

**MINUTES OF THE REGULAR BI-MONTHLY MEETING OF DIRECTORS  
OF THE WATER WORKS BOARD OF THE CITY OF BIRMINGHAM  
April 10, 2024**

A regular bi-monthly meeting of the directors of The Water Works Board of the City of Birmingham was held on Wednesday, April 10, 2024, at 11:30 a.m., at 3600 First Avenue North, Birmingham, Alabama.

The following Directors were present: Lucien B. Blankenship; William “Butch” Burbage, Jr., Thomas E. Henderson, Tereshia Q. Huffman, George Munchus, Carl Dalton NeSmith, Mashonda S. Taylor and Raymond “Larry” Ward.

Others present were: Michael Johnson, General Manager; Iris Fisher, Philip King and Derrick Murphy, Assistant General Managers; Cynthia Williams, Board Administrator; Anitra Clark, Corporate Governance Specialist; Elyse Page, Executive Assistant to General Manager, Vanessa Washington, Executive Assistant; Marsha Hammonds, Rick Jackson, Brad Steffens, Rosalind Jones, Cassandra Bell, Jonathan Jett, Jeff Wade, Charles McGee, A’khi King, Anthony Hazel, and David Walker, BWWB Employees; K. Mark Parnell, Parnell Thompson Law, LLC; Kelvin Howard, Kelvin W. Howard, LLC; Alan Kouns, State of Alabama Attorney General’s Office; Patrick Flannelly, ARCADIS, US, Inc; Bill Todd and Angela Riley, O2 Ideas; Lindsay McAdory, CBG Strategies; Christine Kozlosky, The Ascent Group; Phillip Moultrie, Valent Group, LLC and Roy Johnson, Al.com.

Chairwoman Huffman called the meeting to order at 11:30 a.m., and Assistant General Manager Fisher opened the meeting with prayer. Director Blankenship left the meeting at 11:32 a.m.

Inasmuch as all directors were present, Chairwoman Huffman declared a quorum in attendance.

Following, General Manager Johnson asked the Board to approve the agenda. 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. Mashonda Taylor, that the Board of Directors hereby approves the Regular Board of Directors’ meeting agenda for April 10, 2024. Resolution No. 9542 is hereby adopted by Directors Burbage, Henderson, Huffman, Munchus, NeSmith, Taylor and Ward.”

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Next, the Board proceeded to the first item on the agenda, Request Board to approve minutes of the Regular Board of Directors’ meetings held January 24, 2024, and February 21, 2024. 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 Mr. Carl Dalton NeSmith and seconded by Mr. George Munchus, that the Board hereby approves minutes of the following meetings:

- Regular Board of Directors’ Meeting held January 24, 2024.
- Regular Board of Directors’ Meeting held February 21, 2024.

Resolution No. 9543 is hereby adopted by Directors Burbage, Henderson, Huffman, Munchus, NeSmith, Taylor and Ward.”

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Following, General Manager Johnson proceeded to the Reports of Committees. He indicated the following scheduled meetings:

- Engineering & Maintenance Committee Meeting – Wednesday, April 10, 2024, immediately after the Regular Board of Directors’ Meeting
- Regular Board of Directors’ Meeting – Wednesday, April 24, 2024, at 11:30 a.m.
- Human Resources Committee Meeting – Wednesday, April 24, 2024, immediately after the Regular Board of Directors’ Meeting
- Executive Committee Meeting – Tuesday, April 30, 2024, at 11:30 a.m.

Director Blankenship returned to the meeting at 11:33 a.m.

Next, General Manager Johnson, asked the Board to hear Reports of Officers. Director Munchus asked General Manager Johnson to provide the status of the Historically Underutilized Business (HUB) Program as the company has been without assistance since December 2023. General Manager Johnson responded that staff is reviewing the vendors’ documentation submitted for any proposals or bids. He stated information regarding the HUB program will be presented at the April 30, 2024, Executive Committee Meeting for review, in addition to a recommendation on moving forward with the program. Next, Director Munchus asked General Manager Johnson whether there were any proposals submitted for the HUB program. General Manager Johnson said three proposals were submitted. Director Munchus requested to receive copies of the proposals and asked Board Attorney Parnell about the status/legality of the Customers’ Assistance Program. Board Attorney Parnell responded that the Program is still being reviewed. Director Munchus asked when Board Attorney’s Parnell review of the Program would become an unqualified opinion, which Board Attorney Parnell responded he may not receive an unqualified opinion, but he would complete the request within the next month.

Following, Board Attorney Parnell proceeded to training updates for the Board. He indicated that at the last Board Meeting, he discussed updates regarding Parliamentary Procedures, the Public Records Act, and the Ethics Law. He stated the Board’s Self-Governance Policy requires its directors to receive mandatory updated training on said items, in addition to, the bid law and the public works law. Board Attorney Parnell provided the Board with two handouts pertaining to the training as follows: (1) 2024 Bid Law Update Training and (2) 2024 Public Works Law Update. Copies are on file in Diligent. Afterwards, Board Attorney Parnell gave an overview

of the 2024 Bid Law Update Training. He stated on last year, the legislature increased the bid law threshold for purchases from \$15,000.00 to \$30,000.00. Therefore, purchasing materials over \$30,000.00 in an annual time must be performed through an invitation to bid or exempt from bidding. He stated it is up to the Board and staff to determine their needs for a bid; however, there is a great amount of discretion in choosing the terms (*such as, a provision extending the term based on the Consumer Price Index (CPI) for an additional year, etc.*) and the agreement as it relates to services to meet the needs of the company. Board Attorney Parnell indicated that there are several exemptions regarding bids. He stated some exemptions in the statute that applies to the Board not having to bid consists of the following: the purchase of utility services - regulated by the Public Service Commission (PSC), the purchase of insurance for professional services of attorneys, physicians, architects, or individuals possessing a high degree of profession skills where the personality of the individual plays a decisive part, financial services, bond issue services related to paying agents and trustees, computer purchases, sole-source - only one vendor or supplier for contractual services and purchases of commodities or something impossible to bid competitively, security services, or purchasing from the state bid list or co-ops. Also, Board Attorney Parnell stated that if there is an emergency circumstance where a delay would cause harm to an individual or public property, the invitation for bid and advertising process can be avoided; however, there must be compliance for all other bid law requirements, which includes two or more price quotations/estimates, and the Board must adopt a resolution declaring an emergency, action to be taken, and the reason. Board Attorney Parnell stated it is important for staff to be familiar with the public bid law and obtain legal counsel, when necessary, because to willfully violate the ethics law is a Class C felony. Director Munchus asked whether chemical contracts are vetted for a year. Board Attorney Parnell responded chemicals are bid with an option to extend for an additional year. Next, Director Munchus asked about a remedy to prevent suppliers from increasing their price mid-year. Board Attorney Parnell responded there was a change to bidding chemicals. He said there is a provision that states if the chemical bid is extended and meets a certain criterion, the price can be increased. Board Attorney Parnell said Director Munchus is referring to a remedy to sue for a breach of contract. He stated having the right to sue someone does not always mean it makes sense to sue them. Board Attorney Parnell indicated that in reference to Director Munchus' concerns, every water utility in the state/country was facing the same chemical problems during that time. He said the choice becomes whether to treat water or decide to litigate. Then, Director Munchus asked whether Board Attorney Parnell thought chemical manufacturers engaging in mid-year price increases was over. Board Attorney Parnell responded yes. He said mechanisms have been added in the bid process to mitigate it.

Next, Board Attorney Parnell gave an overview of the 2024 Public Works Law Update. He stated, although they are similar, the difference between the bid law and public works law is that the bid law applies to everything except public works, and public works are capital improvements, such as construction building or repairing hard assets, etc. Board Attorney Parnell indicated the threshold for public works increased from \$50,000.00 to \$100,000.00. He said staff must make sure public works over \$100,000.00 is being properly bid. Board Attorney Parnell stated a capital improvement under \$100,000.00, such as fixing a water main break would only need to be fixed not bid; however, fixing something that costs \$250,000.00 requires following the bid law. Per Board Attorney Parnell, the process for advertising projects for bids has changed. Now, bids are required to be advertised locally at least once in a newspaper of general circulation, and if there is no newspaper, the bid should be posted on a bulletin board. Also, if companies ask to be sent the

bid notice, staff is obligated to send them the invitation to bid. Regarding awarding a bid under the bid law oppose to awarding a bid under the public works law, Board Attorney Parnell stated that the bid law speaks to awarding a bid to the lowest responsible bidder; however, the public works law speaks to awarding a bid to the lowest responsible and responsive bidder. He explained that a responsible bidder has the skills/qualities and financial background to perform the contract specifications, and a responsive bidder is one who complies with the invitation for bid. Board Attorney Parnell indicated that under the bid law, if someone is not responsive, they become non-responsible because they have not met the terms for invitation to bid. Then, he discussed the emergency exceptions for public works law, such as main breaks. He said staff has a process to solicit quotes from companies to perform main break repairs costing over \$100,000.00. However, the Board must adopt a resolution that ratify said action and declare the reason for it being an emergency, in addition to, placing it on the Board's website. Board Attorney Parnell said most main breaks are under \$100,000.00. He said emergency repairs must comply with the public works law except for the bid advertisement. Board Attorney Parnell stated the contractor is still required to provide a performance bond and payment bond. He reiterated that willful violation of the public works law is a Class C felony. He said every good faith effort should be made to comply with this law. Board Attorney Parnell stated that today's training on the referenced laws should fulfill the Board's education/training obligations this year; however, the Board has an obligation to obtain general education above and beyond today's training. Board Attorney Parnell commented that Raftelis Financial Consultants will be presenting educational information on the cost of service, which should apply towards the Board's training/education obligation, in addition to, the security training provided last week. Afterwards, Director Munchus inquired about the basis for three quotes solicitation with different prices. Board Attorney Parnell explained that staff has a form with a list of qualified vendors for certain services and the vendor with the lowest quote is one selected.

Following, the Board proceeded to the second item on the agenda, Request Board to approve payment of invoices. Director Ward inquired about agenda item 2.6. General Manager Johnson explained that agenda 2.6, is Birmingham Water Works annual contribution to the Birmingham Business Alliance (BBA). He stated Birmingham Water Works is an active member of the BBA and the company's investment level is \$25,000.00. Chairwoman Huffman inquired about the plan for Attorney Byron Perkins invoices being brought current. General Manager Johnson responded that after speaking with Attorney Perkins, he will submit invoices for January 2024 through March 2024, on the April 24, 2024, Regular Board of Directors' Meeting agenda. Director Munchus asked that his abstention be noted on agenda items 2.5 and 2.7. On a motion duly made and seconded, the following resolution was adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William “Butch” Burbage, Jr., and seconded by Mr. Carl Dalton NeSmith, that the Board hereby authorizes staff to execute payments to the following:

- 2.1 Terminus Municipal Advisors, LLC for professional services rendered March 2024 in the amount of \$10,000.00.
- 2.2 Fine Geddie & Associates for professional services rendered March 2024 in the amount of \$15,000.00.

- 2.3 The Jones Group, LLC for professional services rendered March 2024 in the amount of \$15,000.00.
- 2.4 Raftelis Financial Consultants, Inc. for professional services rendered February 2024 related to Consolidated Invoices in the amount of \$19,410.00.
- 2.5 Agee Law, LLC for the following:
  - 2.5.1 For professional services rendered March 2024 in the amount of \$16,380.00.
  - 2.5.2 For BWWB case related expenses rendered as of April 1, 2024 in the amount of \$7,998.02.
- 2.6 Birmingham Business Alliance (BBA) in the amount of \$25,000.00 for its annual commitment as a champion investor.
- 2.7 Perkins Law, LLC for the following:
  - 2.7.1 For professional services rendered November 2023 in the amount of \$36,153.00.
  - 2.7.2 For professional services rendered December 2023 in the amount of \$23,274.00.

Resolution No. 9544 is hereby adopted by Directors Blankenship, Burbage, Henderson, Huffman, NeSmith, Taylor and Ward; and Director Munchus abstained on agenda items 2.5 and 2.7.”

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Next, the Board proceeded to the third item on the agenda, Request Board to approve the items recommended by the Executive Committee. Director Munchus inquired about agenda item 3.2, and whether a bill had been introduced to the legislature or whether the items are awaiting a sponsor. General Manager Johnson responded that a meeting had been held with legislators on both items (3.2.1 and 3.2.2). He stated once said items are approved, legislators will actively seek to support the bill introduced in support of these items. Next, Director Munchus asked if both bills had been drafted and if sponsors had been acquired through our lobbyists. General Manager Johnson responded that agenda item 3.2.2, was drafted in a prior year, so staff is reaffirming it is still wanted. Agenda item 3.2.1 is being worked on. Board Attorney Parnell clarified that both legislative items were on the Board’s legislative agenda last year; however, Birmingham Water Works is not the only entity interested in the \$100,000.00 legislative cap. He stated it is a matter of whether Birmingham Water Works will join the other entities around the State that are also interested in the legislative cap, opposed to its own separate bill. Director Munchus asked about the Alabama League of Municipalities and the Alabama County Commissioner’s Association thoughts on the matter or if they supported it. Board Attorney Parnell responded, he believes that they are in support. On a motion duly made and seconded, the following resolutions were adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William “Butch” Burbage, Jr., and seconded by Ms. Mashonda S. Taylor, that the Board hereby approves the following item, as recommended by the Executive Committee:

3.1 FY2024 budget items related to the Business Process Improvement recommendations.

Resolution No. 9545 is hereby adopted by unanimous vote.”

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“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. William “Butch” Burbage, Jr., and seconded by Ms. Mashonda S. Taylor, that the Board hereby approves the following item, as recommended by the Executive Committee:

3.2 Items for the Water Works Board’s 2024 Legislative Agenda:

- 3.2.1 Extending the \$100,000.00 liability cap to BWWB employees
- 3.2.2 Add local preference to the Alabama Bid Law

Resolution No. 9546 is hereby adopted by unanimous vote.”

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Following, the Board proceeded to the fourth item on the agenda, Request Board to approve the items recommended by the Engineering and Maintenance Committee. On a motion duly made and seconded, the following resolutions were adopted:

“BE IT RESOLVED By The Water Works Board of the City of Birmingham (“the Board”), on a motion duly made by Mr. Carl Dalton NeSmith and seconded by Mr. George Munchus, that the Board hereby approves the following item, as recommended by the Finance Committee:

4.1 Agreement with Municipal Government Investors Corp. (mGIC), effective April 10, 2024, through December 31, 2024, to serve as Birmingham Water Works' Cash and Investments Advisor, at a cost to the Board not-to-exceed \$50,000.00; and authorizes the General Manager and/or the Assistant General Manager to execute the agreement.

Resolution No. 9547 is hereby adopted by unanimous vote.”

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“WHEREAS, the Board of Directors of The Water Works Board of the City of Birmingham, a public corporation organized and existing under the laws of the State of Alabama

(the “Corporation”), has designated REGIONS BANK, Birmingham, Alabama, as a depository of the Corporation.

NOW, THEREFORE, BE IT RESOLVED, on a motion made by Mr. Carl Dalton NeSmith and seconded by Mr. George Munchus, that REGIONS BANK located in Birmingham, Alabama, (the “Bank”) is hereby confirmed as a depository of the Corporation and that one or more deposit accounts be opened and maintained on behalf of the Corporation with said Bank, that such accounts be governed by the terms and conditions contained on or referred to in the signature cards which is herein authorized to be executed, that funds so deposited may be withdrawn by check, draft, note or order of the Corporation when signed by any two (2) of the following:

<u>NAME</u>	<u>TITLE</u>
Michael Johnson	General Manager
Derrick Murphy	Assistant General Manager
Iris Fisher	Assistant General Manager
Philip King	Assistant General Manager
Rosalind Jones	Comptroller
Cassandra Bell	Accounting Manager

whose signatures shall be duly certified to the Bank on said signature cards, and Bank is hereby authorized to pay said checks, drafts, notes, orders or withdrawals, or to receive the same for credit of, or in payment for the payee, or any other legal holder when so signed, without inquiry as to the circumstances of the disposition of their proceeds, whether drawn to the individual order or tendered in payment of individual obligations of the officers or employees above named, or other officers of this corporation or otherwise.

FURTHER RESOLVED, that Michael Johnson, General Manager of the Water Works Board,

is authorized to execute a “Telephone Transfer Authorization” form, which will designate persons authorized to give telephone instructions to Bank to transfer funds between specified deposit accounts of this Corporation at the Bank.

is authorized to rent one or more Safe Deposit Boxes from said Bank and execute applicable agreements and signature cards.

is authorized to enter into a Night Depository agreement with the Bank and execute applicable agreements and signature cards.

is authorized to enter into agreements with the Bank for electronic and other banking services including but not limited to, collateral security, payroll processing, electronic entry processing, account reconciliation and corporate cash management.

RESOLVED FURTHER, that this resolution hereby revokes all resolutions heretofore delivered to Bank by this Corporation,

RESOLVED FURTHER, that this resolution shall continue in full force and effect until the Bank shall receive official notice in writing from this Corporation of the revocation thereof by a resolution duly adopted by the Board of Directors of this Corporation, and that the certification of the Secretary-Treasurer of this Corporation as to the signatures of the above-named persons shall be binding on this Corporation.

RESOLVED FURTHER, that the form or forms of authorization to open such bank accounts and draw money therefrom on behalf of the Corporation required by REGIONS BANK is hereby adopted; that any other resolution or corporate action required in order to open such bank accounts and draw money therefrom on behalf of the Corporation is hereby adopted; that the appropriate officers of the Corporation are hereby authorized and directed to certify the adoption of any such authorization and resolutions as if the language thereof were set in full in this resolution so long as the substance thereof is consistent with the objective of this resolution, and that copies of all authorizations and resolutions so certified be placed with this resolution and records of the Corporation.

Resolution No. 9548 is hereby adopted by unanimous vote.”

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“BE IT RESOLVED By The Water Works Board of the City of Birmingham (the “Board”), on a motion duly made by Mr. Carl Dalton NeSmith and seconded by Mr. George Munchus, that the Board hereby approves to transact financial and banking business, including wire transfers, and to open or close any financial or banking business, including wire transfers, and to open or close any financial or brokerage accounts with Truist Bank (the “Bank”) to the following:

<u>NAME</u>	<u>TITLE</u>
Michael Johnson	General Manager
Derrick Murphy	Assistant General Manager
Iris Fisher	Assistant General Manager
Philip King	Assistant General Manager
Rosalind Jones	Comptroller
Cassandra Bell	Accounting Manager
Sharon Mahaffey	Assistant Accounting Manager

RESOLVED FURTHER, that this resolution hereby revokes all resolutions heretofore delivered to Bank by the Board.

RESOLVED FURTHER, that this resolution shall continue in full force and effect until the Bank shall receive official notice in writing from the Board of the revocation thereof by a resolution duly adopted by the Board of Directors of this Corporation, and that the certification of the Secretary-Treasurer of this Corporation as to the signatures of the above-named persons shall be binding on the Board.



Resolution No. 9549 is hereby adopted by unanimous vote.”

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As there was no further business before the Board, Chairwoman Huffman made a motion to adjourn the meeting and Director Taylor seconded the motion. On a motion duly made and seconded, the motion was approved, and the meeting adjourned at 12:01 p.m.

\_\_\_\_\_/s/\_\_\_\_\_  
Tereshia Q. Huffman  
Chairwoman

Attest:

\_\_\_\_\_/s/\_\_\_\_\_  
Raymond “Larry” Ward  
Secretary-Treasurer