

SUMMARY OF REGULAR BOARD OF DIRECTORS' MEETING

HELD Wednesday, June 23, 2021

At 11:30 a.m. – (In-Person [Electronically via Teleconference/Telephone-Public])
[THESE ARE NOT THE OFFICIAL MINUTES]

The Governor's Open Meeting Act ("OMA") Proclamation allows members of governmental bodies to hold said meeting electronically (via telephone etc.) for purposes of establishing a quorum, deliberating and taking action; and via electronic equipment allows members of the public to listen to the meeting.

The regular bi-monthly meeting of the directors of The Water Works Board of the City of Birmingham was held on Wednesday, June 23, 2021, at 11:30 a.m., in-person and electronically [via teleconference/telephone-Public].

The following Directors were present via a roll call: Ronald A. Mims, William "Butch" Burbage, Jr., George Munchus, Lucien Blankenship (via phone), Tereshia Huffman, Tom Henderson, Dalton NeSmith, Chris Rice and Larry Ward.

Others were present via teleconference/telephone: Michael Johnson, General Manager; Derrick Murphy, Iris Fisher and Jeffrey Thompson, Assistant General Managers; K. Mark Parnell, Parnell Thompson Law, LLC; Emory Anthony, Esq.; Cynthia Williams, Board Administrator; Vanessa Washington, Executive Assistant; Anitra Clark, Rick Jackson, Terrell Jones and Colandus Mason, Board Employees; Olivia Martin, AGO; Matthew Arrington, Terminus Municipal Advisors; and Patrick Flannelly, ARCADIS.

Inasmuch as the Board members were present, a quorum was in attendance.

Chairman Mims called the meeting to order at 11:34 a.m. Information Technology Manager Colandus Mason opened the meeting with prayer.

Chairman Mims called for a motion and second to approve the agenda as printed. Director NeSmith made a motion to approve the printed agenda. Director Ward seconded. GM Johnson reminded the chairman of the need for an Executive Session. Thus, Chairman stated that Executive Session would be last item on the agenda and that it would take place in the Ronald A. Mims Boardroom. Director Nesmith amended his motion to include the Executive Session as part of the agenda. Director Huffman seconded. The agenda was approved as amended by a unanimous voice vote.

Next, Director Rice made a motion to consent to agenda items two, three, four, five and six for approval. Director NeSmith seconded. There was a short discussion on the consent process. Afterwards, Attorney Mark Parnell asked if anyone had comments or questions. After Chairman Mims confirmed that there were no questions on the items being considered for consent approval, the agenda items passed by a roll call vote with eight votes in favor of approval and one abstention.

Following, GM Johnson asked the Board to approve minutes of the April 14, 2021 and April 28, 2021 Regular Board of Directors' meetings, as set forth in agenda item one; necessary to perform essential minimum functions of the governmental body. Director NeSmith made a

motion to approve the agenda item. Director Henderson seconded. The agenda items were approved by a unanimous voice vote.

Next, GM Johnson asked the Board to approve payment of invoice to ARCADIS, US, Inc., for professional services rendered per February 2021 progress report in the amount of \$420,979.52, as set forth in agenda item 7; necessary to perform essential minimum functions of the governmental body. Director Burbage made a motion to approve the agenda item. Director Rice seconded. The agenda item was approved by a unanimous roll call vote.

Following, a director indicated that there were two questions he needed to ask during Executive Session relating to agenda item six, which is an invoice. Attorney Anthony advised him that the questions needed to be disclosed to be certified for Executive Session. The director declined to ask the questions in public. He stated he would go about the issue in another manner if prevented from discussing in Executive Session.

Next, GM Johnson asked the Board to approve expenditures for security services with Vision Security Technologies Inc., a sole source provider, to replace all card readers in the BWWB system to accept SMART Card technology at an out-of-pocket cost to the Board of \$72,676.58, as set forth in agenda item 8; and to authorize the General Manager and/or the Assistant General Manager to execute any documents; necessary to perform the essential minimum functions of the governmental body. This expenditure is exempt from the bidding under the Alabama Competitive Bid Law because it is related to security and a sole source provider. A director asked AGM Murphy to provide some information on the topic as it did not come before the Engineering and Maintenance Committee. AGM Murphy commented that for the sake of time said item is being presented to the Board today to keep the project on schedule. A director cautioned AGM Murphy on any information he was about to disclose relating to said agenda item due to security reasons. AGM Murphy acknowledged the caution. A director inquired on whether the vendor was new and if the cost was the same as last year. AGM Murphy confirmed that BWWB had previously done business with the vendor and that the contract was separate. Afterwards, Director Munchus made a motion to approve said item. Director NeSmith seconded. The agenda item was approved by a unanimous roll call vote.

Following, GM Johnson asked the Board to approve a one-time purchase from Tractor & Equipment Company for 3-New Komatsu PC 35MR-5 Mini Excavators, at an estimated out-of-pocket cost to the Board of \$145,695.00 (\$48,565.00 each - Pricing comes from Sourcewell NJPA purchasing cooperative) - NO BID is required, as set forth in agenda item 9 and as recommended by the Engineering and Maintenance Committee; necessary to perform essential minimum functions of the governmental body. Director Ward made a motion to approve the agenda item. Director Huffman seconded. The agenda item was approved by a unanimous roll call vote.

Next, Chairman Mims asked that agenda items nine and ten be voted on together, as they were similar. GM Johnson asked the Board to award bids to Tren-Tay, the lowest responsible and responsive bidder, for the replacement of pipe and related appurtenances along Meadow Court; Meadow Lane; 64th Street Ensley; Court "O" Ensley; 59th Street Ensley; Avenue "Q" Ensley; 60th Street Ensley; and Court "N" Ensley located in the City of Birmingham, Alabama at a bid amount of \$675,134.20; plus estimated cost of materials and Water Board labor in the amount of

\$273,475.54; for an estimated out-of-pocket cost to the Board of \$948,609.74, in addition to pipe and related appurtenances along 2nd Avenue North; 3rd Avenue North; 4th Avenue North; 72nd Street North; 74th Street North and 76th Street North located in the City of Birmingham, Alabama at a bid amount of \$1,139,180.40; plus estimated cost of materials and Water Board labor in the amount of \$442,509.20; for an estimated out-of-pocket cost to the Board of \$1,581,689.60, as set forth in agenda items 10 and 11 respectfully, as recommended by the Engineering and Maintenance Committee; and to authorize the General Manager and/or the Assistant General Manager to execute the agreements; necessary to perform essential minimum functions of the governmental body. Director NeSmith made a motion to approve the agenda items. Director Munchus seconded. The items were approved by a unanimous roll call vote.

Following, GM Johnson asked the Board to approve an amendment to the COVID-19 Employee Assistance Policy to extend the ending date of this Policy to September 30, 2021, as set forth in agenda item 12 and as recommended by the Human Resources Committee; necessary to perform essential minimum functions of the governmental body. There was a short discussion on whether said item should be extended to December 31, 2021. Then, a director asked if there was additional cost associated. AGM Fisher replied yes and stated that staff would be requesting reimbursement as it relates to COVID expenses. Director Munchus made a motion to approve the agenda item. Director Henderson seconded. The agenda item was approved by a roll call vote with 8 votes in favor and no response from one director.

Next, GM Johnson asked the Board to approve the reimbursement of legal fees incurred by directors and former employees for the purpose of defending and having legal representation, while acting in the proper interest of The Water Works Board of the City of Birmingham, as allowed under Article VI, paragraph 6.05, of The Water Works Board of the City of Birmingham's Certificate of Amendment and Restatement of Certificate of Incorporation, as set forth in agenda item 13; necessary to perform essential minimum functions of the governmental body. A director expressed concerns about whether this was proper and that approving said item would set a dangerous precedent. Attorney Anthony recommended that a separate resolution be drafted for the board under 6.05 and then another resolution for former employees. There was much discussion on the topic. A director voiced concern of said matter relative to the State Ethics Commission. Another director expressed concerns relating to not having a policy relating to the issue. He indicated a need to have a clear and defined policy in place. Afterwards, Director NeSmith made a motion to approve the agenda item. Director Henderson seconded. The agenda item was approved by a roll call vote with four votes in favor, three votes against and 2 abstentions.

Following, agenda item 14, which addressed new business, was presented; necessary to perform essential minimum functions of the governmental body. Director Rice requested a draft resolution relating to agenda item thirteen and a draft of the bylaws be provided in an Executive Committee Meeting prior to the 2nd board meeting in July. Attorney Parnell stated that the request for the by-law's approval would be on the agenda for the last board meeting for July and that the resolution addressing the payment of legal fees relating to agenda item thirteen should be added to the by-laws. In addition, a PowerPoint would also be presented at the Executive Committee meeting in July. Afterwards, Director Rice asked for an update on the bonds. GM Johnson provided an update.

Subsequently, Attorney Parnell certified the reasons for the Executive Session. Per Attorney Parnell, the reason involved two pending lawsuits, which one of those matters may possibly lead to litigation. He anticipated that the Executive Session would last approximately thirty minutes and that no action would need to take place. At 12:32 p.m., Director Blankenship indicated via telephone, that he would not be participating in the Executive Session. A director stated that he did not want management in the Executive Session due to the sensitive nature of one of the items. Attorney Parnell stated that management would be needed for the other matter to be discussed. Thus, at 12:34 p.m., a motion was made by Director NeSmith to enter Executive Session. Director Henderson seconded. At 1:28 p.m., Director Burbage made a motion to end Executive Session and adjourn the meeting. Director Ward seconded. As there was no further business before the Board, the motion to adjourn was approved by a unanimous voice vote. Chairman Mims adjourned the meeting at 1:28 p.m.