

ADMINISTRATIVE CONTROL BOARD (ACB) – WASATCH FRONT WASTE AND RECYCLING DISTRICT (WFWRD)
MONTHLY MEETING MINUTES

DATE/TIME	LOCATION	ATTENDEES
February 26, 2018 9:00 a.m. Next Board Meeting March 26, 2018 9:00 a.m.	Public Works Building 604 W 6960 S Midvale, UT 84047	<u>Board Members:</u> Scott Bracken, Kelly Bush, Brad Christopherson, Kay Dickerson, Steve Gunn, Dwight Marchant, Kris Nichol, Sherrie Ohrn, Ron Patrick, Brint Peel EXCUSED: Jim Bradley, Jim Brass, Robert Paine, Jenny Wilson <u>District Staff:</u> Anthony Adams, Rachel Anderson, Larry Chipman, Rosemary Fasselin, Cathy Jensen, Yael Johnson, Gaylyn Larsen, Pam Roberts, Sione Tuione <u>Public:</u> Maryann Martindale, Robert Newton

AGENDA

Call to Order: Steve Gunn, Board Chair

1. Introduction of All Board Members and Staff

- 1.1. Oath of Office for New Board Members; Anthony Adams, District Clerk
- 1.2. Introduction of New Residential Collection & Sustainability Manager, Sione Tuione; Pam Roberts, Executive Director

2. Consent Items: (Approval Requested)

- 2.1. January 22, 2018 Board Meeting Minutes (**Motion & Approve**)
- 2.2. Conflict of Interest Approval; Pam Roberts (**Motion & Approve**)

3. Meeting Open for Public Comments: (Comments are limited to 3 minutes)

4. Business Items

- 4.1. Consideration for Refund Request; Pam Roberts (**Informational/Approval**)
- 4.2. Resolution 4384 Recognizing Retiring District Human Resources Manager, Gaylyn Larsen; Steve Gunn and Pam Roberts (**Adoption Requested**)
- 4.3. Open and Public Meetings Act – Required Training; Rachel Anderson, FabianVanCott/Legal Counsel (**Informational**)

4.4. Human Resources Policy Review and Technical Changes; Gaylyn Larsen, Human Resources Manager (Informational)

4.5. Report from Legal Counsel; Rachel Anderson (Informational)

4.6. Executive Director's Report on the Board's Request for More Information on Impacts of the Salt Lake Valley Transfer Station Closure; Pam Roberts (Informational/Direction)

- Salt Lake County Public Works Director, Scott Baird Request for WFWRD to Submit a Proposal for Transfer Station Operations;
- WFWRD Request for Proposal for Transfer Station Services

5. Closed Session (If Needed)

The Administrative Control Board may temporarily recess the meeting to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205.

6. Other Board Business

This time is set aside to allow board members to share and discuss topics.

7. Requested Items for the Next Board Meeting(s)

- 2017 Accomplishments/Satisfaction Survey Results
- 2017 Independent Audit Reports

TOPICS/ OBJECTIVES	KEY POINTS/ DECISIONS	ACTION ITEMS WHO – WHAT – BY WHEN	STATUS
1. Introduction of All Board Members and Staff			
<p>1.1 Oath of Office for New Board Members; Anthony Adams, District Clerk</p> <p>1.2 Introduction of New Residential Collection & Sustainability Manager, Sione Tuione; Pam Roberts, Executive Director</p>	<p>Pam Roberts introduced, and Anthony conducted the Oaths of Office for new board members: Brad Christopherson (appointed by Taylorsville City Council), Sherrie Ohrn (appointed by Herriman City Council), and Ron Patrick (appointed by Copperton Metro Township Council).</p> <p>Board Vice Chair Peel asked if there was any updated information that should be shared with the new board members. Pam mentioned that she had provided a briefing for board members Ohrn and Christopherson about the pending closure of the Transfer Station since it was a hot topic. She confirmed that it is a valuable asset for our organization and the residents we serve. She had not had time to brief Board Member Patrick since he was recently appointed. Board Chair Gunn confirmed that further discussion regarding the Transfer Station will be conducted later in this meeting.</p> <p>Pam introduced Sione, who will be managing our recycling collections as well as the Area Cleanup program. He has experience in working in our Area Cleanup program as well as Public Works.</p> <p>Pam also introduced other staff members attending the board meeting, including: Yael Johnson, Customer Services Manager; Rosemary Fasselin, Geographic Information Systems (GIS) Route Coordinator; Gaylyn Larsen, Human Resources Manager; Larry Chipman, Refuse Collection Manager; and Cathy Jensen, District Financial Controller.</p>		

2. Consent Items			
<p>2.1 January 22, 2018 Board Meeting Minutes</p> <p>2.2 Conflict of Interest Approval; Pam Roberts, Executive Director</p>		<p>Motion to Approve the Minutes by: Board Member Nichol Seconded by: Board Member Bush</p> <p>Vote: All in favor (of Board Members present)</p> <p>Motion to Approve the 2018 Conflict of Interest Disclosures, Recognizing No Conflicts of Interest by: Board Member Nichol Seconded by: Board Member Bush</p> <p>Vote: All in favor (of Board Members present)</p>	<p>Approved February 26, 2018</p> <p>Approved February 26, 2018</p>
3. Meeting Open for Public Comments	(Comments are limited to 3 minutes)		
	<p>Robert Newton, of 7139 West Gina Road (13620 S.) in Herriman, addressed the Board. He indicated that Herriman decided to change his private street name of 30 years to Gina Road and make it a public road. He clarified that he does not subscribe to, nor wants waste and recycling services from WFWRD, but has been forced to pay for these services or lose control of the property owned by his trust.</p> <p>Mr. Newton provided a brief history of the private garbage collection agreements that existed on his private road, which garbage collection he has always refused. He asserted that WFWRD has not been providing these services and argued that WFWRD has trespassed onto his property.</p> <p>Board Member Bush requested clarification from Mr. Newton that he no longer wants any services by WFWRD, does not want to pay for these services, and that the collection vehicles on his property are, by Mr. Newton, considered trespassing. Mr. Newton confirmed this as correct.</p>		

	<p>Board Vice Chair Peel asked if other residents on that private lane are currently using services provided by WFWRD. Mr. Newton confirmed that there are other residents utilizing WFWRD’s services, but he does not want WFWRD vehicles trespassing on his land to collect the waste and recycling of those residents.</p> <p>Board Member Ohrn clarified that, although Mr. Newton protected the private nature of the road to the center of this road, other property owners did not protect the private nature of the road in this manner, so it would only be considered trespassing to cross his portion of this road to get to the other properties.</p> <p>Board Member Marchant clarified that the current issue before the Board is whether we charge Mr. Newton collection fees, and his other concerns regarding an alleged trespass should be deferred to another legal venue, since his other issues cannot be resolved by the ACB.</p> <p>Board Chair Gunn agreed and clarified with Mr. Newton that the issue of trespassing is not one under current consideration, but his requested refund would be considered.</p>		
<p>4. Business Items</p>			
<p>4.1. Consideration for Refund Request; Pam Roberts (Informational/Approval)</p>	<p>Board Chair Gunn restated the issue that Mr. Newton has been incorrectly charged for services which have not been rendered since 2002. He stated that there is a statute of limitations in effect. Board Vice Chair Peel added that the District is not responsible for actions of the County prior to the formation of WFWRD. Rachel Anderson, legal counsel, stated that she could look into the liabilities of the District for issues arising during the County’s control of the District, but it is not applicable in this case since the statute of limitations is only four years, which doesn’t reach as far back as the County’s control. Board Chair Gunn asked from which date this statute of limitations is</p>		

measured. Rachel indicated that it would go back four years from today.

Board Chair Gunn inquired from Pam if Mr. Newton had been paying fees for the past four years and has not been receiving our services. Pam confirmed that this is accurate, and apologized for this issue not being addressed sooner, as Mr. Newton mentioned his concerns when WFWRD changed its billing procedures in an effort to maintain transparency to the public.

Pam added that the ACB originally approved a policy to refund up to four years but was later amended to refund up to one year since the billing is very transparent and easy to discern the amounts being billed and the services received. However, she is requesting that the board approve an exception in this case and refund Mr. Newton through the four-year statute of limitations. Pam also indicated that WFWRD is working with Herriman City to determine how to access the homes on Gina Road without trespassing on Mr. Newton's property.

Rachel clarified that the reason Mr. Newton can deny WFWRD services is because of the private nature of his portion of the road. If residents live within our District and live on a public road, we are required to bill those fees whether or not the residents use the service.

Board Member Bush asked what the total amount of the proposed refund to Mr. Newton would be. Board Chair Gunn stated that the total refund is \$708.00 for the four years of service at \$177.00 per year.

Board Member Bracken asked if Mr. Newton's address would be removed from our billing system. Pam confirmed that the address removal will take place.

Motion to Approve Refund Request to Robert Newton: Board Member Marchant
Seconded by: Board Member Nichol
Vote: All in favor (of Board Members present)

**Approved
February 26,
2018**

<p>4.2 Resolution 4384 Recognizing Retiring District Human Resources Manager, Gaylyn Larsen; Steve Gunn and Pam Roberts (Adoption Requested)</p> <p>4.3 Open and Public Meetings Act - Required Training; Rachel Anderson, FabianVanCott (Informational)</p>	<p>Board Chair Gunn addressed Mr. Newton and clarified that the decision made today does not preclude discussion of ways to avoid trespassing on his property.</p> <p>Board Chair Gunn read the resolution. Gaylyn expressed her gratitude for working at WFWRD and highlighted a few of the challenges facing the District, past and current.</p> <p>Rachel provided a brief training and overview of the Open and Public Meetings Act. She clarified that the law requires that the Board Chair ensure that members of the Board are provided with annual training on this topic. She added that although this training is also provided in each of the Board members' home jurisdictions, the training provided in this meeting is the best way to ensure compliance for this body.</p> <p>Rachel emphasized the requirement that decisions cannot be made by a public body unless the topic is identified on the official agenda. Discussion of topics raised by members of the public during the public comment period can occur at the discretion of the Board Chair, but no official decision can be made unless it is identified on the agenda.</p> <p>Rachel indicated that emergency meetings can occur without the 24-hour notification requirement but they must be approved by the majority of Board members. The District must provide the public as much notice to such meetings as possible and cannot be called for the purpose of excluding Board members.</p> <p>Minutes and recordings must be kept of all open meetings. Pending minutes and recordings are considered public records. The audio recording must be made available to</p>	<p>Motion to Adopt Resolution 4384: Board Member Bracken Seconded by: Board Member Bush</p> <p>Vote: All in favor (of Board Members present)</p>	<p>Approved February 26, 2018</p>
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the public within three business days but does not have to be published on a website.

Closed meetings can be held if a quorum is present, and two-thirds of those present vote to enter into a closed meeting. Only very specific topics can be discussed in a closed meeting, including discussions on imminently threatened litigation or personnel disciplinary matters. A separate recording generally must be made of the closed session but it is not a public record. There are only a couple of exceptions to this requirement, and they require a signed affidavit confirming the topics discussed.

Electronic meetings can only be held if the organizing body has an allowable policy in place. WFWRD does have a policy allowing electronic meetings and board participation through electronic means. Board Vice Chair Peel asked if electronic participants count toward the required quorum for a meeting. Rachel confirmed that members participating electronically can be counted toward the quorum requirement.

Rachel clarified that private electronic messages between Board members cannot take place during a public meeting. However, outside of the public meeting, emails and other electronic messages between Board members are allowed. Rachel cautioned against prolonged or detailed discussions through private messages that would be better suited to a formal public meeting discussion. Board Chair Gunn commented that he has received different advice from various legal counsels. Rachel acknowledged that various interpretations of this point of the law exists, and she restated that Board members should exercise caution in these private messages, although restating that they are allowed by law. Private messages should not be prolonged discussions that would be better suited to a public meeting.

<p>4.5 Report from Legal Counsel; Rachel Anderson (Informational)</p>	<p>Rachel concluded by mentioning that there is a Bill being considered by the Utah Legislature this year to have all board training available online, but it will not be required online if individuals do not have to travel more than 50 miles to obtain the training.</p> <p>Rachel commented that the District and Salt Lake County were sued by a former employee of the County claiming that she was wrongfully terminated. She was a County employee who was terminated before WFWRD was organized as an independent entity. Our position has been that WFWRD was not the correct entity to be involved since the individual was terminated while still a County employee. We filed an early motion to dismiss, presenting the fact that WFWRD was not the employer of this individual. Oral arguments were held two weeks ago, and our motion was granted. The case against WFWRD was dismissed.</p>		
<p>4.4 Human Resources Policy Review and Technical Changes; Gaylyn Larsen, Human Resources Manager (Informational)</p>	<p>Gaylyn explained that State Code requires that the Special Service District’s Human Resource rules must be presented to its Board every year for review. WFWRD’s Human Resources rules are included in its Policy Manual, and the entire Policy Manual is reviewed so we have a permanent record in case any complaints or lawsuits come against the District, and it is necessary to establish the District’s policies at the time of the complaint. She described a case in which she participated in a deposition for a public employee requiring policy rules from 2009 and 1996.</p> <p>Gaylyn stated that the changes implemented in this year’s Manual include changes that were approved by the ACB in 2017. These include changes to Section 1.3, allowing the public to report if an employee or Board member is not acting in the public’s best interests. Also, under statute, we were required to identify our treasurer, so</p>		

<p>4.6 Executive Director’s Report on the Board’s Request for More Information on Impacts of the Salt Lake Valley Transfer Station Closure; Pam Roberts (Informational/Direction)</p>	<p>Section 4.6 was updated to assign those duties to the Assistant Controller. We also updated references to the “Deputy Director” and changed them to “Operations Manager,” due to restructuring of our Executive Management Team. The third approved change was regarding the expiration of Other Post-Employment Benefits (OPEB). Other minor adjustments were made due to duplications and updates to reflect current vacation accrual practices.</p> <p>Pam commented that this review also includes the policies that protect us as an organization to ensure we are following the required laws required for public entities.</p> <p>Board Chair Gunn reviewed last month’s meeting minutes, and the comments made by Salt Lake County Deputy Mayor Graham. He stated that the total expenses of the Transfer Station, in 2016, were approximately \$8.5 million, and the revenues were only \$5.6 million. A couple of the options being considered by Salt Lake County are to close the station or raise fees an additional \$15.00 per ton to \$47.86 per ton to cover operations costs of the Transfer Station. Deputy Mayor Graham stated that the two primary customers at the Transfer Station are Salt Lake City and WFWRD. Board Chair Gunn’s conclusion is that the County should not be operating the Transfer Station.</p> <p>Pam confirmed that any fee increase at the Transfer Station would drive up our costs. She explained the materials distributed to Board members that give a brief history of the Transfer Station and our percentage of waste tonnage that we take to that facility. Pam restated that WFWRD is contractually required to take at least 85% of our waste tonnage to County waste facilities. The option of taking waste to the Transfer Station was included in that contract and that is why we agreed to the requirement. The closure of the station would be a breach</p>		
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of contract and we could terminate the agreement. If this occurred, we would find other sources to dispose of our collected waste, choosing the most cost-effective location, which would not be the Salt Lake Valley Landfill.

Board Vice Chair Peel indicated that the County has come to WFWRD to request us to come up with some solutions to provide them with more options. We cannot responsibly put a proposal together without all needed information. He is requesting direction from the Board to ask the County for a complete financial disclosure of the Transfer Station, not just bottom-line numbers. We also need to have meetings with all the entities involved in this decision. He added that, to our knowledge, South Salt Lake has not even been contacted about the potential closure. This will affect them due to the Transfer Station being located in South Salt Lake City and also because residents of South Salt Lake do not pay to dispose of waste at that facility. This is a 50-year contract that was implemented in 1999 (19 years ago). We also need to meet with Salt Lake City, which is joint owner of the Transfer Station and the Landfill with Salt Lake County. Pam confirmed that she will meet with Mayor Cherie Wood of South Salt Lake this afternoon to open a dialogue. Pam also stated that she has been in communication with Salt Lake City, but not Patrick Leary, the Chief of Staff, or Mayor Biskupski.

Board Member Bush commented that the County presented to the Municipal Services District (MSD) Board regarding this closure. At that time, she requested that the County reach out to South Salt Lake and then report back to the MSD. She also requested that the County and the City involve WFWRD, mainly Pam, so she is in on the discussions and can report back to the ACB.

Board Vice Chair Peel asked the Board if there are questions we should be asking, that have not been discussed yet. Board Member Bracken commented that

getting the numbers for the Transfer Station would be half of what we need. It is so integrated with the Landfill, that we would also need the Landfill's numbers. He added that he would be interested to know what happens to the dividends that are returned to Salt Lake County and Salt Lake City. He stated that Board Member Wilson seemed amenable to discussing these issues. Pam confirmed that we have been reaching out to these entities.

Pam stated that WFWRD has been asked to submit a proposal to operate the Transfer Station, and she has a meeting today with Salt Lake County Fleet, which manages the maintenance of the heavy equipment located at the Transfer Station, along with the Landfill Director.

She indicated that County staff has appeared very willing to be transparent. The Public Works Director, Scott Baird, is very open to sharing information. There is a viable interest from the County for us to operate the facility, whereas Salt Lake City has been looking at a private entity to operate the facility; although they know that we have been asked, and Pam has requested that they consider us as a viable option.

Board Member Marchant asked how the South Salt Lake contract will be affected if we take over the facility. Pam stated that this would certainly need to be discussed with South Salt Lake, but her meeting with them today will be more introductory and educational. They are one of the big players that will need to work together to make this arrangement work. We don't yet know how the current contract will be affected.

Board Member Christopherson identified the planned closure as being July 1, 2018. He asked if the County would be willing to postpone this date. Board Vice Chair Peel stated that the County Council will look at budget funding of the facility until a solution can be implemented. Pam confirmed that County evaluations

indicate that a closure would take approximately six months.

Board Chair Gunn asked Pam if the County is set on its decision to close the Transfer Station. Pam stated that she has heard opinions on both sides. Her feeling is that a closure is not as appealing to the County Council but allowing someone else to operate it seems to be a more desired outcome.

Pam explained that we have viable options if the Transfer Station closes. Ace Recycling and Disposal has a transfer station that would fit our needs, although she stated that she dislikes the idea of delivering the bulk of our waste to private entities due to the possibility of changeable rates being charged. It is in everyone's best interest for the Transfer Station to remain in the public's hands, and WFWRD has the skillset to manage that facility, including current staff who have managed and worked at transfer stations in the past.

Board Member Marchant asked if we were to take over the operations of the facility, if that would include the purchase of the hard assets. Pam indicated that she suspects there is interest from Salt Lake County and Salt Lake City to retain some financial benefit from the operations of the facility and not sell the land and assets. Their conversations lean toward someone operating the facility rather than them selling it. We want to acquire the equipment and not purchase it. A bond to purchase the facility would be an undesirable option because the public would have to incur that cost through our fees.

Board Member Bracken commented that the original facility was already purchased with public money from County residents, and this fact being lost on boards, councils and commissions is sad.

	<p>Pam indicated that the County’s evaluation has changed recently, and they have recognized an annual loss in revenue due to the loss of waste from West Valley City. She is speculating that the County is realizing that the Transfer Station is a feeding facility to the Landfill, and if the facility is closed, more waste and revenue will go away from the Landfill. The annual dividend, directly tied to the Transfer Station, which is pulled out of the Landfill fund is approximately \$300,000, which gets split between the County and Salt Lake City. This could also be reduced with the closure of the Transfer Station.</p> <p>Board Chair Gunn directed Board members to let Pam know what additional information they want her to gather for further analysis. Pam clarified that we have tonnage information for both facilities, and some cost information from both facilities. Board Member Orhn stated that this information should be a public record and it shouldn’t be this difficult to get the information we need.</p> <p>Pam added that Cathy Jensen, our financial controller has pulled the financial statements off the public websites as a reference to help our analysis.</p>		
5. Closed Session			
	No closed session		
6. Other Board Business			
	No additional Board business		
7. Requested Items for the Board Meeting on March 26, 2018.			
	<ul style="list-style-type: none"> • 2017 Accomplishments/Satisfaction Survey Results • 2017 Independent Audit Results 		
ADJOURN		Motion to Adjourn: Board Member Christopherson	Approved

		Seconded by Board Member Nichol Vote: All in favor (of Board Members present)	February 26, 2018
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