

MINUTES OF MEETING  
of  
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS  
CITY OF MEMPHIS  
held  
October 20, 2005

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A regular meeting of the Board of Light, Gas and Water Commissioners, City of Memphis, was held in the Board room of the Administration Building, 220 South Main Street, Thursday, October 20, 2005 at 1:30 p.m. The following were in attendance: V. Lynn Evans, Vice Chairman; James L. Russell, Commissioner; Nick Clark, Commissioner; William L. Taylor, Commissioner; Joseph Lee, III, President and CEO; John McCullough, Vice President, CFO and Secretary-Treasurer; Odell Horton, Jr., Vice President and General Counsel; Alonzo Weaver, Vice President, Customer Operations; Christopher Bieber, Vice President, Engineering; and Linda Peppers, Vice President and Chief Technology Officer. Due to the absence of Rick Masson, Vice Chairman Evans was Acting Chairman.

Acting Chairman Evans expressed her condolences on behalf of the Board for the family of Dr. James L. Netters, former MLGW Board of Commissioner, due to the death of his wife, Mrs. Leona Netters.

Commissioner Clark moved that after personally reading and reviewing the typed minutes of the Memphis Light, Gas and Water Board meeting held October 6, 2005, that they be recorded as the official record, seconded by Commissioner Russell and unanimously carried.

The Secretary-Treasurer acknowledged receipt of certified copies of City Council Resolutions dated October 11, 2005, Item Nos. 6 through 8, and 10 through 18, approving items approved by the MLGW Board at meeting held September 15, 2005 (see Minute File No. 1273); and Item Nos. 28 and 29, approving purchase of easement rights from Dorothy Lester, in the amounts of \$34,590 and \$75,009, respectively, approved by the MLGW Board at meeting held August 18, 2005 (see Minute File No. 1272.)

Tommy Jackson, Linda Middlebrook and Mary White presented an award to the Board from the American Heart Association.

Joseph Lee, III, addressed the Board regarding the 2006 Budget.

1. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of Contract No. 11042, Facilities Location Services, to Heath Consultants, Inc. in an estimated funded amount of \$773,550.

The project scope is to locate electric, gas and water facilities within MLGW's systems in subdivisions, streets and other areas as prescribed by the MLGW representative.

Bids were opened on June 1, 2005, with the only and best bid being submitted by Heath Consultants, Inc.

The quantities of the original bid proposal were decreased due to Work Management re-evaluating and designating more work projects to MLGW personnel.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of Contract No.11042 to Heath Consultants, Inc. in an estimated funded amount of \$773,550 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the contract.

2. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of Contract No. 11051, Roof Maintenance, to B Four Plied, Inc. in an estimated funded amount of \$34,840.

The project scope is to perform roof maintenance on various MLGW buildings located in Memphis and Shelby County, Tennessee.

Two bids were opened on September 7, 2005, with the lowest and best bid being submitted by B Four Plied, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of Contract No. 11051 to B Four Plied, Inc. in an estimated funded amount of \$34,840 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the contract.

3. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of Contract No. 11058, Inductively-Coupled Plasma-Mass Spectrometer System (ICP/MS) to PerkinElmer Life and Analytical Science, Inc. in the funded amount of \$127,566.

The project scope is to allow MLGW to purchase an (ICP/MS) system complete with all necessary accessories for analyses of drinking water using U.S. EPA Method 200.8 at the Water Quality Assurance Laboratory. It is further requested that staff be authorized to purchase annual maintenance upon completion of the one-year warranty provided the fee does not increase more than 10% over the prior year's cost. The present maintenance cost is \$15,276.

Proposals were received on July 15, 2005, with the best proposal of four being submitted by PerkinElmer Life and Analytical Science, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of Contract No. 11058 to PerkinElmer Life and Analytical Science, Inc. in the funded amount of \$127,566 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the contract.

4. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of Contract No. 11062, Underground Construction, to A & L Underground, Inc. in an estimated funded amount of \$8,678,497.81.

The project scope is to construct electric and gas underground distribution systems in various subdivisions and other areas within Memphis and Shelby County, Tennessee.

Bids were opened on August 17, 2005, with the lowest and best bid of two bids being submitted by A & L Underground, Inc.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of Contract No. 11062 to A & L Underground, Inc. in an estimated funded amount of \$8,678,497.81 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the contract.

5. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 1 to Contract No. 10837, Administration Building Cafeteria, with UniSource Business Services, LLC. (See August 19, 2004, for renewal of contract for the first term.)

The project scope has changed to allow UniSource to continue to provide cafeteria and vending services at the Administration Building for the second term, August 8, 2005 through August 7, 2006. UniSource will be allowed to increase plate lunch prices by \$0.25; large chips by \$0.05; candy by \$0.10; popcorn by \$0.05; pastries by \$0.05; and 12-oz. drinks by \$0.05. The commission will continue to be 2% of all annual sales over \$150,000 to the charity or fund of MLGW's choice.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 1 to Contract No. 10837 with UniSource Business Services, LLC as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

6. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Expedited Procurement Request for Change No. 1 to Contract No. 10976, Line Clearance, with Bean & Prince Contractors, Inc. in an estimated funded amount of \$1,481,572.40, which is based on unit volume of work.

The project scope has changed to renew the contract for the first term, October 24, 2005 to October 23, 2006, for line clearance services. This renewal includes an approximate 2.5% rate increase to all units. The new contract value is \$2,937,555.27.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to ratification by the Council of the City of Memphis, Change No. 1 to Contract No. 10976 with Bean & Prince Contractors, Inc. in an estimated funded amount of \$1,481,572.40 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

7. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 4 to Contract No. 10979, Network Maintenance, with Venture Technologies in the funded amount of \$89,136.

The project scope has changed to provide manufacturer and Venture equipment maintenance and Cisco Certified Network Professional (CCNP) services for new HR/Payroll applications. The additional maintenance and service will provide security for the growing number of HR/Payroll applications being developed and update the current network perimeter. The new contract amount is \$901,297.69.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 4 to Contract No. 10979 with Venture Technologies, in the funded amount of \$89,136 as outlined in the foregoing preamble is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

8. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing crew cab and chassis which are used by distribution crews to install and/or maintain electric, gas and water systems. This equipment replaces existing equipment that will be retired.

Bids were opened on October 5, 2005, with the lowest and best complying bidder of four bidders being Lewis Ford, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Lewis Ford, Inc. is approved for furnishing:

2 – Latest model crew cab and chassis with 84-inch cab-to-axle dimension, all in accordance with MLGW Specification No. TCC-05-1190, at \$29,999.15 each

totaling \$59,998.30; f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm; delivery in 22-24 weeks after receipt of order.

9. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing four IBM P-Series rack-mount servers. These servers will be used to upgrade MLGW's Scada EMS utility monitoring system which is part of a six-year capital expenditure plan.

Bids were received on October 4, 2005. Although seven bids were solicited, only one was received, that being from Brytech, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Brytech, Inc. is approved for furnishing:

4 – IBM P-Series 615 rack-mount servers to be furnished in accordance with MLGW specifications, at \$6,645 each, plus shipping at \$150 each

totaling \$27,180; f.o.b. Memphis, Tennessee, transportation prepaid; said price being firm; delivery as required.

10. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing digger derricks which are used by distribution crews to install and/or maintain electric, gas and water systems. This equipment replaces existing equipment that will be retired.

Bids were opened on October 5, 2005, with the lowest and best complying bidder of two bidders being Altec Industries, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Altec Industries, Inc. is approved for furnishing:

2 – Latest model truck-mounted hydraulic derrick with hydraulic hole digger and a maximum load capacity of at least 28,000 lbs., to be rear mounted on tandem axle cab and chassis supplied by MLGW with 52,000-lb. GVW rating and a 142-inch cab-to-axle center of tandem dimension, all in accordance with MLGW Specification No. TDD-05-3270, at \$95,500 each

totaling \$191,000; f.o.b. Memphis, Tennessee, transportation prepaid; said price being firm; delivery within 210 days.

11. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing air compressors which are used by distribution support crews to install and/or maintain electric, gas and water systems. This equipment replaces existing equipment that will be retired.

Bids were opened on September 13, 2005, with the lowest and best complying bidder of three bidders being Williams Equipment & Supply Company, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Williams Equipment & Supply Company, Inc. is approved for furnishing:

2 – Latest model diesel-powered rotary screw, 185 CFM portable air compressors with dual pressure output, in accordance with MLGW Specification No. TPAC-05-0270, at \$17,315 each

totaling \$34,630; f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm; delivery in 18-20 weeks.

12. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing hydraulic winch which is used by distribution support crews to install and/or maintain electric system (cable pulling). This equipment replaces existing equipment that will be retired.

Bids were opened on September 23, 2005, with the lowest and best complying bidder of three bidders being Scruggs Equipment Company, Inc.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Scruggs Equipment Company, Inc. is approved for furnishing:

1 – Latest model truck-mounted 24,000-lb. capacity hydraulic winch to be designed for continuous duty utility cable pulling, to be mounted on a single axle cab and chassis supplied by MLGW with a 35,000-lb. GVW rating (12,000-lb. front and 23,000 rear), all in accordance with MLGW Specification No. RMW-05-4050

totaling \$33,425; f.o.b. Memphis, Tennessee, transportation prepaid; said price being firm; delivery in 13-15 weeks.

13. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing utility bodies which will be installed on new or existing cab and chassis units within MLGW transportation fleet.

Bids were opened on August 31, 2005, with the lowest and best complying bidders of three bidders being Scruggs Equipment Company for five items and Altec Industries, Inc. for two items.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Scruggs Equipment Company, Inc. is approved for furnishing:

1 – Warner Model No. W150-M-DW-HD utility body in accordance with MLGW specifications, at \$6,639

1 – Warner Model No. W166-M-DW-HD-SP utility body in accordance with MLGW specifications, at \$7,356

2 – Warner Model No. WT150-M-DW-HD-SP utility body in accordance with MLGW specifications, at \$8,592 each

2 – Warner Model No. WT94-M-DW-HD-SP utility body in accordance with MLGW specifications, at \$5,255 each

4 – Warner Model No. WT150-M-DW-HD-SP utility body in accordance with MLGW specifications, at \$9,955 each

totaling \$81,509; f.o.b. Memphis, Tennessee, transportation prepaid; said price being firm; delivery in four to six weeks; and further,

THAT, Subject to the consent and approval of the Council of the City of Memphis, Alec Industries, Inc. is awarded contract for furnishing:

1 – Altec No. SL166-102 utility body in accordance with MLGW specifications, at \$10,295

1 – Altec No. L132-84 utility body in accordance with MLGW specifications, at \$6,937

totaling \$17,232; f.o.b. Memphis, Tennessee, transportation prepaid; said price being firm; delivery in 160-180 days after receipt of order.

Total of both awards amounts to \$98,741.

14. The Manager, Procurement and Contracts requested the Board's permission to amend Purchase Order No. 123734 with S & C Electric for furnishing 15.5



KV circuit breakers for a 36-month period. S & C Electric has advised that the low-voltage circuit breaker portion of their company has been acquired by Square D. It is therefore requested that the order be amended and assigned to Square D. All existing customer terms and conditions will remain the same.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Purchase Order No. 123734 with S & C Electric is amended to be fulfilled by Square D for the remainder of the contract period.

15. The Manager, Procurement and Contracts requested the Board's permission to amend Purchase Order No. 121632 with Southern Monopole and Utilities Company for electric capital projects as budgeted. Staff requests that said Purchase Order No. 121632 be assigned to Thomas and Betts due to the acquisition of Southern Monopole and Utilities Company. All existing customer terms and conditions will remain the same.

On February 19, 2004, the Board approved award of 36-month contract for steel pole structures. The original award amount was \$282,261. The award was quoted as firm prices through January 2005, with a maximum 5% escalation thereafter, with additional requirements to be added at mutually agreed-upon prices during the entire contract period. Due to high demand for the use of steel pole structures, the use has far exceeded the anticipated needs. Additionally, the volatility in the steel market has caused unforeseen increases in the purchase order prices. The current purchase order amount is \$665,506.75, with future purchases to be made in an estimated amount of \$600,000, totaling \$1,265,506.75.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Purchase Order No. 121632 is amended as outlined in the foregoing preamble.

16. The Manager, Procurement and Contracts requested the Board's permission to amend Purchase Order No. 115742 with DLT Solutions, Inc. for furnishing upgrades to Autodesk software. On December 20, 2001, the Board approved purchase of

Autodesk software from DLT Solutions, Inc. This purchase includes upgrades to Autodesk software currently owned by MLGW. As of December 31, 2005, Autodesk will no longer support the 2002 version of AutoCAD which MLGW is currently using. AutoCAD is essential for Engineering to update and maintain sketches as well as to be able to send drawings to and receive sketches from contractors. These drawings are utilized by utility crews for the installation of new facilities and services. The current purchase order amount is \$89,150.20, with the cost of all upgrades to be \$114,749.20, totaling \$203,899.40.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Purchase Order No. 115742 is amended as outlined in the foregoing preamble.

17. The Secretary-Treasurer requested authorization from the Board to establish a bank account at First Tennessee Bank entitled: "Power of Five" Campaign. The campaign will seek to raise funds to support five critical non-profit agencies in the Memphis/Shelby County area: Red Cross, MIFA, The Food Bank, Salvation Army, and Catholic Charities. These funds will be used to help replenish funds depleted by Hurricanes Katrina and Rita and to help our stakeholders defray winter heating costs due to escalating natural gas costs. The funds will be distributed to the five agencies through a designated agency.

It is recommended that Joseph Lee III, John W. McCullough, and Jim Reeves be authorized to sign or countersign checks and transfer funds on this account.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, The Secretary-Treasurer is authorized to establish a bank account for Memphis Light, Gas and Water Division as outlined in the foregoing preamble; and further,

THAT, Joseph Lee III, President & CEO; John W. McCullough, Vice President, CFO and Secretary-Treasurer; and Jim Reeves, Manager, Treasury Management are authorized to sign checks and transfer funds on this account.

18. The General Counsel submitted to the Board the September 30, 2005 Quarterly Report of the Customer Advocate Committee. It is recommended that the Board approve and uphold the decisions reflected therein.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, The attached September 30, 2005 Quarterly Report of the Customer Advocate Committee is approved and will be upheld by the Board. (See Minute File No. 1274.)

19. The Secretary-Treasurer stated that the Pension Board had ratified certain amendments to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001, adopted in connection with the favorable determination letter issued by the IRS with respect to the qualified status of the Plan document.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the Memphis Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

Section 1.33 of the plan shall be amended to read as follows:

1.33 Employee shall mean any individual who is employed by the Division and shall also mean any member of the Board of Commissioners. The term "Employee" shall also include "leased employees." "Leased Employee" shall mean any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Sec. 414(n)(6) ) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A Leased Employee shall not be considered an Employee (unless otherwise specifically covered by the Plan) of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in Code Sec. 415(c)(3) , but including amounts contributed pursuant to a salary reduction agreement which are excludible from the Employee's gross income under Code Sec. 125 , Code Sec. 132(f) , Code Sec. 401(k), Code Sec. 402(h) or Code Sec. 403(b) , (2) immediate participation, and (3) full and immediate vesting; and (ii) Leased Employees do not constitute more than 20 percent of the recipient's non-highly compensated workforce.

Section 1.15 (2) shall be amended to read as follows:

(2) any shift differential pay, automobile allowance (as designated by the Board of Commissioners), elective amounts that are not includible in the gross income of the employee under §132(f)(4) for Plan Years beginning on and after January 1, 2001, and work-out-of-classification pay; minus

Section 1.15 (b) shall be amended to read as follows:

b) Section 415 Compensation. Solely for purposes of §12.1 (relating to maximum contribution and benefit limitations under Code §415), "Compensation" shall mean, with respect to a Participant for a Limitation Year, all of a Participant's wages, as defined in Code §3401(a) for purposes of income tax withholding at the source, that are reportable by the Division for federal income tax purposes on IRS Form W-2, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed [such as the exception for agricultural labor in Code § 3401(a)(2)]. For Plan Years beginning on and after January 1, 2001, for purposes of §12.1 of the Plan, compensation paid or made available during such years shall include elective amounts that are not includible in the gross income of the Employee by reason of §132(f)(4).

Section 8.6 shall be amended by the addition of the following subsections:

(i) A Participant's entire interest shall be distributed not later than April 1st of the calendar year following the later of (A) the calendar year in which the Participant attains age 70 1/2 or (B) the calendar year in which the Participant retires. Alternatively, distributions to a Participant must begin no later than the applicable April 1st as determined under the preceding sentence and must be made over the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancies of the Participant and his designated Beneficiary) in accordance with Regulations.

(ii) Any Participant who attains age 70 1/2 before 1997, but did not retire from employment with the Employer before January 1, 1997, may elect, pursuant to paragraph (i) above, to cease distributions within the remedial amendment period for the Plan for the Small Business Job Protection Act of 1996 changes, provided that:

(1) payments recommence to the Participant with the same Beneficiary and in a form of benefit that is the same but for the cessation of distribution,

(2) the individual who was the Participant's Spouse on the Annuity Starting Date executed a general consent within the meaning of Regulation 1.401(a)-20,A-31, or

(3) the individual who was the Participant's Spouse on the Annuity Starting Date executed a specific consent to waive a qualified joint and survivor annuity within the meaning of Regulation 1.401(a)-20, A-31, and the Participant is not married to that individual when benefits recommence.

However, in order to comply with this paragraph (ii), consent of the individual who was the Participant's Spouse on the Annuity Starting Date

is required prior to recommencement if the Participant chooses to recommence benefits either in a different form than the form in which they were being distributed prior to the cessation of distributions or with a different Beneficiary and if:

(1) the original form was a qualified joint and survivor annuity within the meaning of Code Section 417(b), or

(2) the individual who was the Participant's Spouse on the Annuity Starting Date originally executed a specific consent to waive a qualified joint and survivor annuity within the meaning of Regulation 1.401(a)-20, A-31, and the Participant is still married to that individual when benefits recommence.

Notwithstanding the above, the Annuity Starting Date upon recommencement of benefits shall be the Annuity Starting Date when benefits originally commenced pursuant to paragraph (i) above.

(iii) Distributions to a Participant and his Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code Section 401(a)(9)(G) and the Regulations thereunder.

The restrictions imposed herein shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his death benefits paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982. Any such written designation made by a Participant shall be binding upon the Plan Administrator notwithstanding the provisions of this Section.

Section 4.1(a)(1) shall be amended to read as follows:

(1) is the Participant's Applicable Benefit Percentage (as determined under §1.6) multiplied by the Participant's Years of Service; and

Section 12.1(c) by the addition of the following subparagraph 5:

(5) Actuarial Equivalence under subsections (c)(1) and (c)(2) shall be determined using a five percent interest assumption and the applicable mortality table prescribed under Internal Revenue Code Section 417(e)(3)(A)(II).

Sections 12.1(c)(1) and (2) are amended to delete the following parenthetical references from each section:

[determined using the applicable interest rate and mortality table under Code §417(e)(3)]

20. By unanimous consent, Item No. 20, approval of amendment to the Memphis Light, Gas and Water Division Retirement and Pension System enhancing minimum benefits and cost-of-living adjustments, was deleted from the agenda.

21. By unanimous consent, Item No. 21, approval of amendment to the Memphis Light, Gas and Water Division Retirement and Pension System approving a

buy-back option of prior Division service time for eligible employees, was deleted from the agenda.

22. The Secretary-Treasurer stated that the Pension Board had approved an amendment to the Memphis Light, Gas and Water Division Retirement and Pension System, as amended and restated effective January 1, 2001.

The amendment is to Article III - Section 3.2 – Contributions by the Division (a) Amount.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the Memphis Light, Gas and Water Division Retirement and Pension System is hereby amended as follows:

ARTICLE III, Section 3.2 *Contributions by the Division*, subparagraph (a) *Amount*, shall be amended by deleting the current said Section 3.2(a) in its entirety, and substituting in place thereof the following Section 3.2(a):

3.2 Contributions by the Division.

(a) Amount. The Division shall contribute to the Fund such amounts as from time to time are estimated by the Actuary to be sufficient, on an actuarially sound basis, after taking into account Participant Contributions and earnings thereon, to provide Accrued Benefits under the Plan. Such Contributions shall be obligations of the Division, and the Board of Commissioners shall appropriate annually such amounts as are necessary to make such payments. Effective January 1, 2001, and until further determination by the Board of Commissioners with approval by the City Council, the Division's contribution shall be equal to 8% of the total Compensation, as defined under the Plan, of all active Participants. Notwithstanding anything in the foregoing to the contrary, for the 2004 Plan Year, as defined in Section 1.51 hereof, but solely for said 2004 Plan Year, the Division's contribution shall be \$16,396,147, which is an increase of approximately \$5,461,631 over the 8% of total Compensation otherwise required as the Division's contribution hereunder. Effective January 1, 2005, the Division shall contribute to the Fund such amounts as from time to time are estimated by the Actuary to be sufficient, on an actuarially sound basis, after taking into account Participant Contributions and earnings thereon, to provide Accrued Benefits under the Plan, provided, however, that until further determination by the Board of Commissioners with approval by the City Council, the Division's contribution in any one Plan Year shall not be less than 8% of the total Compensation, as defined under the Plan, of all active Participants. Division contributions shall be determined and paid to the Fund as soon as practicable following each payroll period.

23. The Manager, Budget, Plant and Rates presented for adoption by the Board of Light, Gas and Water Commissioners, the 2006 budgets of the Electric, Gas and

Water Divisions for 2006 operation and maintenance expenses and 2006 capital expenditures. No rate changes are proposed in 2006 for electric, gas or water.

Basic Bond Resolutions adopted by the City of Memphis for the Water Division July 15, 1958, for the Electric Division October 14, 1976 and July 2, 2002, and for the Gas Division May 1, 1984, require the Electric, Gas and Water Divisions to prepare and file in the office of the Trustee, a budget of operating expenses and capital improvements for the succeeding fiscal year. Such annual budgets will include only the applicable revenues, expenses and capital improvements for each system. These budgets are to be filed with Regions Bank which serves as Trustee under the aforementioned Board resolutions. These budgets have been reviewed by the Budget Review Committee, the applicable management staff, and the Board.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, the budgets for the Electric, Gas and Water Divisions for the 2006 operation and maintenance expenses and the 2006 capital expenditures, as presented by the Manager, Budget, Plant and Rates, subject to further action as may be necessary by the Manager, Budget, Plant and Rates, to amend the budgets to reflect the outcome of on-going negotiations regarding the Memorandum of Understanding, are adopted and in effect for the fiscal year 2006.

24. The Manager, Electric Engineering presented for consideration of the Board approval to acquire easement rights for a 225 ft. wide transmission line from Bryan Shelby Farms for a proposed transmission line circuit, said property being shown on the attached sketch and more particularly described as follows:

This easement is across a portion of a tract of land conveyed to Bryan Shelby Farms, L.P. by deed of record as described in the Register's Office of Shelby County, Tennessee in the Register's Official Record Book under Instrument No. JW-8497 and being the same property as shown on the attached plat prepared by Ollar Surveying Company and dated February 15, 2005 and made a part hereof.

Said easement is described in metes and bounds as prepared by Ollar Surveying Company and shown on Page 2 of this easement contract and made a part hereof. (See Minute File No. 1274.)

Included with the right of the above described permanent easement is the right for Memphis Light, Gas and Water Division to cut down and remove from the above described easement all trees and to trim all limbs overhanging into said easement for the installation of proposed and future

utility facilities. Any fencing within said easement must be approved by Memphis Light, Gas and Water Division. Grantor of this easement further agrees to allow Memphis Light, Gas and Water Division to remove any fences that would interfere with the operation of construction equipment within said easement. In the event fences are removed, the Memphis Light, Gas and Water Division will assume the responsibility at their cost to replace any fences removed in as good or better condition than they were at the time of their removal. Memphis Light, Gas and Water Division shall be liable for any damages to growing crops by its employees or by its agents or contractors in the exercise of the easements and rights-of ways during the construction process.

Property located on the north side of Gratitude Church Road, approximately 1085.6 feet north of the centerline of Pleasant Ridge Road as measured along the centerline of Gratitude Church Road.

The Manager, Electric Engineering further stated that this resolution supersedes and nullifies the resolution approved by the MLGW Board on July 21, 2005, and further approved by the Council of the City of Memphis on September 20, 2005, for the sum of \$120,184.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, The Board of Light, Gas and Water Commissioners recommends to the Council of the City of Memphis, the purchase of the revised easement described in the above preamble for the sum of \$132,584, to be funded from the Electric Division included in the 2005 Budget; and further,

THAT, The President or his designated representatives of the Division is hereby authorized to execute the purchase of said easement.

25. The Manager, Electric Engineering submitted for consideration of the Board release of the following utility easements:

AN 8-ft.-wide utility easement as recorded in Book 1532, Page 63; AN 8-ft.-wide utility easement as recorded in Book 4945, Page 47; and a utility easement as recorded in Book 3397, Page 448 all being recorded in the Register's Office of Shelby County, Tennessee and all across the same tract of land as described by Instrument No. 04167836 to G3 Land Company, LLC., or their successors in title, for the sum of \$1.00. Property is located on the east side of Seed Tick Road, northwestwardly of Beverle Rivera Drive.

A 70-ft.-wide utility easement as recorded Book 4408, Page 54 in the Register's Office of Shelby County, Tennessee across Lamar Crossing Subdivision as recorded in Plat Book 217, Page 10 to Lamar South, LLC., or their successors in title, for the sum of \$1.00. Property is located on the southeast corner of Lamar Avenue and Shults Road.

Two 8-ft.-wide electric distribution utility easements recorded in Book 3847, Page 13 and Book 3847, Page 15 in the Register's Office of Shelby



County, Tennessee across parcels of land described under Instrument Nos. BB-3496, BB-3497, BB-3498, BB-3499 and BB-3500 in the Register's Office of Shelby County, Tennessee to Darnell Gatewood, or his successor in title, for the sum of \$1.00. Property addressed as 6630 Egypt Central Road.

It was moved by Commissioner Russell, seconded by Commissioner Taylor and unanimously carried:

THAT, Release of easements across the above described properties is approved; and further,

THAT, The Board of Light, Gas and Water Commissioners recommends to the Mayor of the City of Memphis that appropriate release deeds be executed releasing said easements to the current property owners for a consideration of \$1.00 each.

26. Bill Hawkins addressed the Board regarding Item Nos. 1 and 4.
27. Dana Jeanes addressed the Board regarding Item Nos. 1 and 4.
28. Charlotte Griffin addressed the Board regarding Item Nos. 1 and 4.
29. Dick Gardiner addressed the Board regarding deleted Item No. 20.

There being no further business presented, the meeting was adjourned.

SEE MINUTE FILE NO. 1274.

Secretary-Treasurer