

MINUTES OF THE REGULAR BI-MONTHLY MEETING OF DIRECTORS  
OF THE WATER WORKS BOARD OF THE CITY OF BIRMINGHAM  
MARCH 30, 2017

The regular bi-monthly meeting of the directors of The Water Works Board of the City of Birmingham was held on Thursday, March 30, 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; T. M. "Sonny" Jones, and Darryl Jones, Assistant General Managers; Assistant General Manager Michael Johnson was absent; Grace E. Amison, Executive Assistant to the Board of Directors; Rick Jackson, Barry Williams, George Anderson, Jr., Steve Franks, Scott Starkey, Terrell Jones, Cynthia Williams, Paul Lloyd, and LaTasia Sanford, Board Employees; Jerry Jones, Inc; Representative Rolanda Hollis and Representative John Rogers, State of Alabama; Olivia Martin, State of Alabama; Councilor Jay Roberson, City of Birmingham; K. Mark Parnell, Parnell Thompson, LLC; Kelvin W. Howard, KWH, LLC Clay Ragsdale, Ragsdale LLC; Dr. Jesse J. Lewis, Sr., The Birmingham Times; Dorian Kendrick, and Daniel Rumley, Agency 54; Dan Meadows, S. S. Nesbitt & Company, Inc.; David Merrida, Jr., Birmingham Construction Industry Authority, Inc.; Theo Johnson, Volkert, Inc.; Chandra Abesingha, CEAssociates; James Startley, Startley General Contracting; Walter Lewis, Piper Jafray; John Archibald, The Birmingham News; David Head, Utegration; Frank Matthews, Iva Williams, III, Carlos Chaverest, Outcast Voters League; Varrie Johnson, Isaac Ballard, Nelda B. Thompkins, Bob Friedman, Charlene Cannon, Melvin Stringer, Frances Pope, Janice Bledsoe-Fisher, David Murphee, Arthur Latham, Irvin P. Hill, Mollie O'Hara, Robert O'Hara, Philemon Hill, Josh Ruby, and Charles A. Whatley, Visitors. Sarah Killiam and John Thompson, WVTM-13; WIAT-21; Lauren Walsh, ABC 33/40; Alan Collins, FOX 6; Representative from, AL.COM.

Prior to the start of the meeting, Chairwoman Lewis stated today's assembly is a Board Meeting and requested no outbursts and disruptions, pointing out there had been a lot of interruptions in the past. Chairwoman Lewis said the public would have an opportunity to speak and indicated the Board Meeting would be conducted in order. She asked the meeting body to please refrain from any outbursts. Following, Chairwoman Lewis asked persons who wanted to address their concerns to the directors to please sign the Speaker Registration form. She reminded the public that according to the Board's Public Speaker Policy, speakers could not talk about the same topic more than once every two (2) months. Chairwoman Lewis then asked the meeting body to please be orderly so that the business of the Birmingham Water Works Board could be conducted. Subsequently, she thanked the meeting body and recognized the General Manager.

As there was a quorum, the meeting was called to order at 9:01 a.m. The General Manager informed the Board that Director Ronald Mims was absent and Director Brett King was on the way. IT Manager George Anderson opened the meeting with prayer. Following, the General Manager informed the meeting body that a Customer Service Representative was in the lobby and would be happy to help them if they had issues with their water bills.

Next, the General Manager proceeded with the Agenda and he asked the Board to adopt a resolution commending Human Resources Business Partner LaTasia Sanford, as Employee of the Month

for March 2017 from the Finance & Administration Division, as set forth in agenda item 1. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By the Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. George Munchus and seconded by Mr. Tommy Joe Alexander, that the Board hereby recognizes and commends LaTasia Sanford, as the Finance and Administration Division’s Employee of the Month for March 2017, on having achieved outstanding job performance, attendance, and work above expected levels; and

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 a copy presented to LaTasia Sanford.

Resolution No. 7441 is hereby adopted by unanimous vote.”

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Following, Human Resources Manager Paul Lloyd recognized Ms. Sanford and said she was nominated by Assistant HR Manager, Joyce DuPree for the exemplary customer service and teamwork she always provides. Following, Mr. Lloyd read the letter of commendation from Ms. DuPree, commending Ms. Sanford for assisting the surviving spouse of one of the Board’s deceased employees, Mark Kirkland. Mr. Lloyd said Mrs. Kirkland’s “thank you” card expressed her gratitude for the assistance Ms. Sanford provided during and after her husband’s death and said her kindness and love would never be forgotten. He said Mrs. Kirkland’s card also stated Ms. Sanford is a jewel and the BWWB is blessed to have her. Following, Mr. Lloyd said Ms. Sanford previously handled a lot of benefits, administration, processing, etc. wherein this was one (1) of those challenging times when she had to work through the difficult situation of assisting Mrs. Kirkland with surviving spouse benefits, etc. Mr. Lloyd said Ms. Sanford does a great job helping employees. He said she was recently promoted to her current position and assists all departments with recruitment, employee relations, etc. Subsequently, Mr. Lloyd said Ms. DuPree wrote “these words are true descriptors of the LaTasia. I am happy for the opportunity she has been given in her new role as HR Business Partner. I wish her much success at the BWWB and am grateful for the time she was under my leadership.” Subsequently, Mr. Lloyd said Ms. Sanford is one of the great employees at the Water Works and he thanked her for the great job that she does. The meeting body applauded Ms. Sanford for her efforts. On behalf of the Board and senior executive management, Chairwoman Lewis expressed appreciation to Ms. Sanford for caring for the Board’s employees and their spouses and presented her with a commendation resolution along with a \$250.00 check.

Next, the Board was asked to approve mileage expense reimbursement for Director Brett A. King, as set forth in agenda item 2. The General Manager stated said item would require a roll call vote. After the motion was made and seconded, Director Clark asked why Director King gets mileage and the other directors do not. Following, Board Attorney Mark Parnell called attention to the directors that the Board’s Travel Expense Reimbursement Policy would need to be amended. He said mileage is a necessary expense and Board members could be reimbursed if they want to and pointed out under the recent law pertaining to the Board expansion any expense such as travel would have to be presented to the Board in a roll call vote. Attorney Parnell pointed out the Board’s current Travel Expense Reimbursement Policy has been in place for at least 15 years wherein it needs to be updated. In response to Director Dickerson’s inquiry relative to what the referenced policy specifically states about travel as it relates to Director King’s reimbursement request wherein Attorney Parnell stated said policy does not precisely address Director King’s request since all Board members previously lived inside the Birmingham area. Following, Attorney Parnell reported when he spoke with Director Burbage about mileage reimbursement Director Burbage indicated he would use his company car. In response to Director Dickerson’s inquiry

relative to the number of miles Director King travels to Board meetings and Executive Assistant Grace Amison said Director King travels 62 miles roundtrip. Director Munchus inquired if Board members living in the city also have the right to request reimbursement for their mileage and Attorney Parnell responded yes and noted the Board's Travel Expense Reimbursement Policy would have to be amended. He said requests for reimbursement would have to be made to the Board similar to the manner Director King uses wherein said requests would require Board approval by a roll call vote. In addition, Director Munchus inquired as to how far back Board members could go on travel reimbursements and Attorney Parnell stated this would be up to the Board's discretion. Subsequently, during the "roll call" vote, Attorney Parnell responded to some additional questions from Directors Dickerson and Munchus relative to the current Travel Expense Reimbursement Policy. At 9:10 a.m. Director King entered the meeting. As the roll call vote continued and the motion passed by a vote of 7 with 1 abstention, and the following resolution was adopted:

“WHEREAS, the Board of Directors has adopted a Travel Expense Reimbursement Policy, as amended; and

WHEREAS, in accordance with Act No. 2015-164, approval is requested for the following mileage expense reimbursement.

NOW, THEREFORE, BE IT RESOLVED, on a motion made by Mr. George Munchus and seconded by Ms. Deborah Clark, that the following board member(s) be reimbursed for his mileage expense reimbursements as follows:

- Brett King for mileage expense reimbursement for March 2017 in the amount of \$99.51 (as itemized on the attached Mileage Log and Expense Reimbursement form).

Resolution No. 7442 is hereby adopted by a roll call vote: Chairman Lewis, yes; Director Alexander, yes; Director Clark, yes; Director Burbage, yes; Director Dickerson, yes; Director Munchus, yes; Director Muhammad (silent), yes; and Director King abstained from voting.”

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Following, the General Manager asked the Board to authorize reimbursement of the operating account for capital expenditures for the period ended February 28, 2017, as set forth in agenda item 3. He indicated staff recommends approval of the referenced item. On a motion duly made and seconded, the following resolution was adopted:

“WHEREAS, ARCADIS US, Incorporated, in a Certificate dated March 17, 2017, certified that during the period ending February 28, 2017 that there were expenditures for the cost of system improvements, which were paid out of the Operating Account and reimbursement of that account is now due in the preliminary amount of \$3,184,370.50 and;

WHEREAS, transfers to the Operating Account can be made from any, or a combination, of the following: the 2002 Construction Fund, the Improvement Fund, and/or the Revenue Account.

NOW, THEREFORE, BE IT RESOLVED By The Water Works Board of the City of Birmingham, on a motion duly made by Mr. George Munchus and seconded by Mr. Tommy Joe Alexander, that the Trustee be, and is hereby instructed to immediately transfer \$3,184,370.50 to

the Operating Account from any, or a combination, of the following: The 2002 Construction Fund, the Improvement Fund, and/or the Revenue Account.

Resolution No. 7443 is hereby adopted by unanimous vote.”

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Next, the General Manager asked the Board to approve payments of invoices for professional services, as set forth in agenda items 4.1 and 4.2, and he indicated staff recommends the referenced invoices for approval. 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. Tommy Joe Alexander, that the Board hereby authorizes staff to execute payments to the following:

- 4.1 Raftelis Financial Consultants, Inc.  
For professional services rendered for February 2017 \$ 6,276.36
  
- 4.2 The Jones Group  
For professional services rendered for March 2017 \$ 7,500.00

Resolution No. 7444 is hereby adopted by unanimous vote.”

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Following, the General Manager asked the Board to ratify the emergency replacement of the HVAC system in the main building’s computer room, as set forth in agenda item 5. He informed the Board that the unit in the computer room had stopped working and pointed out computer equipment must remain at a certain temperature wherein an emergency repair or replacement is needed. The General Manager stated staff recommends approval of said item. After the motion was made and seconded, Director Munchus asked if staff tried to get quotes from any Historically Underutilized Businesses (HUB)’s or Disadvantaged Business Enterprises (DBE)’s. Following, Assistant General Manager Sonny Jones indicated that Liebert Corporation has a dealer in the Birmingham area wherein the second lowest bidder and others would have to purchase the unit from said corporation. He also said the equipment has to come from Liebert to fit into the existing duct work. Assistant General Manager Sonny Jones said the unit is on order and he pointed out there is no minority participation at this point because staff had to move quickly. Assistant General Manager Sonny Jones indicated efforts are being made to determine if some work can be done by a HUB or DBE contractor because a wall would have to be taken out to remove the old unit. Following, Attorney Parnell stated said item was bided in accordance with the State of Alabama Bid Law and pointed out even though staff declared it an emergency it still had to be bided. Attorney Parnell said staff has to take the lowest responsive and responsible bid and noted an emergency only relieves one from having to go through the bid’s advertising process. In response to Director Dickerson’s inquiry whether the unit has a one-year warranty on labor and if this is not unusual, Assistant General Manager Sonny Jones responded yes and stated this is not unusual and indicated the warranty for the equipment would be longer. Following, Director Muhammad inquired about the Carson Loop Project relative to the project being an emergency project and indicated he thought emergency projects are not required to be bided. He also asked whether any work was done on said project as an emergency. Director King replied said project was discussed in the Engineering and Maintenance Committee Meeting wherein it was said the current phase is not an emergency. Director King commented that he believes an emergency could arise and indicated he is not aware of such. Following, Attorney Parnell said all the

Carson Loop Projects that he is aware of were bided and brought to the Board for approval. Director Muhammad then asked if any of said projects were emergencies and the General Manager responded no. After discussion, Chairwoman Lewis called for the vote. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. George Munchus and seconded by Ms. Deborah Clark, that the Board hereby authorizes staff to accept a quote from Metro Mechanical Services, Inc., for emergency replacement of the HVAC system in the main building’s computer room at a quote of \$69,619.00; and to authorize the General Manager and/or the Assistant General Manager to execute purchase orders and/or contract for procurement of materials, services and supplies needed for the operation, construction, and maintenance of the water system. This emergency situation is exempt from the bidding process. Resolution No. 7445 is hereby adopted by unanimous vote.”

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Next, the General Manager asked the Board to award a bid to B&H Contracting, Inc., the lowest responsible and responsive bidder, as set forth in agenda item 6, for various pipes and water services along various streets in the City of Gardendale, Alabama. He indicated said staff recommends approval of said item. After the motion was made and seconded, Director Munchus stated he was going to initially ask that said item be tabled because of the vetting process. Following, Mr. David Merrida of the Birmingham Construction Industry Authority, Inc. (BCIA) responded to several questions from Director Munchus relative to whether he was aware if the relationship between the subcontractor and B&H Contracting, Inc. had been vetted, if the subcontractor is a properly certified HUB or DBE and if said company was certified by the BCIA. Mr. Merrida discussed the process relative to how BCIA tries to vet and allow the contractor and the minority company to create a relationship. Mr. Merrida indicated that BCIA tries to get involved with the entire process of every project. Assistant General Manager Sonny Jones indicated that BCIA is totally involved with BWWB on every project. After discussion, Chairwoman Lewis called for the vote. On a motion duly made and seconded, the following resolution was adopted:

‘BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. George Munchus and seconded by Ms. Deborah Clark, that the Board hereby authorizes staff to award bid to B & H Contracting, Inc., the lowest responsible and responsive bidder, 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 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 out-of-pocket cost to the Board of \$739,732.00; and to authorize the General Manager and/or the Assistant General Manager to execute purchase orders and/or contract for procurement of materials, services and supplies needed for the operation, construction, and maintenance of the water system. Resolution No. 7446 is hereby adopted by unanimous vote.”

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Following, Director King offered a motion to table item 7. He indicated that he had a three-minute video of the Inland Lake Reservoir that was captured with a drone over the weekend wherein the video was shown. Director King said he would like to call an Engineering and Maintenance Committee Meeting for next Tuesday or Wednesday at 11:30 a.m. Chairwoman Lewis advised Director King to get with the committee members and contact Executive Assistant Grace Amison relative to scheduling said meeting so that the proper meeting notice could be sent. In response to Director Munchus’ inquiry as to why he offered a motion to table said item, Director King said several board members had asked about

the cost of the project and he wants to make sure everyone is on the same page relative to an actual cost. Director King said he believes the cost would be very minimal since staff opens the valve for mandatory testing anyway. Following, Director Munchus asked Director King if he has any projections on what he thinks the benefits of the economic development activity would be and Director King said he has some ideas wherein it would be a building process. He said he wants to make sure everybody feels good that it is truly a minimal expense for the Water Works and indicated he would like to discuss it at the Engineering and Maintenance Committee meeting. After discussion, the motion was 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. Brett A. King and seconded by Mr. George Munchus, that the Board hereby table item 7, relative to the release of water from Inland Lake Reservoir into the Blackburn Fork of the Warrior River to promote recreational use and economic development activity in the region. Resolution No. 7447 is hereby adopted by unanimous vote.”

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Prior to discussing new business, Chairwoman Lewis indicated there were some elected officials in the audience and she recognized Birmingham City Councilor Jay Roberson from District 7. Following, Councilor Roberson addressed the audience and stated it is a pleasure to attend today’s meeting on behalf of the Birmingham City Council as Chair of the Utilities Committee. Councilor Roberson said he attended today’s meeting to observe and was glad to be present and hear the dialogue and deliberation as it relates to the business of our great asset to said city. Following, he expressed his appreciation and acknowledged the other elected officials that were present. The General Manager commented that Councilor Roberson holds a Utilities Committee Meeting the second Tuesday of every month wherein all utilities attend. Director Munchus stated said meetings are very informative. Subsequently, Councilor Roberson stated meetings are held at 2:00 p.m. and he invited all to attend.

Next, Chairwoman Lewis recognized State Representative John Rogers. He thanked the Board for allowing him to speak and said he never thought he would be an adversary of the Birmingham Water Works Board. Representative Rogers commented that he sees the Board has the Trump Wall, referring to the barrier between the Board and the public. He said he listened to the conversation about the lowest bid and noted they have passed laws in Montgomery concerning this and he would check to see if the Water Works is affected by it. Following, Representative Rogers said it does not have to be the lowest bid according to the Bid Law in Montgomery. He said he would talk with the Board’s lobbyist Gregory Jones and see why the Water Works does not follow the state law, pointing out the Board does not have to have the lowest bid, especially when dealing with minorities. Following, Representative Rogers said he has fought for the Water Works Board in Montgomery for years, noting he has done everything he could to protect it but does not see how he can continue. Representative Rogers said he is shocked and disturbed to see how far the Board is behind the times. He said he thought the public had a right to be involved in the process but sitting in the audience he could not see the Board sitting behind the wall. Following, Representative Rogers stated he believes there should be a way for the Board to have a meeting where people can be involved. Representative Rogers said he hears complaints from the neighborhoods concerning how they are restricted from access to the meetings. He said he sat on the floor with Chairwoman Lewis and former Chairman Jackie Robinson for about two (2) hours telling them how to protect themselves. He said he openly asked them why they had to serve all the outlying areas, pointing out he begged them not to do what they did. Representative Rogers said if they had done as he asked this would not have happened. Following, Representative Rogers stated he recalled Mr. Robinson, Chairwoman Lewis, State Representative Mary Moore and he talked at length about this. He said he is certain the Board would give away its assets within one (1) or two (2) years. Representative Rogers said he has known Chairwoman Lewis and some of the directors for a long time. He said if one (1) director

could be reimbursed for mileage to attend Board meetings all directors can be reimbursed for the same wherein he would research this. When Representative Rogers said he would try and do everything he could to destroy the Board's nonsense, the audience erupted in applause, Chairwoman Lewis stated she does not normally comment and indicated she has known Representative Rogers for a long time. She said Representative Rogers made a request to the Board when Mr. Robinson was the Chairman. Following, Chairwoman Lewis said the Board and staff went to Blount and St. Clair Counties and did all that they could do to turn over said counties water systems to them and indicated they could not afford to buy them from the Birmingham Water Works Board. Chairwoman Lewis said they spoke with his colleagues, returned and spoke to Representatives Rogers and Moore and gave them the outcome of their meetings with said counties. Following, Representative Rogers said this was not the Birmingham Water Works' problem. Chairwoman Lewis stated that was what happened wherein it is well documented and that was the course of action. She said it is okay that Representative Rogers and she disagree on this and indicated they did what was requested and it did not work out. Following, Director Dickerson agreed with Representative Rogers and said she thinks it is completely ridiculous that people are standing in the hallway, pointing out Board meetings are public and the Board cannot be in this room. Director Munchus said meetings were held downstairs and Chairwoman Lewis stated it was not up for discussion now but the directors could talk about it at a later date. She said they did expand the room and pointed out there were 50 chairs in the meeting space downstairs wherein there are currently 44 chairs in the Boardroom. She said if a few additional chairs have to be added it would be done.

Following, Chairwoman Lewis recognized State Representative Rolanda Hollis and she thanked the Board for the opportunity to speak. She also agreed with Representative Rogers and said she listens to people about their concerns daily. Representative Hollis said she wants to sit down with the General Manager and Chairwoman Lewis to get an understanding of what is happening and how they are going to help the constituents, along with having everyone in a room express their concerns so that everyone can have an understanding. Representative Hollis said she would relay whatever she is told to the citizens. Director Munchus commented that Representative Hollis should speak with the other directors wherein Representative Hollis said she did not have a problem with doing this and she pointed out talking with the General Manager and Chairwoman Lewis would be the start. Following, Director Dickerson stated it should be the start because several of the directors have differing opinions of how things should be working at the Water Works and she believes Representative Hollis should hear from all of them. Representative Hollis agreed and said she believes in proper protocol and going through the process. Director Muhammad said when Representative Hollis talks to staff and Chairwoman Lewis he thinks she should do like a journalist and vet the information. He said he does not want Representative Hollis saying she would just go back and tell the community because in his opinion she would be doing herself a disservice. Following, Representative Hollis repeated this is why she said talking with the General Manager and Chairwoman Lewis would be the start. Subsequently, Chairwoman Lewis said she had just been notified that staff and contractors for the Water Works were standing in the hallway and not visitors.

Next, Chairwoman Lewis asked Board members if they had any new business and Director Dickerson said on March 17<sup>th</sup> Director Clark sent an email to all directors advising there had been concerns regarding her vote on March 16, 2017 relative to agenda item 4.3 to approve Russo Corporation's bid relative to Phase 6C of the Carson Loop Project. Director Dickerson said Director Clark's email stated Director Munchus made a motion to reject and when the vote was called she remained silent therefore, her vote was counted as a "yes" according to the Bylaws. Director Dickerson said Director Clark requested in her email that her "yes" vote be changed to a "no" vote. Subsequently, Director Dickerson said Director Clark's request was sent to Director King and she inquired of the status said request. Following, Director King said Director Clark's email was received the next day wherein Executive Assistant Grace Amison informed him that she had received a certified letter for him. Director King said he instructed Ms. Amison to open the letter and send him a copy wherein this is the extent of his knowledge about said email.

Subsequently, Chairwoman Lewis read the following statement from Article II, Section 13 of the Bylaws under Presumption of Assent: "A member of the Board who is present at a meeting of the Board at which action on any corporation matter shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the Secretary-Treasurer before the adjournment thereof or shall forward such dissent by registered mail to the Secretary-Treasurer immediately after the adjournment of the meeting. Such right of dissent shall not apply to a director who voted in favor of such action." Chairwoman Lewis said Director Clark was allowed to file her request according to the Bylaws under Presumption of Assent. Director Dickerson asked if Director Clark's vote had been changed and the General Manager said yes. Following, Attorney Parnell said Director Clark's vote was not changed, but instead it is reflected as consent wherein Director Dickerson stated Director Clark did not vote therefore her vote is a "yes" vote. Attorney Parnell said Director Clark followed the Bylaws wherein Director Dickerson said she did the same. Following, Director Alexander said Director Clark voted yes during the roll call vote, Director Muhammad said this was the second vote and Director Dickerson stated this as being the reason Director Clark was concerned and sent the email. Following, the General Manager said according to the Bylaws votes must be changed during the meeting or immediately after the meeting is adjourned. He said Director Clark filed her motion by email the same day immediately after the meeting and noted Director Dickerson's letter was received on Monday or Tuesday, after a Thursday meeting. Subsequently, Director Dickerson said an article on February 9<sup>th</sup> stated the vote was 4 to 3 and she had no reason to feel her vote was entered incorrectly. She said she asked Chairwoman Lewis to hold the vote because she was not ready to vote but Chairwoman Lewis called the vote anyway, which is against Robert's Rules of Order. Director Dickerson requested a letter regarding the outcome of Director Clark's vote.

Following, Director Muhammad said there was also an issue about the definition of "immediately" and he asked if "immediately" is being interpreted as right after the meeting for receipt of Director Clark's letter wherein Chairwoman Lewis said immediately is being interpreted as immediately after the adjournment of the meeting. Following, Director Muhammad asked Director King if he received Director Clark's letter "immediately" after the adjournment of the meeting and he said Director Clark's letter was received the next day. The General Manager said the point is the referenced issue was discussed at the end of the meeting. He said after the discussion Director Clark was notified and she indicated she would send a letter immediately. Directors Muhammad and Dickerson said this was not discussed with them. The General Manager stated Director Munchus was present and Director Munchus said it was not discussed with him. Following, the General Manager said as he understands, after the meeting Directors Munchus and Muhammad raised the issue about how Director Clark's vote was recorded. He said staff called Director Clark to see what her intentions were on said vote and from that point she wrote the letter. Following, the General Manager said Directors Munchus and Muhammad had the discussion after the meeting prior to leaving. He said he believes someone went to Ms. Amison's office and inquired of Director Clark's vote wherein Director Muhammad said he asked. Following, Director Muhammad said for the record he asked Ms. Amison when is a silent vote involved in a tie and she said a silent vote is always considered a "yes" vote. Director Muhammad said he then recalled the first vote was a tie with three (3) "yes" and three (3) "no" votes, respectively, pointing out Director Clark's silent vote would have been considered a "yes" vote and the outcome should have been four (4) "yes" and three (3) "no" votes, respectively, wherein Director Munchus' motion would have carried. Director Muhammad said he came back to the table and voiced this and indicated it has now been said someone called Director Clark. Following, Chairwoman Lewis said she believes the directors voted again and Director Muhammad said it was a second vote and indicated it was nullified by the first vote being carried. Subsequently, Director Clark said in the meeting the directors voted; the motion was presented to reject in the negative. She said because there was some question about what the directors were voting on since Director Munchus' motion was in the negative wherein a roll call vote was done. Following, Director Clark said she voted for item 4.3 on the roll call vote because it was stated if it was not approved and another drought came and no

provisions were made to get water to customers in the southern part of the system, it would have been negligence on the Board's part. Director Clark noted this as her reason for voting in favor of said item even though the HUB subcontractor participation is not at the level the Board wants it to be. Following, Director Clark said once Directors Munchus, Muhammad and she discussed her vote after the meeting and she had some concerns, she made sure her first vote was counted in the way she wanted, since the motion was given in the negative. Director Clark said a roll call vote was done and she sent the letter to ensure clarification of her vote. Following, Director Muhammad said a silent vote is a "yes" vote, regardless of her intentions wherein Director Clark repeated a "roll call" vote was done afterwards. Director Muhammad said this was a different motion, noting Director Munchus' motion was to reject item 4.3 and Director Clark stated the second motion was to accept said item. Following, Director Muhammad said there should not have been a second vote and Chairwoman Lewis said a second vote was done. She said she thinks the confusion arose because the motion was stated in the negative and such is normally stated in the positive. Chairwoman Lewis said it was checked to make sure Director Clark followed the Board's Bylaws. Director Munchus said his motion was to reject the referenced bid wherein this is not negative. Chairwoman Lewis said they would go back and listen to the tape of the March 16<sup>th</sup> Regular Board of Directors Meeting wherein Director Dickerson suggested this be done. She pointed out the directors went back and listened to the tape of the February 9<sup>th</sup> meeting when she voted "no" during the roll call vote to terminate Fuston, Petway & French, LLC's contract and indicated her vote was recorded as "yes" and she had asked that it be changed. Subsequently, Director Dickerson said her request was turned down and she believes there is preferential treatment. Following, Chairwoman Lewis reminded Director Dickerson that she stated earlier the directors should go back and listen to the tape. Director Munchus said if they listen to the tape, assuming he is correct and his motion was to reject said bid and the vote was a three-tie vote, this would mean management's recommendation failed. Chairwoman Lewis said the directors voted twice wherein Director Muhammad said there should not have been a second vote because the silent vote should have been counted as a "yes" vote.

Subsequently, Director Dickerson said she read an article yesterday in AL.COM by John Archibald entitled "Secretive Birmingham Water Works Makes Board Members Pledge Confidentiality." Director Dickerson said the article suggests that the Board is more concerned about leaks and the Board members had to sign a confidentiality agreement before they could read a lawyer's report on the pension law. She said she understands from the article that a confidentiality signature to review a report has never been required. She said there are other articles of concern such as "Controversy Surrounding the Dismissal of Fuston, Petway & French Law Firm;" the "Inconsistency in Hiring, Promotion and Policies and Practices;" and "Water Works Spends Millions - Enrages Customers, Finally Admits Issues." Director Dickerson said transparency should be one (1) of the keystones of the work the Board does, along with full disclosure which includes honest communication and straightforwardness. She said when this does not happen the Board ends up with a public that is outraged, employees who are distressed and the Board appears to be hiding something.

Following, Director Muhammad made a motion to move Board meetings back to the training room and it was seconded by Director Munchus. Chairwoman Lewis indicated that this request would be referred back to the Engineering and Maintenance Committee where it started. It was pointed out that motions had been made regarding said item; Chairwoman Lewis pointed out she could not recognize the motions because they were out of order. In response to Director Muhammad's question of what new business is, Attorney Parnell stated if Director Muhammad wanted his item to be considered, he would have to amend the agenda. Following, Director Muhammad made a motion to amend today's agenda and it was seconded by Director Munchus. Subsequently, Chairwoman Lewis indicated she would not entertain Director Muhammad's motion because the public was waiting to speak. Director Muhammad then asked Attorney Parnell if he said a motion could be made to amend the agenda. Attorney Parnell replied any items that are not on the agenda should be added by making a motion. Subsequently, Director Muhammad again made a motion to amend the agenda and it was seconded by Director Munchus.

Following, Chairwoman Lewis again said the agenda would not be amended because the agenda had already been completed, pointing out agendas are amended at the beginning of the meeting. Attorney Parnell said agendas are typically amended at the beginning of meetings wherein Director Muhammad said typically means there is nothing that says it could not be amended at the end of meetings. Following, Director Muhammad said he firmly believes in the Chairman/CEO provision of the Bylaws and indicated he is not in favor of a dictatorship. Chairwoman Lewis said the Water Works has committees for a reason so that items can be properly vetted, again pointing out an Engineering and Maintenance Committee Meeting is scheduled for next week. She said expansion of the Boardroom has been discussed and noted some expansion of said room has been done. Chairwoman Lewis said the Boardroom is the proper place for discussions and Director Muhammad asked that dialogue of moving the meetings be put to a vote, pointing out that speakers were waiting and the Board is planning to enter in an Executive Session. Following, Director King said he thinks the Board should recognize the earlier motion and the second. He asked that the directors not waste a lot of time on this item and indicated this item was discussed in committee wherein everyone's votes should count. Director King said if the majority of the Board wants to move the meetings back to Training Room then this is what would be done and indicated whatever is decided let's do it quickly and move on. Following, Chairwoman Lewis said this started in the Engineering and Maintenance Committee and this is where it belongs. She said the Board needs to understand that items are discussed and vetted properly in committee meetings and respective items are recommended to the Board for a vote, otherwise there is no need for committees. Following, Director Muhammad said there is a motion on the table wherein it could be voted down. Chairwoman Lewis said the employees have training downstairs and the Board is in their space, pointing out this is what the discussion was about. Directors Dickerson and Muhammad called for a point of order relative to a motion and a second on the table and said Chairwoman Lewis could offer a substitute motion if she wanted it to go to committee. Chairwoman Lewis said she would not entertain this and called for the speakers. Following, Director Muhammad said the Board would not hear speakers because a motion and a second were on the table. Chairwoman Lewis said then speakers would not be heard wherein Director Muhammad said the Board would not have an Executive Session or anything else until the issue was resolved. He said Chairwoman Lewis is not the CEO over the Board, she is CEO over the employees. Chairwoman Lewis stated she is not the CEO over the employees and pointed out the employees are handled in operations by the General Manager. Subsequently, Director Muhammad asked Attorney Parnell if Chairwoman Lewis could not entertain his earlier motion and Attorney Parnell stated he had given the Board his recommendation and indicated it was up to Chairwoman Lewis to make the final decision. After a lengthy deliberation, Chairwoman Lewis made a substitute motion to refer said item to the Engineering and Maintenance Committee and Director Alexander seconded the motion. Following, Director Muhammad asked for a roll call vote. After the roll call vote, the motion passed by a vote of 5 to 3 with Directors Munchus, Muhammad and Dickerson 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 Ms. Sherry W. Lewis and seconded by Mr. Tommy Joe Alexander, that discussion relative to relocating the Board meetings back to the Training Room be referred to the Engineering and Maintenance Committee Meeting. Resolution No. 7448 is hereby adopted by Directors Lewis, Alexander, Clark, King and Burbage; Directors Munchus, Muhammad and Dickerson voted against the motion.”

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After the above resolution was adopted, Chairwoman Lewis asked if the directors had any other new business. Director King said as a point of clarification to the Board, in the Engineering and Maintenance Committee Meeting they recommended to move the meeting back to the Boardroom and indicated at said scheduled meeting next week, the Board could vote to move Board meetings back to the training rooms. Chairwoman Lewis stated the reason said meetings were moved back to the Boardroom is

because the directors voted to name the boardroom the “Ronald A. Mims Boardroom” in honor of Director Mims. Following, Director Muhammad said for the record he told John Archibald the directors had to sign a nondisclosure agreement and he does not think it is confidential and thought it was news. He said he did not send him anything and thanked him for putting his statement in the article. Director Munchus said he does not plan to sign said agreement wherein Chairwoman Lewis said the Board is not in this discussion. Following, Chairwoman Lewis asked the directors if they had any other new business and Director Clark said for the record, said committee recommended that board meetings be moved back to the Boardroom.

Next, Chairwoman Lewis recognized speakers and stated they would have three (3) minutes to address the Board. She reminded them they could not speak on an item they had previously talked about. Following, Mr. Frank Matthews was recognized and he addressed Directors King, Dickerson, Muhammad, (Mims, in his absence) and Munchus. Mr. Matthews stated he was trying to understand why he has to wear a money jacket in the presence of the distinguished directors to make them understand the fact that an executive decision had been made to offer credits on water bills. Following, he said the credit notice he received in his water bill stated he did not owe anything yet, an *envelope* was enclosed in said notice. Following, Mr. Matthews wondered how many thousands of dollars were spent on return envelopes and mailed to every customer that got a credit. He pointed out there is no reason for customers to return the envelopes if they do not owe the Board. Mr. Matthews then asked for the cost of the envelopes and the budget for the off-duty security and extra security. Following, he appealed to the above referenced directors and said they are the power now. Subsequently, Mr. Matthews thanked the Board for permitting him to speak.

Following, Chairwoman Lewis recognized Mr. Bob Friedman. He said from 2002 through 2010 he was on the Housing Authority Board of Commission and chaired said board from 2005 to 2007 during the time they built Tuxedo Court in the Western Section. Mr. Friedman said he is thoroughly familiar with board meetings and working with the public. He said it goes with the job wherein this can be contentious at times. He said the directors must never forget they are here to serve the same public it may disagree with, pointing out this is why the Board is here and why a board is necessary. Following, Mr. Friedman said he believes a couple of things in the Board’s rules emerged from the beginning, noting some of the directors have never been on the Board and were appointed from outside the City of Birmingham. He said they saw a lot of destruction that endangered Birmingham’s water system and the ownership of said system, pointing out these directors came on afterwards. Mr. Friedman said the Board’s Public Speaker Policy mentions having the discretion to modify the allotted time for speakers, noting this is a slap in the face of the public and should be removed from said policy. Subsequently, Mr. Friedman said he hoped the directors would consider some of what he said and at least realize they are here to serve the public and deliver a good service. Afterwards, he thanked the Board for allowing him to speak.

Next, Mr. Carlos Chaverest was recognized and he said they laid out all their demands before the directors and told them what the public wants them to know. He said he sent an email to the Board and CNN yesterday, noting they would appear tomorrow about the issue concerning the Water Works. Following, Mr. Chaverest said at this point they were not asking but requiring the directors to follow everything they had laid out before them. He said if this is not done they are ready and prepared to shut down the operations of the Birmingham Water Works Board. Mr. Chaverest said it is not right for Chairwoman Lewis to tell the other directors they cannot do certain things. Following, Mr. Chaverest said Chairwoman Lewis and the General Manager do not have the best interest of the public at heart. He stated said individuals need to be removed or they would picket the Water Works weekly until the citizens of Birmingham have some resolution. Mr. Chaverest said when he arrived at today’s meeting he was met by 12 officers who informed him he could not enter the meeting because he was trespassing. He said no charges were mentioned other than a lady had indicated he was intruding. Following, Mr. Chaverest stated he wanted to know who gave such a directive. He said he believes Mr. Terrell Jones came out and

said they would not prohibit him from the meeting this time wherein he said he wants to know under what grounds he would be trespassing. Following, Mr. Chaverest said they are aware of the racism that exists in Assistant General Managers Darryl Jones' and Sonny Jones' departments wherein they are looking into this. He said they know Attorney Parnell works for Attorney Charlie Waldrep and they are also looking into this.

Following, Mr. Iva Williams, III was recognized and he said contrary to popular belief he loves Chairwoman Lewis as a friend wherein she has looked out for him many times. He said he wants everyone to know he has friends at the Water Works but like Representative John Rogers he is hurt and sad. He then read a list of demands that included allowing ratepayers full access to all public meetings making information requests easier; refunding the thousands of dollars to customers that were overcharged due to errors when the Board changed its billing system, pointing out although staff has addressed the billing issue, no attempt has been made to refund customers who are unaware they were overcharged; ending crony contracts immediately and supermajority language that makes it hard to fire managers and consultants; firing the Board's current attorneys; terminating dealings with Jerry Jones and ARCADIS; addressing employee allegations of racism, intimidation and nepotism; ending unlawful practices such as estimating customer billing and insisting ratepayers invest in unnecessary repairs and insurance; increasing minority participation to 25% at once and developing a strategic plan for 50% by the year 2020; replacing \$4.3 million stolen from the employee's pension fund; terminating the General Manager and replace someone with utility management or expertise in the field; asking the Chairwoman to resign; moving to return the assets of the Birmingham Water Works Board back to the citizens of Birmingham; being a better corporate citizen in the community; and ending rate increases that are not required to service the Birmingham Water Works' debt. He said if the above demands were not met they would shut down the Customer Payment Center Monday morning and protest the Water Works Board. Subsequently, Mr. Williams thanked the Board.

Next, Chairwoman Lewis informed the meeting body that the Board needed to go into an Executive Session for two (2) reasons wherein Attorney Parnell stated the Executive Session would be to discuss a matter not currently in litigation and indicated it would imminently likely result in such. He said Attorney Clay Ragsdale was waiting and would come in and talk to the Board about this issue. Following, Attorney Parnell said the other matter involved a security problem. He said he anticipated it would take about 30 minutes for the litigation item wherein there may be some action taken. Attorney Parnell indicated the second matter may take 30 minutes. Subsequently, he requested a motion to enter into Executive Session. Following, Director King said if any of the directors wanted to make comments to the public they needed to do so prior to said session since most of people would probably be gone before it ended. Following, Attorney Parnell responded to questions from Director Munchus as to whether the lawyer client privilege belongs to the client or to the Board and if he has the right as a private citizen to engage in whatever activity he chooses that is within the constitution. Attorney Parnell stated said privilege belongs to the client and pointed out he said the client is not any individual Board member and indicated the client is the Board as an entity. Following, Attorney Parnell said whatever activity Director Munchus chooses to do would be at his own peril, pointing out he has fiduciary obligations as a Board member wherein Director Munchus asked could he not separate the two and Attorney Parnell said this would be very difficult in his opinion. Subsequently, Chairwoman Lewis asked for a motion to enter into Executive Session. After the motions, Director Dickerson asked Mr. Iva Williams if he would send her a copy of the requests he read and he indicated he would. Subsequently, Chairwoman Lewis called for a roll call vote. After the roll call vote, the motion passed by a vote of 5 to 3 with Directors Munchus, Muhammad and Dickerson voting against the motion:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made Mr. Tommy Joe Alexander and seconded by Mr. Deborah Clark, that the Board hereby enters into Executive Session to discuss: (1) a matter that may result in litigation – Attorney Clay

Ragsdale will discuss said item; and (2) a matter involving security issues. Resolution No. 7449 is hereby adopted by Directors Lewis, Alexander, Clark, King and Burbage; Directors Munchus, Muhammad and Dickerson voted no.”

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At 10:22 a.m., the Board, senior executive management, Attorney Clay Ragsdale and Board Attorneys Mark Parnell and Kelvin Howard entered into an Executive Session. At 11:34 a.m., Director King departed the Executive Session. At 12:05 p.m., a motion was made and seconded to adjourn said session and the regular meeting reopened.

Following, Chairwoman Lewis recognized the General Manager to read a resolution relative to retaining Attorney Clay Ragsdale to handle the Board’s pension loss. He said staff recommends approval wherein Chairwoman Lewis asked that “said retain” be corrected to read “said retainer.” Following, Director Dickerson said page one (1) of Attorney Ragsdale’s contract makes reference to being authorized to investigate and she asked if he had not already investigated and what he was investigating. Following, Attorney Ragsdale said investigating is a continuing process at this point wherein the General Manager said there may be other things said attorney discovers and would have to further examine. After discussion, a motion was made and seconded, and the following resolution was adopted:

“WHEREAS, on May 25, 2016, The Water Works Board of the City of Birmingham retained Ragsdale LLC, to evaluate potential remedies available to the Water Works Board arising out of the loss of funds in the Water Works Board’s pension plan investments in certain Wakpmani bonds; and,

WHEREAS, the Water Works Board is expected to receive approximately \$60,000.00 - \$70,000.00 from a receivership established as the result of the action taken by the Water Works Board’s previous discretionary investment advisor Atlantic Asset Management; and,

WHEREAS, Ragsdale has completed its evaluation and has recommended a certain legal strategy to maximize the Water Works Board’s chances to pursue litigation to attempt to recover said lost pension funds.

NOW THEREFORE, on a motion made by Mr. Tommy Joe Alexander and seconded by Mr. William “Butch” Burbage, Jr., as follows:

1. Subject to the following terms and conditions contained herein, Ragsdale is authorized to investigate and if necessary pursue appropriate legal action against the persons, firms or other legal entities deemed most advantageous for the Water Works Board to recover the lost funds associated with the Wakpamni bonds. In pursuing said work, Ragsdale may associate with other attorneys as deemed necessary and appropriate and may join the Water Works Board’s claims with other similarly situated investors under a joint prosecution agreement as approved by the General Manager.

2. Subject to the following terms and conditions contained herein, the General Manager is authorized to enter into a fee agreement with Ragsdale to represent the Water Works Board as follows:

(a) In order for the General Manager to be authorized to enter into a fee agreement, the Water Works Board must actually receive the approximately \$60,000.00 -\$70,000.00 from the Atlantic Asset Management Receivership;

(b) The fee agreement shall be a hybrid hourly and contingency arrangement.

(i) Hourly. The approximately \$70,000 will be paid to Ragsdale as a retainer. Said retainer to be deposited into a IOLTA trust account. Ragsdale and any associated attorney will bill against said retainer for hourly work associated with pursuing this legal action. The hourly rate will be based on the hourly rate appropriate for the jurisdiction, qualifications and years of experience for any associated attorney. The Water Works Board's hourly fees shall not exceed the funds received from the Atlantic Asset Management Receivership.

(ii) Contingency. The remainder of fees will be thirty-three and a third percent (33.333%) of the gross recovery from any settlement or judgment.

(iii) Expenses. In addition to the hourly fee set forth in sub-paragraph (i) above, the Water Works Board agrees to reimburse Ragsdale for any routine litigation expenses incurred in pursuing this proposed legal action. Said litigation expense shall not exceed \$25,000 without approval by the Water Works Board. Furthermore, any expense to be incurred that will exceed \$5,000 will be pre-approved.

3. The fee agreement is attached hereto as Exhibit "A".

Resolution No. 7450 is hereby adopted by Directors Lewis, Alexander, Clark, King, Muhammad and Dickerson; Director Munchus abstained from voting."

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Next, Assistant General Manager Darryl Jones presented the Consumer Confidence Report (CCR) to the directors and informed them that said report would be sent to BWWB customers. He said staff would bid the printing next week and bring it to the Board for approval. Assistant General Manager Darryl Jones pointed out about 350,000 CCRs are typically printed, noting last year the cost was around \$33,000.00, not including the postage to mail said report. He said if the CCR is not delivered to all residents in the Board's service area it could be a violation. Following, Assistant General Manager Darryl Jones stated while said report is available on the Water Works' website this does not mean regulation are complied with. Assistant General Manager Darryl Jones said the easiest and most efficient way for staff to meet the criteria is to mail the referenced report. Assistant General Manager Darryl Jones said if the Board had no objections, staff would like to proceed with bidding the printing and postage for the CCR. Following, Assistant General Manager Darryl Jones responded to Director Dickerson's inquiry as to whether people read the CCR and he replied a lot of people read, collect and track the CCR's annually. Following, Assistant General Manager Darryl Jones said every page of content in the CCR is required by the Environmental Protection Agency (EPA) except for awards received by the Water Works, its mission and the testing page. He said this year's theme is "Treated, Tested and Delivered." In response to Director Munchus' inquiry if the CCR is printed in Spanish, Assistant General Manager Darryl Jones responded no but said a Spanish version is available on the Board's website and could be downloaded. Following, Director Clark asked Assistant General Manager Darryl Jones how the public know that awards have been received relative to giving some goodwill about the Water Works. Assistant General Manager Darryl Jones said staff is working on another document with the PR group that is strictly about the awards. Following, the General Manager commented that staff is updating a document it published in 2012 or 2014 that would be distributed to the public, pointing out a press release is done each time the Water Works receives an award. Following, Chairwoman Lewis said the Water Works' reputation outside of Birmingham is superior and it is always in the front when awards are given and she indicated on the home front it appears the Board is not doing its job. She commented hopefully all the directors would be able to work together on the Board's image.

As there was no further business before the Board, a motion was duly made and seconded, and the meeting adjourned at 12:17 p.m.

/s/

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Sherry W. Lewis  
Chairwoman/President

Attest:

/s/

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Brett A. King, Esq.  
Secretary-Treasurer