:

- 3.1 Birmingham Construction Industry Authority, Inc.
For professional services rendered for January 2017 \$ 2,000.00
- 3.2 Terminus Municipal Advisors, LLC
For professional services rendered for December 2016 \$ 6,500.00
- 3.3 Fleenor & Green, LLP
For professional services rendered for December 2016 \$ 6,550.00
- 3.4 Dominick Feld Hyde, P.C.
For professional services rendered for December 2016 \$ 18,229.20
- 3.5 David A. Sullivan
 - 3.5.1 For professional services rendered for December 2016 relative to the Legislative Acts \$ 10,000.00
 - 3.5.2 For professional services related to Jefferson County Sewer Fees Collection \$ 5,000.00

Resolution No. 7395 is hereby adopted by unanimous vote.”

Next, the Board was asked to rescind Resolution No. 7372 adopted December 15, 2016, approving payments of invoices to Morgan Stanley relative to providing pension plan investment management and consulting services; and to approve payment of Morgan Stanley’s settlement invoice relative to providing said services, as set forth in agenda items 4.1 and 4.2, respectively. Following, Chairwoman Lewis asked that said items be tabled, pointing out the referenced settlement was made without consulting the entire 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 Ms. Sherry W. Lewis and seconded by Mr. George Munchus, that the Board hereby tables the following:

- 4.1 Rescinds Resolution No. 7372, adopted December 15, 2016, approving payments of invoices to Morgan Stanley relative to providing pension plan investment management and consulting services in the total amount of \$54,465.35.
- 4.2 Approves payment of Morgan Stanley’s settlement invoice relative to providing pension plan investment management and consulting services in the total amount of \$40,000.00; and to authorize the General Manager and/or the Assistant General Manager to pay said amount.

Resolution No. 7396 is hereby adopted by Directors Lewis, Alexander, Clark, Burbage, King, Munchus, and Dickerson; Director Muhammad opposed.”

After adoption of the above resolution, a discussion ensued as to why the above referenced items were being tabled wherein Chairwoman Lewis commented that it was because of a lack of knowledge of the specific details of the settlement and to allow for further discussion with Morgan Stanley so that the details could be brought back to the full Board. Following, Director Muhammad indicated he would like a full investigation because the Board voted to pay said company. He pointed out former Director McKie was negotiating with Morgan Stanley wherein \$45,000.00 was negotiated and he indicated now the amount is \$40,000.00. Following, Chairwoman Lewis pointed out this is one of the reasons said item should be tabled so that all of the directors could learn what was negotiated. Director Munchus asked the General Manager if he was involved with the negotiation with Director McKie and the General Manager responded no.

Following, the General Manager asked the Board to take bids as set forth in agenda item 5, and he reviewed said item. He pointed out that said project has a number of water main breaks, the pipes have a low c-value and they are closing in. In response to a series of questions from Director Munchus relative to whether said city is participating in cost of the referenced project, if ALDOT would reimburse the Water Works, and if the project is based on water quality and whether the Board would have to pay the entire cost, the General Manager said the Board is responsible for the entire cost, pointing out when the Birmingham Water Works Board acquired water systems in the cities of Gardendale and Fultondale in 1970, it became responsible for maintaining and improving all assets in said areas. Following, Director Munchus asked if said project qualifies as a part of the Board's on-call program so that it could be expedited and Assistant General Manager Sonny Jones said he does not believe the referenced project is an emergency. Director King inquired about the 4,000 feet of 2-inch unlined cast iron pipe being replaced with 1,000 feet of 8-inch DICL pipe, and he asked if said replacement is being done because there is a lot of growth in the area. Assistant General Manager Sonny Jones responded yes, and he pointed out 2-inch water mains are no longer manufactured. He said increasing the size of the pipe would hopefully deliver better fire flow to said area. After discussion, a motion was 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 Mr. George Munchus and seconded by Mr. Brett King, that the Board hereby authorizes staff to take bids for replacement of approximately 4,090 feet of 2-inch unlined cast iron pipe /2-inch galvanized steel pipe with approximately 1,000-feet of 8-inch DICL pipe; 1,360 feet of 6-inch DICL pipe; 1,360 feet of 4-inch DICL pipe and related appurtenances; and 47 water services along Iris Drive; Iris Way; Kirk Circle; Powell Drive; and Northridge Road located in the City of Gardendale, Alabama, at an estimated out-of-pocket cost to the Board of \$825,000.00. Resolution No. 7397 is hereby adopted by unanimous vote.”

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Next, the Board was asked to award bids to the respective lowest responsible and responsive bidders, as set forth in agenda items 6.1 through 6.5. After reviewing the referenced items, the General Manager called to the directors' attention the fire hydrant and valve displayed at today's meeting. He stated said items are used in the distribution system wherein they are being requested to replenish stock in the Warehouse. Following, Assistant General Manager Michael Johnson was asked to review item 6.1 to award bid to Fleet Analytics for a cloud-based vehicle tracking system. He said all of the Board's nearly 350 vehicles that move within its service area are tracked, pointing out this helps staff to manage and keep track of said vehicles. Assistant General Manager Michael Johnson noted that the agreement with the previous vendor had expired wherein the current company can provide the service staff is considering. Subsequently, Assistant General Manager Michael Johnson responded to a series of questions from the directors relative to the previous vendor bid award and location, the criteria that determine whether the actual lowest bidder is not responsible and responsible, the installation of the tracking device on all

vehicles, and whether the replacement of equipment currently in said vehicles was included in the cost on today's agenda and whether Fleet Analytics' price on today's agenda includes the cost of such equipment. Director Munchus inquired if any of the bidders were small businesses, Historically Underutilized Businesses (HUB)'s or women owned businesses, wherein Assistant General Manager Michael Johnson stated Fleet Analytics is a small business. In response to Director Munchus' question whether employees are aware that said device would be installed in their vehicles to track their activities, the General Manager replied yes. He pointed out said device helps managers and supervisors monitor crews' and employees' whereabouts.

Next, Director Muhammad asked if B&H Contracting, Inc.'s 29 percent HUB subcontractor participation in item 6.2 would come from the \$100,775.00 estimated out-of-pocket cost to the Board. Assistant General Manager Sonny Jones replied the referenced percentage would come from said company's bid amount of \$75,375.00 wherein it would not include the estimated cost of materials and Water Works Board labor. Following, Director Muhammad asked if staff has any way of knowing whether the HUB contractor was actually paid said percentage other than from signed forms. Assistant General Manager Sonny Jones said staff is in the process of collecting factual numbers of what was done in 2016 in the Engineering and Maintenance and System Development Departments, pointing out this data would be given to the directors. He also said staff is working on a one-page summary that would be sent to all sub-contractors asking them what they were paid on particular jobs wherein their responses would be compared to the amounts reported by the general contractors. Following, Director Muhammad said he is strongly concerned that because of the shortage of work given to some of the HUB's, MBE's and DBE's, he presumes some people would say they are getting something so that they would get something and he wants to make sure this does not happen. Following, the General Manager said a letter would be sent directly to the subcontractors so they could verify the amount of money they were paid on each project. He said otherwise staff would have to send auditors out to examine the records of all contractors the Board has awarded bids to determine what was paid to subcontractors. Following, the General Manager said staff believes it would be easier to contact the subcontractors and accept their word that they were paid true amounts based on percentages submitted by the contractors. Director Muhammad said according to talk in the community, some contractors pay subcontractors to put their signs up on job sites and in order to recoup their money the contractors then charge the subcontractors a certain amount. Subsequently, the General Manager asked Director Muhammad to provide staff with the name of the project and the contractor he spoke with wherein he would ask Assistant General Manager Sonny Jones and the project coordinator to contact the company and try to verify the payments.

Following, Director Munchus inquired about whether items 6.4 and 6.5 were a local company and Assistant General Manager Sonny Jones replied said company is based in Decatur, Illinois, and indicated it has a manufacturing plant in Northeast Alabama. After discussion, a motion was 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 Mr. George Munchus and seconded by Mr. Brett A. King, that the Board hereby authorizes staff to award bids to the lowest responsible and responsive bidders, and to authorize the General Manager and/or the Assistant General Manager to execute purchase orders and/or contracts for procurement of materials, services and supplies needed for the operation, construction, and maintenance of the water system to the following:

- 6.1 Fleet Analytics, the lowest responsible and responsive bidder, to provide a cloud-based vehicle tracking system, utilizing GPS modules installed in company vehicles, for a three year-period at a total estimated out-of-pocket cost to the Board of \$198,720.00; and to authorize the General Manager and/or the Assistant General Manager to execute a three-

year Master Services Agreement and a Subscription Agreement with said company, subject to the Board's attorneys review.

- 6.2 B&H Contracting, Inc., the lowest responsible and responsive bidder, to perform six (6) individual cuts and caps for the retirement of approximately 1,000 feet of 2-inch P-21 unlined cast iron pipe/2-inch galvanized steel pipe and 1,570 feet of 8-inch P-21 unlined cast iron pipe along a portion of 11th Avenue North, 23rd Street North; and 25th Street North at a bid amount of \$75,375.00, plus estimated cost of materials and Water Works Board labor in the amount of \$25,400.00, at a total estimated out-of-pocket cost to the Board of \$100,775.00; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions. [NOTE: The Historically Underutilized Business (HUB)'s subcontractor participation is 29 percent.]

- 6.3 Kelly Road Builders, Inc., the lowest responsible and responsive bidder, for the milling and resurfacing; installing and maintaining traffic control measures; and related appurtenances associated with permanent paving work in three (3) independent locations within the Water Work Board's Distribution System – Site #: 1 Brookhaven Avenue SW between 24th Street SW and 28th Street SW; Site #2: 30th Avenue North between 16th Street North and 18th Street North; and 16th Street North between 29th Avenue North and 30th Avenue North; and Site #3: 20th Avenue South between Center Way South and 1st Street South; 1st Street South between 18th Court South and 20th Avenue South; and portions of 1st Place South and 18th Court South at a bid amount of \$97,839.30, plus estimated cost of materials and Water Works Board labor in the amount of \$53,100.00, at a total estimated out-of-pocket cost to the Board of \$150,939.30; and to authorize the General Manager and/or the Assistant General Manager to execute a contract per Bid Specifications and Conditions. [NOTE: Kelly Road Builders, Inc., is a minority-owned business; therefore, HUB participation is 100 percent.]

- 6.4 Mueller Company, the lowest responsible and responsive bidder, for estimated annual quantities of fire hydrants to replenish stock in the Warehouse at an estimated out-of-pocket cost to the Board of \$282,906.99.

- 6.5 Mueller Company, the lowest responsible and responsive bidder, for estimated annual quantities of gate valves to replenish stock in the Warehouse at an estimated out-of-pocket cost to the Board of \$324,273.13.

Resolution No. 7398 is hereby adopted by unanimous vote.”

Following, the General Manager asked the Board to award annual chemical bids, as set forth in agenda items 7.1 through 7.8. He indicated that Assistant General Manager Darryl Jones would address said items. The General Manager reminded the directors that at the December 20, 2016 Regular Board of Directors' Meeting they asked staff to request a 30-day extension from the chemical manufacturers on their bid prices for the referenced items. He noted staff was able to get said extension on most of the chemicals and reported a couple of the vendors indicated their chemicals would increase to the 2017 costs effective January 1, 2017. Following, Director Munchus circulated bid specifications of a construction project to the Board. He indicated that he would ask staff to rebid all of the chemicals and pointed out he would explain later. Subsequently, Assistant General Manager Darryl Jones indicated he had provided the directors with a handout relative to questions on chemical bids. A copy is on file in today's Board Meeting book. Following, Assistant General Manager Darryl Jones reviewed the timeline of how staff

typically handles chemicals from the referenced handout. He said all of the Board's treatment plants are designed to treat water a certain way wherein the same chemicals are not used at all of the plants. Following, Assistant General Manager Darryl Jones stated staff bids chemicals annually in order to get the best prices, pointing out the manufacturer is usually the lowest bidder. He said several manufacturers ship chemicals directly to the Board's treatment plants and pointed out that ferric sulfate in item 7.8 is shipped in by rail car wherein a local contractor delivers said chemical to Putnam and Shades Mountain Filter Plants in certified vehicles. Following, Assistant General Manager Darryl Jones said everyone is not certified to transport hazardous chemicals on state highways because certain criteria must be met. He said local contractors may partner with a manufacturer to transport and he indicated all chemicals come directly from the manufacturers. Assistant General Manager Darryl Jones stated staff gets the best price by bidding the chemicals annually.

Next, Assistant General Manager Darryl Jones pointed out last fall staff did a reverse auction wherein the lowest bidder, rather than the highest bidder, was awarded the bid. He stated staff received better prices on some of the chemicals by using said auction and indicated a few of the chemicals tend to increase or decrease depending on the raw materials that are available to the manufacturers. Following, Assistant General Manager Darryl Jones called to the directors' attention that page two (2) of his handout lists the names of the chemicals, unit prices and 2016 quantities, total price and the manufacturers. He pointed out that said page also includes the same chemicals and noted staff bid some of them for different quantities for 2017 based on usage wherein those unit prices changed. Following, Assistant General Manager Darryl Jones pointed out Harcos Chemicals agreed to sell its liquid chlorine and sodium hypochlorite at 2017 prices. In addition, he pointed out to the directors the chemicals that are very specific to the plant's usage, noting those chemicals are not bid because they are a sole source. He said the almost \$28,000.00 difference in estimated 2017 chemical savings as compared to the chemical prices for 2016 is based on the manner in which staff bid the chemicals. Following, Assistant General Manager Darryl Jones explained the remaining pages of his handout list bid evaluations for the different chemicals and what they submitted. He said at the Board's request, staff was asked to contact the chemical manufacturers to inquire if they have minority participation programs, pointing out the companies that staff contacted so far do not have the referenced programs. Director King asked if staff determined that the low bidder was not a responsible bidder on any of the bids. Assistant General Manager Darryl Jones said staff had to rebid one (1) chemical because the lowest bidder was unable to meet the price that was submitted. Chairwoman Lewis said the Board lost money on the rebid and she inquired of the amount. Assistant General Manager Darryl Jones stated the rebid chemical increased by approximately \$30,000.00.

Following, Director Munchus distributed another handout to the Board for their review. He noted that the second document he had given the directors is an example of a Water Works' construction bid. Director Munchus said he is a longtime advocate of small businesses and indicated he is not against large companies. Following, he called to the directors' attention the Invitation to Bid that appeared in *The Birmingham Times*, "Birmingham Water Works City of Birmingham Highway 78 Water Main Relocation." Director Munchus said Volkert, Inc. was the project engineer and he believes the bid opening was done on January 10, 2017. Director Munchus noted that the words "a mandatory pre-bid conference" in said document are very helpful because the contractors and bidders become familiar with each other. Director Munchus also said if the Board inserts the phrase "all perspective bidders shall complete and submit HUB bid solicitations, etc." in all of its bids, he indicated the Board would begin to get some responsible and responsive small businesses. Following, Director Munchus said he would like for staff to continue purchasing chemicals on an as needed basis, insert the aforementioned language so that there is some consistency and rebid the chemicals the Board is being asked to approve today. He pointed out 3G Chemicals is a small local manufacturer trying to get started wherein the Board should try and help local economic development firms. Subsequently, Director Munchus commented the large manufacturers do not have an incentive to partner with the small businesses.

Following, the General Manager pointed out that staff has not included the 30 percent minority participation piece in bids for fire hydrants, valves, meters, and chemicals. He said ACIPCO manufactures pipe but the referenced language could be sent to them going forward. He then wondered how one gets 30% minority participation on fire hydrants and valves when Mueller Company manufactures, paints and ships said items to the Water Works. Following, the General Manager added that staff had not done this previously because of the manufacturing issue. Director Munchus stated with reference to the manufacturing process, large companies are very creative when it comes to including small businesses. He said he is certain all of the parts on said products were not all assembled in that particular manufacturing operation, pointing out there is a supply chain wherein he indicated some of the parts could be done by small manufacturers. Director Munchus also said Birmingham has some small fabricators that do excellent work and he indicated they do not get the opportunity to do the complete job because they do not have the capital. Following, Director Muhammad said when the Board establishes a policy, he believes staff should not try and figure out how it works rather staff should just apply the procedure. Director Muhammad added staff should address its concerns to the Board if it has a problem operating based on the Board's policy.

Next, Chairwoman Lewis said the issue at hand is that chemicals are needed to clean the water and the Board has to look at the cost. She said the Board certainly wants to look at HUB participation and indicated as committees are assigned said participation could be vetted in committee meetings and come up with new ideas, if this is the Board's wish. Chairwoman Lewis said today's concern is purchasing chemicals which would cost more if staff purchases them separately. Chairwoman Lewis said the Board has to always be mindful of how much products cost. Following, Director Munchus said he thought the chemical manufacturers had agreed to hold their prices to the 2016 costs wherein Chairwoman Lewis said as she understands said manufacturers would hold the bids staff currently has and pointed out purchasing chemicals monthly would cost more. Director Munchus said chemicals may cost more and indicated he always sees cost as an investment in the local ratepayers wherein he does not want price to be a driving factor on how such decisions are made. Chairwoman Lewis said she would always be conscious of costs on everything and indicated the Board should too because it is the ratepayers' money. Following, Director Munchus asked if the Board actually paid \$30,000.00 more for a chemical because of the contract delay in December, noting he thought the item was rebided. Assistant General Manager Darryl Jones explained that Kemira Water Solutions is one (1) of the only vendors over the past few years that has successfully been able to ship ferric sulfate, the chemical that increased, into Birmingham. He pointed out there are no other ferric sulfate manufacturers in the state and said company has been the lowest bidder for the past two (2) or three (3) years. Following, Assistant General Manager Darryl Jones said typically when staff knows there is an opportunity to freeze or maintain a consistent price, it is locked in to avoid an increase. He said another vendor indicated it could provide said chemical wherein staff went in competition and put the referenced chemical out to bid. Following, Assistant General Manager Darryl Jones said the minority vendor was the lowest bidder and partnered with a different company to supply them with the aforementioned chemical. He said the company that was going to supply the chemical to the minority vendor indicated it could not deliver the product after said vendor had won the bid wherein said vendor was disqualified. In response to Director Munchus' inquiry if staff knows why said supplier could not deliver, Assistant General Manager Darryl Jones stated staff does not know the agreement between the vendor and supplier, pointing out the supplier has never won a bid independently from the Board. Following, Assistant General Manager Darryl Jones said consequently, when staff had to rebid the ferric sulfate, the previous supplier increased its price by 3 percent, which cost the Board an additional \$30,000.00. Assistant General Manager Darryl Jones pointed out this information is included in his handout. Following, Director Munchus asked Assistant General Manager Darryl Jones if he is saying Kemira Water Solutions is currently the only supplier that could ship ferric sulfate into Birmingham. Assistant General Manager Darryl Jones responded yes and called Director Munchus' attention to the bid tabulation sheet for ferric sulfate in the handout. Responding to questions from Director Munchus as to

whether his reference was pertaining to the December 12th bid date and if the original bid was \$30,000.00 less, Assistant General Manager Darryl Jones stated said date was for the rebid wherein the original bid was even less. Following, Assistant General Manager Darryl Jones read a letter from 3G Chemicals indicating why it could not provide staff with the ferric sulfate wherein Director Munchus stated he was not aware of said letter. Director Munchus said it appears the manufacturer jumped the price on 3G Chemicals, pointing out this is what big manufacturers do. Assistant General Manager Darryl Jones said when staff rebid, Kemira Water Solutions bided \$.82 per unit, Pennco bided \$.85 per unit, 3G Chemicals bided \$.90 per unit and Altivia Chemicals bided \$.97 per unit. Following, Director Munchus asked what 3G Chemicals originally bided and Assistant General Manager Darryl Jones stated said company's original bid was \$.69 per unit, pointing out Pennco was supplying the product to 3G Chemicals but could not supply it for \$.69 wherein 3G Chemicals conceded. Assistant General Manager Darryl Jones noted that said chemical is probably produced worldwide and he pointed out the costs is less to deliver depending on the distance the manufacturer is from the customer. Director Munchus asked Assistant General Manager Darryl Jones if he believes the chemical prices would have been the same in the original bid if the earlier referenced specifications had been included in the original document. Assistant General Manager Darryl Jones said no and pointed out prices would not be the same when another person who has to be paid is added to the process. Subsequently, Assistant General Manager Darryl Jones asked for the Board's pleasure. After a lengthy discussion, a motion was 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 Mr. Tommy Alexander and seconded by Mr. Brett King, that the Board hereby authorizes the General Manager and/or the Assistant General Manager to execute purchase orders and/or contracts for procurement of materials, services and supplies needed for annual chemical bids on the following:

- 7.1 Shannon Chemicals, the lowest responsible and responsive bidder, for an estimated annual quantity of 65,000 lbs. of orthophosphoric acid for the Carson Filter Plant at an estimated out-of-pocket cost to the Board of \$19,435.00.
- 7.2 F2 Industries, LLC, the lowest responsible and responsive bidder, for an estimated annual quantity of 15,000 lbs. of potassium permanganate for the Cahaba Pump Station, Putnam Filter Plant, Western Filter Plant and the Carson Filter Plant at an estimated out-of-pocket cost to the Board of \$24,345.00.
- 7.3 Cabot Norit Americas, Inc., the lowest responsible and responsive bidder, for an estimated annual quantity of 85,000 lbs. of bulk powdered activated carbon for the filtration plants at an estimated out-of-pocket cost to the Board of \$35,955.00.
- 7.4 Harcros Chemicals, the lowest responsible and responsive bidder, for an estimated annual quantity of 300, 2,000-lb. (600,000 lbs.) cylinders of liquid chlorine for the Putnam Filter Plant, the Carson Filter Plant, and the Western Filter Plant at an estimated out-of-pocket cost to the Board of \$140,400.00.
- 7.5 Univar USA, Inc., the lowest responsible and responsive bidder, for an estimated annual quantity of 1,115,000 lbs. of hydrofluosilicic acid for the filtration plants at an estimated out-of-pocket cost to the Board of \$168,875.00.
- 7.6 Harcros Chemicals, the lowest responsible and responsive bidder, for an estimated annual quantity of 510,000 gallons of liquid sodium hypochlorite for the Shades Mountain Filter Plant at an estimated out-of-pocket cost to the Board of \$336,447.00.

- 7.7 Unimin Corporation, the lowest responsible and responsive bidder, for an estimated annual quantity of 4,200,000 lbs. of bulk hydrated lime for the Western Filter Plant, the Putnam Filter Plant, and the Carson Filter Plant at an estimated out-of-pocket cost to the Board of \$344,232.00.
- 7.8 Kemira Water Solutions, the lowest responsible and responsive bidder, for an estimated annual quantity of 2,500,000 dry lbs. of ferric sulfate for the Putnam Filter Plant and the Shades Mountain Filter Plant at an estimated out-of-pocket cost to the Board of \$2,060,000.00.

Resolution No. 7399 is hereby adopted by Directors Lewis, Alexander, Clark, King, and Burbage; Directors Munchus, Muhammad and Dickerson voted no.”

Following, Assistant General Manager Darryl Jones updated the Board on the drought in a PowerPoint presentation. A copy is on file in today’s Board Meeting book. He pointed out a map where the Board gets its water from noting the Cahaba River and Lake Purdy, treatment plants, pump stations, Inland Lake in Blount County, the Sipsey Fork below Smith Lake Dam, and the Mulberry Intake. Assistant General Manager Darryl Jones said the Board gets water 40 miles away from four (4) different locations wherein the Board is a very broad and large water system. He said periodically certain regions in the water system receive less water than other sides of the county and state. Following, Assistant General Manager Darryl Jones said several mountain ranges fill up the entire service area wherein one (1) valley can get a lot of rain events that cause it to be over in rainfall for the year and another area could be under for the year. Following, Assistant General Manager Darryl Jones reported the U. S. Drought Monitor dated November 29, 2016 showed Jefferson County was in an Exceptional Drought. He said there has been some rain since said date and indicated the entire state is no longer in an Exceptional Drought and he pointed out the Birmingham area remains in an Extreme Drought. Assistant General Manager Darryl Jones said at the end of 2016 the Board’s watersheds were 10 inches below normal rainfall for 2016. He added as of yesterday morning Lake Purdy is 12.5 feet down, noting in November 2016 said lake was 20.5 feet down. Following, Assistant General Manager Darryl Jones said Inland Lake is much larger wherein 17.7 feet down is not unusual for it this time of year. Following, Assistant General Manager Darryl Jones pointed out on a map the red line for 2017 lake levels for Lake Purdy, noting said lake was down to about 26 percent of its capacity in November 2016 and indicated it is currently about 46 percent of capacity. In response to Director King’s question whether the “NA” reference to the safe yield line for Inland Lake indicates staff is not taking water from said lake or if this does not apply, Assistant General Manager Darryl Jones explained that the safe yield line starts on May 1st for all of the Board’s lake graphs because the lakes are usually filling up during this time of year.

Next, for informational purposes, Assistant General Manager Darryl Jones directed the Board’s attention to the amount that was spent on some projects which staff worked on from October 1, 2016 to current because of the drought. He said about \$945,000.00 was spent to purchase water from Shelby County; \$700,000.00 was spent looking at developing a well on Cahaba Beach Road and a round connection that would be done on Highway 280 near Brookwood Mall. Following, Assistant General Manager Darryl Jones said staff looked at the Barber MotorSports pipeline project for additional pipeline capacity to connect the Board’s system and make it easier to get water from the northern part of the system to the southern part of the system. Following, Assistant General Manager Darryl Jones reviewed other expenses associated with the drought. In response to Director Munchus’ inquiry whether staff considered the referenced projects emergencies, Assistant General Manager Darryl Jones responded that the drought was an emergency. Subsequently, he said additional money would be spent to finish the

referenced projects and pointed out they would improve staff's resiliency and ability to manage during future droughts when they are completed. Following, in response to Director King's question if the Shelby County water purchase he referred to was from Irondale or from another water system, Assistant General Manager Darryl Jones said in addition to Shelby County the Board has an agreement to buy water from the cities of Irondale and Leeds and indicated no water was purchased from said cities because of rainfall. Director Munchus inquired as to who set the referenced purchase prices and who establishes commercial rates for Shelby County. Assistant General Manager Darryl Jones stated years ago the Board made agreements with adjacent water systems that under emergency conditions they would pay the Board twice its commercial rate and the Board would pay said systems twice their commercial rates, pointing out each system has an established rate. Following, Director Alexander said the City of Irondale only has a residential rate that is approved by its city council. Director Burbage indicated the Shelby County Commission owns the water system and sets the water rates. Following, Director Dickerson asked if any other projects would be needed if there are future drought emergencies and Assistant General Manager Darryl Jones responded yes. He mentioned the list that he gave the directors today does not include all of the projects staff is working on, pointing out the Carson Loop project is staff's biggest development and would bring water from the northern part to the southern part of the system. Following, Assistant General Manager Darryl Jones said staff tries to make sure it can supply water to all areas of the system from at least two (2) different treatment plants wherein this has been done successfully at the Western, Putnam and Carson Filter Plants. He said the Shades Mountain Filter Plant on Highway 280 is the Board's only plant that can serve several particular areas.

Following, Assistant General Manager Darryl Jones gave an update on the 2016 rain deficit which was 10 inches below normal rainfall, pointing out the majority of this happened during the last three months of said year. He pointed out about six (6) inches of rainfall was received from December 1, 2016 to January 11, 2017. Assistant General Manager Darryl Jones reported as of January 10th the lakes were about 45.5 percent full. He said when Lake Purdy reaches the 50 percent full mark staff would request the Board's permission to drop from the Stage Four Drought Advisory Restrictions to Stage Two since surcharges are to be implemented at Stages Three and Four, according to the Board's Drought Surcharge Policy. Assistant General Manager Darryl Jones explained at Stage Three all municipalities the Board serves are asked to implement an ordinance that would assist in supporting and enforcing drought restrictions. He said the concern with the ordinance and the drought plan is that it is aimed at outdoor watering in summer usage, pointing out no one waters grass during the winter wherein they should not be fined. He added the system recharges itself from winter and spring rains. Following, Assistant General Manager Darryl Jones said the Board would remain at Stage Two until the lake is full, hopefully, before May 1st wherein Stage Three would be implemented if it is not full before said date. Subsequently, he said staff would ask the Board to support its recommendation of said stages. In response to Director King's inquiry if it takes Board action to move from the different stages, Assistant General Manager Darryl Jones responded yes. He said because of rainfall in December no customers were billed surcharges, even though the Board is under drought status wherein it could charge extra and indicated it has not done so. Following, Director Munchus asked if surcharges are applied equally throughout the system and if customers in the northern part of Jefferson County, where there is an abundance of water, are subsidizing customers in the south. Assistant General Manager Darryl Jones stated all of the Board's policies are system-wide and no customers are currently paying any surcharges. He said when surcharges are implemented all sections of the Board's water systems would be charged. He pointed out staff does not segment the Board's policies based on geographies or zip codes. Following, Director Dickerson asked if the Board's drought policies have always been all or none and Assistant General Manager Darryl Jones responded the Board's policies are designed to go across the system wherein this is not unusual, and indicated it is standard in the water industry.

Next, Director Muhammad said the Board has discussed whether staff is looking at storing water. He said he does not believe staff can depend on the usual pattern since next year the drought could be the

worst in 101 years. Assistant General Manager Darryl Jones stated under normal conditions the Board has about 65 million gallons of surplus water and its raw water intakes have about 289 million gallons worth of capacity. He said if all of the Board's drinking water plants were at full capacity, it would be about 189 million gallons. He said there is a surplus of water in the Board's system 99 percent of the time. Following, Assistant General Manager Darryl Jones stated a river would have to be dammed up and a lake would have to be built to store large volumes of water. Director Muhammad asked if this is the only way wherein Assistant General Manager Darryl Jones repeated his previous statement. Following, he said staff has looked at a long-term resource to get water from further down the Warrior River into the Upper Holt Lake, noting this is one of staff's strategies in the water availability assessment. Assistant General Manager Darryl Jones said this is a long-term strategy and a very expensive proposition that the Board is not currently prepared to do, pointing out this would cost about \$0.5 billion. He said presently, the Environmental Protection Agency (EPA) and the Alabama Department of Environmental Management (ADEM) require most water systems to have drought plans. Assistant General Manager Darryl Jones said when the weather pattern changes the easiest and most effective thing a water system can do is ask customers to reduce their water usage. Following, the General Manager said one (1) of the projects on Assistant General Manager Darryl Jones' list is the Cahaba Beach Road Well, pointing out staff is still working to finalize it. He stated supposedly, said well would hold about 100 million gallons of water wherein this is an additional source and the well at Eastwood Mall that was accepted near the end of 2016 would allegedly produce from 5 million to 10 million gallons of water. Subsequently, the General Manager said the referenced sources need to be gotten to where they can be put into production wherein they are the only two (2) additional storages that could help on a short-term basis.

Following, the General Manager recognized Business Systems/Transformation Manager Barry Williams to provide a brief update on the SAP Customer Relationship and Billing Implementation. Mr. Williams said staff successfully implemented said SAP module on November 15, 2016 wherein a 30-year old legacy system that the industry no longer supports was replaced. Following, Mr. Williams said a new billing system was included for all of the Board's customers, the entire front and back end of the customer support and service system, the sewer and billing interface system for each agency that the Board supports and the payment collection system. He stated said implementation also includes integration for the meter reading process, new taps and development and financial accounting. Following, Mr. Williams pointed out there were some issues that impacted the Board's customers during the early rollout of the referenced implementation. At 10:25 a.m. Director Muhammad departed the meeting. Mr. Williams reviewed the issues relative to customers registering for online payments, pointing out some factors that led to this were due to changes in the customers' account numbers from a seven-digit character to a twelve-digit character which required a new account number when registering for new online access. Mr. Williams indicated after some modifications to the password and customer account number, he indicated number of enrolled online customers increased from 11,000 during the first week to 30,442 by December 10, 2016. He noted that prior to implementing the new system online customer usage averaged about 35,000 wherein 52,000 customers have enrolled in said system to date.

Next, Mr. Williams reported there were some issues about customers receiving a higher than normal base service charge on initial bills. He said this was not related to the Customer Relationship and Billing Implementation, rather it is a proration issue based on the number of meter read days in the billing cycle, pointing out this occurs annually but coincided with the new implementation. Mr. Williams said staff reviewed the proration issue and adjusted customers' bill. He said the process has always been any customer with less than 23 billing days in a cycle or more than 37 billing days in a cycle would get prorated. He said some customers received a lower base service charge while customers who received larger than normal billing were identified programmatically, their bills adjusted and a credit adjustment was issued on their bills for the next month. Subsequently, Mr. Williams indicated going forth the base service charge would usually be a 12-month average of the customer's normal billing. Following, Director Munchus commended the SAP team for stepping up and getting the job done as quickly as it

could. Following, Director Munchus asked if Jefferson County would prorate sewer rates for customers. Chairwoman Lewis said Jefferson County would have to respond to said inquiry. The General Manager added customers that call with sewer related questions are referred to said county.

Following, Director Muhammad said two (2) of his colleagues inquired as to who Mr. Williams is and Chairwoman Lewis asked Mr. Williams to introduce himself. Mr. Williams gave some background on himself, indicating he has been employed at the Water Works nearly ten (10) years wherein he was formerly the Accounting Manager. Director King asked if staff sees the same relative to complaints, problems or general customer service and if customers are interfacing with customer service representatives electronically or making telephone calls. Mr. Williams replied staff sees a combination of the two (2) and indicated the biggest impact has been to the Call Center. In response to Director Muhammad's inquiry if the Call Center is adequate staffed, Chairwoman Lewis said the number of Call Center agents had been increased. Assistant General Manager Michael Johnson added Call Center agents have been added over the years, pointing out said agents answer about 35,000 calls monthly and an average of about 3,000 calls daily. He pointed out the Call Center agents' job is stressful and challenging and indicated they do a great job. Subsequently, Assistant General Manager Michael Johnson commented the Call Center could always use additional employees.

Next, Call Center Manager Shirley Russell gave a report relative to the Call Center agents, indicating the agents were on line with the more than 30,000 customers and assisted them in gaining access to the new system in November. Mrs. Russell indicated there are currently 26 Call Center agents. Mrs. Russell said normally there are three (3) Call Center agents on the Customer Service side in the Lobby of the Payment Center wherein the remainder of said agents are in a tiny space in the back of the Call Center. Following, Mrs. Russell said they have outgrown the space and cannot accommodate additional employees. She said with the SAP implementation in progress, said agents were presented 40,619 calls in October, 41,886 calls in November and 54,247 calls in December. Following, Mrs. Russell said because said agents did not rush customers only 25,000 calls were answered. She pointed out a lot of calls were missed because the queue only holds a certain number of calls. She also said the referenced agents put in extra effort, there were repeat callers wherein this is reflected in the December call volume. At 10:28 a.m. Director Muhammad returned to the meeting. Call Center Manager Shirley Russell responded to a series of questions from the directors relative to the number of Jefferson County Representatives in the Payment Service Center Lobby, and the nature and breakdown of customers calls. Subsequently, Chairwoman Lewis asked Assistant General Manager Michael Johnson to provide the nature and breakdown of customers calls for the directors at the next Board meeting. Director Muhammad inquired about the responsibilities of the three (3) Call Center agents stationed in the Lobby of the Payment Center, and Mrs. Russell indicated that those agents assist with walk-in customers. Subsequently, Chairwoman Lewis said she has seen Mrs. Russell and other staff members in the Lobby helping customers during the first of the month because this is a busy time for the Payment Service Center. Following, the General Manager pointed out that Jefferson County also has a Call Center and takes questions directly from customers. Director Munchus asked if said county could have its own payment center and operations and collect sewer payments if it wants to and the General Manager said yes. Following, Director Dickerson inquired about the length of time customers have to wait in the Lobby to get answers to their questions. Mrs. Russell indicated when there is an extended crowd during the first and 15th of the month, it is difficult to know the timeline. Mrs. Russell added that normally customers in the Lobby wait 15 minutes, pointing out issues with leaks and billings increased the wait time to 30 minutes. Director Munchus asked how credits are being handled and if refunds could be done by cash rebates or credits to future bills. Mrs. Russell said customers would receive credits on their future bills.

Under New Business, the General Manager pointed out the Board adopted its Speaker Policy that allows individuals to sign up prior to Board meetings and speak on things that are relevant to the Water Works' operations, pointing out speakers should not address any Board member in particular or use

vulgar language. The General Manager stated said policy allows a speaker to address the Board once every two (2) months. Following, Director Munchus said he thought the Board revised the length of time a person had to wait before reappearing before the Board. Subsequently, Speaker Charles Hicks was recognized and he stated he was speaking as a veteran and a ratepayer. He said concern for the ratepayers was talked about when he attended a previous Board meeting. Mr. Hicks expressed concern that similar information is not given to everyone the Board hires at the same time. Following, he stated the Board says it wants to be fair with the presentation of opportunities at the Water Works wherein he found out the Board is unfair. Following, Mr. Hicks said utilities in other states where he has been always go to the younger people who have never had the opportunity to fish and he indicated this Board does not do that. Mr. Hicks said the Board is “hurting its ratepayers by being unfair and hammering things through that are improper.”

Following, the General Manager indicated the next person that signed in to speak had spoken last week wherein Director Munchus stated he wanted to waive the Board’s Speaker Policy. Director Munchus said he wanted to rescind said policy and asked if it would be revisited. Chairwoman Lewis stated the referenced policy would be revisited in committee. She said she would ask Executive Assistant Grace Amison to pull records relative to the vote of said policy, pointing out it would reveal that she voted against the timeframe when citizens could reappear before the Board and speak. Following, Director Munchus said he thinks committees are a waste of time wherein Chairwoman Lewis said the Board has committees and assignments would be made. Following, Director Munchus said he would serve on whatever committee he is assigned to and Chairwoman Lewis said she would get the directors’ input as to where they would like to serve. Following, Director Dickerson stated she disagrees with the Board’s Speaker Policy relative to allowing the same individual from the public to only address the Board once every two (2) months. She then asked when the directors would review said policy. Following, Chairwoman Lewis asked that all Board members be given a copy of the referenced policy and pointed out it may contain other things the directors do not agree with. Chairwoman Lewis indicated the directors would revisit the referenced policy in an orderly fashion. Director Dickerson asked if the review could be done sooner instead of later. Chairwoman Lewis said the directors could come together for a vote after they have reviewed the information, pointing out the entire Board must have input if said policy would be revised, rescinded, etc. Following, the General Manager said the referenced policy would be emailed to the directors today. Chairwoman Lewis stated the directors could revise said policy, she asked that they send in their changes and a decision could be made at the next Board meeting. A discussion ensued relative to waiving said policy for today’s meeting wherein Chairwoman Lewis asked the Board to adhere to the current said policy. Following, Director Dickerson asked Chairwoman Lewis if she believes there would be times when the Board might want to waive a policy, noting in this case the Board may have missed an opportunity to hear from a ratepayer. Chairwoman Lewis replied the ratepayer requesting to speak today had spoken at the last Board meeting wherein she wants to follow said policy because it contains guidelines that the Chair is responsible for. In response to Director Munchus’ inquiry if directors could vote now on whether to allow the ratepayer to speak, Chairwoman Lewis indicated today’s Board meeting proceedings would move forward.

Subsequently, Dr. Dickerson introduced herself and stated she was born and raised in Montgomery, Alabama. Dr. Dickerson indicated she attended Spelman College in Atlanta, Georgia; earned her Ph.D. from Michigan State University; worked in a number of universities around the country; and retired from Harvard University after serving as Associate Dean at the Harvard Kennedy School of Government. Following, Director Dickerson said she is Co-Founder of the Citizens Coalition for a Better Birmingham and has worked with said organization for the past four (4) years. Director Dickerson said she is almost always on the side of the citizens wherein she is concerned about citizen participation, accountability, transparency, and full disclosure and she is here to be supportive and to be a voice for the ratepayers. Chairwoman Lewis welcomed Director Dickerson and the meeting body applauded.

Next, the Board was asked to enter into an Executive Session. As a discussion ensued as to whether senior management should be in attendance in said session, Chairwoman Lewis stated she wanted the General Manager included for a portion of said session. Director Munchus inquired as to why anyone from management should be in said session wherein Chairwoman Lewis stated management was involved in some of the lawsuits that would be discussed. Following, Board Attorney Mark Parnell requested the Board and the General Manager to enter into an Executive Session to discuss several pending lawsuits. He said beyond such discussion, there may be some conversation of general reputation of character. Following, Attorney Parnell said he anticipates said session would last approximately 30 minutes and the Board may want to take some action. Director Muhammad said he has an issue with Attorney Parnell asking the Board to go into an Executive Session. Director Muhammad asked if it is the prerogative of the Board's Chair to decide who the general counsel is, pointing out this was not discussed last week. Subsequently, Chairwoman Lewis said regardless of Director Muhammad's issue, Attorney Parnell is currently one (1) of the Board's attorneys. After discussion, a motion was duly made and seconded, Attorney Parnell indicated Attorney French may have something to add as to who he would like to remain in the Executive Session. Attorney French did not comment. Attorney Parnell added that senior management needs to be included in said session relative to some of the legal matters. Subsequently, a motion was duly made and seconded and a roll call vote was taken. The motion passed by a vote of 6 to 2, with Directors Lewis, Alexander, Clark, King, Burbage and Dickerson voting for the motion. 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 A. King and seconded by Mr. Tommy Alexander that the Board hereby enters into Executive Session to discuss several pending lawsuits and the general reputation of character. Resolution No. 7400 is hereby adopted by Directors Lewis, Alexander, Clark, King, Burbage and Dickerson; Directors Muhammad and Munchus voted no.”

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Following, Chairwoman Lewis stated all of the Board's attorneys and senior staff would remain in said session. Subsequently, the Board, senior staff and the Board's attorneys entered into an Executive Session. At 1:58 p.m., a motion was made and seconded to adjourn said session and resume the regular meeting.

Following, Attorney French indicated there was a proposed mediation involving litigation with ea Consulting vs. the Birmingham Water Works Board. Attorney French indicated that Fuston, Pettway & French, LLP had mediated said case and reached a tentative agreement in the amount of \$100,000.00 wherein it is said firm's recommendation to settle, conclude and adjudicate said matter. 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. William R. Muhammad that the Board hereby authorizes its attorneys to adjudicate that certain lawsuit pertaining to ea Consulting vs. the Birmingham Water Works Board and approves a settlement of \$100,000.00. Resolution No. 7401 is hereby adopted by unanimous vote.”

* * * * *

Next, the Board was asked to delay making its decision relative to the expansion litigation until after Judge Vance's rules at end of this month. Following, Attorney Parnell recommended that the Board withdraws its motion and reconsider. Subsequently, Attorney French said as the Board's attorneys, Fuston, Pettway & French, LLP, it has been their position that it is improper to take a position to advise

the Board on said litigation. Attorney French stated this is how Attorneys David Sullivan and Fleenor & Green resulted in being retained for said case. Subsequently, Attorney French said they would not offer an opinion relative to the referenced litigation. Following, a motion was duly made and seconded and a roll call vote was taken. The motion failed by a vote of 5 to 3, with Directors Lewis, Alexander, Clark, King and Burbage voting against the motion. 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 delay in making its decision relative to the pending Rule 59 Motion in the Board’s expansion litigation until after Judge Vance rules by the end of January 2017. Resolution No. 7402 is hereby adopted by Directors Munchus and Muhammad and Dickerson; Directors Lewis, Alexander, Clark, King and Burbage voted no.”

Following, the Board was requested to direct its attorneys to withdraw the pending Rule 59 Motion in the Board’s expansion litigation and to terminate the legal services of Attorneys Sullivan and Green. After a motion was duly made and seconded, Director Muhammad asked if adoption of the above resolution indicate to Judge Vance that the Board is not going to be fair since the Board is not waiting for Judge Vance’s decision in two (2) weeks. Director Muhammad stated said attorneys worked for five (5) or six (6) years on the sewer ratepayers case without receiving any compensation wherein Chairwoman Lewis said this does not relate to the Board. She stated her concern is the Board and pointed out said litigation would hinder the Board from moving forward. Following, Chairwoman Lewis inquired as to when the Board would again go to the bond market and the General Manager responded this would perhaps be done in August or September of this year. Chairwoman Lewis said continuing with the referenced litigation would possibly affect the Water Works’ chance of getting a bond deal wherein Director Muhammad pointed out that Judge Vance is supposed to make a decision by the end of this month. Subsequently, Chairwoman Lewis said if Judge Vance’s ruling is unfavorable and something else arise that results in said litigation going to the Alabama Supreme Court, she indicated it would adversely affect what the directors could do as a Board. Subsequently, Chairwoman Lewis called for a roll call vote. The motion passed by a vote of 5 to 3, with Directors Lewis, Alexander, Clark, King and Burbage voting for the motion. 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 Mr. Tommy Alexander that the Board hereby directs its attorneys to withdraw its pending Rule 59 Motion in the Board’s expansion litigation and that the Board terminates the legal services of David A. Sullivan and Fleenor & Green, LLP, effective January 12, 2017. Resolution No. 7403 is hereby adopted by Directors Lewis, Alexander, Clark, King and Burbage; Directors Munchus, Muhammad and Dickerson voted no.”

As there was no further business before the Board, a motion was duly made and seconded, and the meeting adjourned at 2:04 p.m.

_____/s/_____
Sherry W. Lewis
Chairwoman/President

Attest

_____/s/_____
Brett A. King
Secretary-Treasurer