



## **WASATCH INTEGRATED WASTE MANAGEMENT DISTRICT**

Minutes of the meeting of the Administrative Control Board of Wasatch Integrated Waste Management District held February 7, 2024 at 5:00 p.m. at Wasatch Integrated Waste Management District's Davis Material Recovery and Transfer Facility, 3404 North 650 East, Layton, Utah 84041.

Conducting: Board Chair, Mayor Joy Petro

### **ADMINISTRATIVE CONTROL BOARD PRESENT:**

Chair, Mayor Joy Petro, Layton  
Board Vice-Chair, Mayor Clark Wilkinson, Centerville  
Secretary, Mayor Brian Vincent, West Point  
Council Member Nike Peterson, Clearfield  
Mayor Brandon Stanger, Clinton  
Commissioner Lorene Kamalu, Davis County  
Commissioner Bob Stevenson, Davis County  
Mayor Brett Anderson, Farmington  
Mayor John Pohlman, Fruit Heights

Mayor Tami Tran, Kaysville  
Council Member Tony London, Morgan  
Commissioner Mike Newton, Morgan County  
Mayor Brian Horrocks, North Salt Lake (online)  
Mayor Rod Westbroek, South Weber  
Council Member Nakisha Rigley, Sunset  
Council Member Jordan Savage, Syracuse  
Mayor Ken Romney, West Bountiful  
Council Member Wally Larrabee, Woods Cross

### **ADMINISTRATIVE CONTROL BOARD MEMBERS EXCUSED FROM ATTENDING:**

Commissioner Randy Elliott, Davis County

### **STAFF PRESENT:**

Nathan Rich, Executive Director  
Adam Hacker, Accounting Manager  
Preston Lee, Operations Manager  
Penny Hobbs, HR Generalist  
Todd Quinley, Purchasing Manager  
Dan Ramos, Safety Superintendent  
Jesse Simonsen, Landfill Manager  
Chad Staples, MRF Superintendent  
Juli McIntosh, Clerk

### **VISITORS:**

Larry Jenkins, Kirton McConkie  
Lance Allen, Robinson Waste Services  
Fred Philpot, LRB Public Finance Advisors  
Council Member Bettina Smith Edmondson, Layton City

Council Member Zach Bloxham, Layton City  
Council Member Clint Morris, Layton City  
Council Member Tyson Roberts, Layton City  
Council Member Dave Thomas, Layton City

Notice of time, place, and agenda of the meeting was sent to the Salt Lake Tribune, Deseret News, Morgan County News, and Standard Examiner newspapers on February 2, 2024. Notice of time, place, and agenda of the meeting was sent to each member of the Administrative Control Board via e-mail and posted at Wasatch Integrated Waste Management District Administrative Offices on February 2, 2024.

## **Welcome**

Board Chair, Mayor Joy Petro, welcomed board members, staff, and visitors to the meeting.

## **Minutes Approval**

Chairwoman Petro presented minutes of the November 1, 2023 and January 9, 2024 board meetings to the board for approval.

Upon motion duly made and seconded, minutes for the November 1, 2023 and January 9, 2024 board meetings were approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Council Member Nike Peterson, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Commissioner Bob Stevenson, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Voting in favor of said motion was unanimous.

## **Public Comment Period**

Council Member Zach Bloxham commented on behalf of the Layton City Council and Attorney, stating their opposition to Wasatch's Bundled Recycling Program. He said it's not a matter of whether Wasatch has the authority to pass the resolution requiring curbside recycling within the District but whether we should; he referenced Mr. Larry Jenkins' legal opinion regarding the District's authority to pass the resolution requiring curbside recycling within the District and said that he is an attorney also and he said a legal opinion is not something we can figure out right now; he expressed difficulty in understanding the requirement to recycle, said that Layton City has 30 percent recycling without a mandate and the city might choose to require recycling on their own but all cities should be able to decide for themselves, expressing his belief in local (city) control. He said that all cities are different and didn't know why we wouldn't understand that. He also said that this requirement would raise Layton residents' taxes by 25 percent and doesn't want to tell the little old lady who's never going to recycle that she is required to have a recycling can. He said he is hopeful that the board, at Layton City's request, will rescind the resolution requiring curbside recycling.

Mayor John Pohlman asked to comment as a resident of Fruit Heights City. He referenced Wasatch Resolution 24-01 Ratifying a Real Estate Purchase Agreement which was signed by Executive Director, Nathan Rich on December 13, 2023. Mayor Pohlman objected to the signing of this agreement due to the terms of the purchase option, agreed to in 2015, which allowed Layton City to purchase property owned by the District at a reasonable asking price in 2015 but at a greatly reduced price in 2024. Mayor Pohlman said this transaction benefitted a single member entity and he would like controls inacted to ensure that something like this never happens again.

Mr. Nathan Rich explained that he and Mr. Jenkins had previously met with the Layton City Attorney, Mr. Clint Drake regarding the District's authority to require curbside recycling within the District. Mr. Rich asked Mr. Jenkins to issue a formal written opinion, at the request of Clearfield Board Member, Nike Peterson and to which Mr. Bloxham previously referenced, regarding the District's authority to require curbside recycling within the District. Mr. Rich added that at the District's request, Mr. Jenkins purposefully did not make his opinion confidential because of the importance the District places on being open and transparent in all of its actions.

Mr. Jenkins explained that the state legislature has given special service districts the powers necessary to provide a service. The Davis County Commission began the formal process of forming the special service district in 1984, as set forth in state statutes. Most cities within Davis County joined when the District was formed, however some joined later; City of North Salt Lake by City Resolution 84-8 on August 22, 1984, Syracuse City by City Resolution R84-4 on August 28, 1984, Morgan City by city resolution on October 14, 1986, Morgan County by county resolution on October 14, 1986, Layton City by city resolution on December 4, 1986, and Clearfield by city resolution on January 22, 1987. There is currently a 19 member board. All 15 cities and Morgan County are allotted one seat on the board with the Davis County Commission making up the other three seats. Once a special service district is created, powers are delegated and statutes applying to special service districts are followed, per state statute.

Mr. Jenkins stated that his memo explains the authority of the District to adopt Resolution 23-15 requiring bundled curbside recycling, the creation of the special service district and delegation of authority to the board, and District powers.

There were no questions.

### **Discussion and Action Regarding Bundled Recycling Program**

In response to a comment, Mr. Rich said that he initially contemplated including alternate language in Resolution 24-02, Rescinding Resolution 23-15, Bundled Recycling Program but instead, in consultation with the board, did as Layton City requested, which was for the resolution to be rescinded. However, Mr. Rich indicated his willingness to consider changes to the program if so directed by the board.

Mr. Rich said that the goal of the District is to provide a service which results in robust recycling district-wide. He also said that the District will continue to move forward with district-wide recycling, as the board directs.

Commissioner Bob Stevenson commented that the board could choose to table the resolution to rescind while continuing to fine tune Wasatch's policy regarding district-wide recycling.

Council Member Nike Peterson commented that she appreciates the legal opinion of Mr. Jenkins but feels like anything mandatory is the equivalent of a tax which she believes only the city should be able to assess. She said her city would not be likely to implement a mandatory recycling program.

Council Member Tony London asked if the requirement to recycle was removed from Resolution 23-15, and the board instead allowed cities to provide an opt out recycling program, would that require the board to rescind and retool the resolution?

Chairman Petro answered, saying that originally Layton City didn't want to rescind the resolution but wanted options, however knowing that the options needed to be reconsidered by the board, Layton opted to ask that the resolution be rescinded.

Mayor Rod Westbroek asked why that couldn't be done by amending the resolution rather than rescinding.

Mayor Brandon Stanger reminded everyone that this program is something that the District and the board, together, have been working on for at least two years. Mayor Stanger said he had sat on the committee that reviewed and discussed the Integrated Waste Management Plan in order to determine the direction the District would take over the next 20 years. During those meetings, the committee determined that 100 percent recycling, district-wide was extremely important for the environment, our communities, and the life of the landfill. All factors determined to prevent any unnecessary transportation of waste to a regional landfill. He said that in order to effectively change behaviors, the program needs to be system-wide rather than opt out. A bundled program enables cities to set one price whether residents want to make use of all the services. Mayor Stanger expressed his hope that the board would remember the hard work that everyone did and keep the resolution as is.

Mayor Clark Wilkinson said that Tony, Rod, and Brandon are smart men because they said exactly what he was going to say. He said the board worked on this for months and months and the resolution passed 16 to 1 (Commissioner Stevenson and Mayor Wilkinson were absent; Mayor Pohlman voted nay). Cities had an opportunity to participate in the decision-making process. Just because they chose not to participate, it isn't our fault. While he agreed that mandating is not appealing to most, including himself, we set a dangerous precedent when we start rescinding resolutions. We can look at amending or tabling the resolution or we can add language to make it a better resolution, but we have worked really hard to make this something that works and you don't just throw all of that hard work down the drain. He said the board appreciates new information being brought up and would take that under advisement and consider areas of improvement.

Council member Wally Larrabee commented to the board that approximately one and a half years ago, he approached his mayor, city administrator, and city council informing them of the District's discussions regarding recycling and the intent to move forward with curbside recycling. He said that

they were all ecstatic to see the District beginning to move in the same direction as the city, which has had a bundled recycling program for many years. As elected officials, the discussions happening today should have happened two years ago. City officials feel blindsided when they really haven't been because we've been talking about this for such a long time. It's our responsibility, as board members, to take that information back to your cities. We need to do a better job of that.

Council Member Jordan Savage said that his city has been working really hard to keep residents informed through social media, etc. and is amazed at the overwhelming positive response to bringing a recycling program to his city, which currently does not have any type of recycling program. He said he did not get the expected pushback from residents but was pleasantly surprised to see the support within the city for a recycling program. He commended the board for trying to plan for the future instead of a kneejerk reaction after the problem is already too great to address. He said, we all see the cliff coming when the landfill closes, and we've already begun hauling all household waste to a regional landfill. The fee increases when the landfill closes will be much higher than what we're asking residents to pay now due primarily to the cost of hauling. He said we've got to improve our processes now. We've got to set an example for everyone, especially our kids. This is a good step forward. He stated that he thinks the resolution should be left as is and is opposed to rescinding the resolution but would be willing to listen if a few amendments need to be made.

Mayor Rod Westbroek said that it seems like going backwards to rescind the resolution. We've worked so hard on this, and it doesn't seem like it would be productive to rescind the resolution now. Mayor Westbroek said he expected to get more pushback from his city regarding the requirement to recycle but received very little opposition. He said he is willing to amend the resolution but is against rescinding it.

Mayor Tami Tran commented that she would like assurance that if the resolution is not rescinded, the board will continue to discuss how to improve the current program.

In response to Mayor Tran's comments, Commissioner Stevenson said he believes there are ways to continue to work on the parameters of the program without rescinding the resolution and wiping out all of the work already done. Commissioner Stevenson added that this board can choose to make amendments to the program, via resolution, and is set up so that a simple majority wins. As Mr. Jenkins said, the board has the authority to make these decisions. He added that he is willing to listen to opposing views regarding the program; he may not agree with everything proposed but is willing to listen.

Commissioner Stevenson went on to explain during his time on the Layton City Council, they joined the District, which was much later than most of the District. At the time, Layton City felt like they already owned one third of the landfill and felt like they were giving up ownership to join the District. Those opposed to joining the District predicted that rates were going to be astronomical due to the construction of the waste to energy facility. Turns out the opposition was correct. Not long after opening the waste to energy facility, residents were paying \$65 per ton. He said, we talk now about raising rates a few dollars to \$40 per ton or \$42 per ton but we were paying \$65 per ton in the late '80s or early '90s. He talked about perspective and how the current issue is such a minor thing compared to what we were dealing with then. And there were so many issues, including problems with the EPA, that aren't happening now. In fact, the District pursued Morgan County's joining in order to bring more garbage in because we never anticipated this much growth in the District. Commissioner Stevenson said he has had the opportunity to see different landfills across the state and there is no question, this is the best solid waste system in the state; the model of what many solid waste systems wish they had. And for all of the services the District provides, with all the years that have past, and with inflation, it's still only \$7.25 per household. The landfill doesn't have that many more years left but it's important to our residents that they have a place to take their trash. If you go anywhere else in the country, whether liberal or conservative areas, they're recycling. Commissioner Stevenson said, he's not sure why we're so afraid of it. Speaking to the Layton City Council, Commissioner Stevenson said, you are reaping the benefits of the things accomplished through the District's past struggles. Nobody is trying to take rights away from anyone. This board was organized to make these types of decisions. We've never heard from any city about any decision we've made until we heard from Layton and Clearfield regarding recycling. He said, I believe we should work as a team, but we can't ignore all the work that's gone into this decision over the past few years.

Chairwoman Petro said, I think what Layton is asking is that they be able to run the program on their own without the mandate. The mandate is what is scaring Layton. She said she believes many other



city councils feel the same way. She said she is backing up her city council because she believes that the board moved too quickly, however she admitted to not giving her city council the information regarding the recycling program in a timely manner.

Commissioner Lorene Kamalu said that she is interested in hearing what amendments might be considered and understands Layton City Council not liking the word “mandate” but doesn’t believe rescinding the resolution is the right thing to do.

Council Member Nakisha Rigley said that her city council had not discussed district-wide recycling much at all, but in listening to board members this evening, she asked, isn’t that the whole point of the mandate, to get great recycling participation?

Mr. Rich explained that there are really two mandates within this resolution; the bundled program, which means one price for both a garbage and recycling can. He said there are seven or eight cities within the District that already have strong opt out programs and the bundled aspect of the program assists in moving everyone forward towards more robust recycling as well as making it easier for city staff. Additionally, bundled programs are industry best practice. The second mandate is an incentive to move cities forward because in a year and a half, the per can fee will increase for those cities not offering a bundled recycling program to their residents.

Mr. Rich explained that this has been a process. This board meets five times per year and as committees, 10 times a year. We can continue to discuss changes and those changes can become policy whenever we want. He remarked that it’s not usually prudent to make a decision hastily but to spend the time to discuss and craft something writing, which he prefers.

Mayor Pohlman asked if the Layton City Council members actually believed that the cost for recycling was equivalent to a 25 percent tax increase on a home valued at \$500,000.

Mayor Pohlman added that he was the only dissenting vote on the resolution in November and this board does not pass resolutions in a disorganized or unplanned manner. He said, we are deliberate when we pass them. For this board to rescind a resolution once it’s passed, especially three months later, and most especially at the request of a single member city, is poor policy. He said he would consider voting to rescind the resolution requiring district-wide bundled curbside recycling if Layton City rescinds their purchase of the property, in which he referenced the property purchase of Layton City from the District; Wasatch Resolution 24-01 Ratifying a Real Estate Purchase Agreement.

Mayor Pohlman made a motion to penalize larger cities first if they do not have a bundled curbside recycling program because they are the largest producers of recyclable materials. This would assist local haulers by staggering roll outs. He added, if we don’t have an incentive to encourage recycling, there won’t be adequate recycling in the District.

The motion failed for lack of a second to the motion.

Council Member Savage made a motion to deny passage of Resolution 24-02 Rescinding Resolution 23-15, Bundled Recycling Program.

Mayor Polman seconded the motion.

The Chair recognized Commissioner Mike Newton who had a comment. Commissioner Newton said he was on the committee that discussed the Integrated Waste Management Plan and studied recycling district-wide and the reason for studying recycling in the first place was due to concerns regarding the lifespan of the landfill. He said that months were spent talking to experts, and exploring different scenarios, including cost scenarios, and at the end of the discussion, the committee realized that the life of the landfill could be extended with a robust recycling program. And the only way to have a robust recycling program was to implement recycling district -wide. He emphasized, a small-scale program will not be enough. Member entities would be unlikely to implement a bundled recycling program without a penalty. He added, if you’re not participating, your trash costs more to handle because it’s being hauled to a regional landfill. The “penalty” is not really a penalty because it costs to haul your trash. It’s not the words we should be concerned with but the intent of the program. We need wide adoption in order to ensure the success of the program.

Commissioner Stevenson asked that the motion be amended to include more input from cities over the next few months.

Council Member Savage said that we as a board can make amendments any time we want.

Commissioner Stevenson said there are concerns that cities would like addressed and he thought we should allow that.

Council Member Jordan said that he was not inclined to change his motion because the board can change policy at any time.

Commissioner Stevenson said it would show good faith to the cities who are concerned about this resolution.

Chairwoman Petro said, I think what we want to do is restate the motion with the ability to amend it based upon input from the cities.

Council Member Savage said, I would argue that that is already within the board's ability to do. He said the motion stands, as previously stated.

Mayor Wilkinson made a substitute motion to table Resolution 24-02 and make amendments to Resolution 23-15 as the board sees fit.

Council Member Savage said that if there has been a motion and it has been seconded that must be voted on before you can vote on a substitution.

Chairwoman Petro agreed he was correct.

A roll call vote was taken to deny passage of Resolution 24-02 Rescinding Resolution 23-15 Bundled Recycling Program.

Council Member Nike Peterson	Nay
Mayor Brandon Stanger	Yea
Mayor Clark Wilkinson	Nay
Commissioner Lorene Kamalu	Nay
Commissioner Bob Stevenson	Nay
Mayor Brett Anderson	Yea
Mayor John Pohlman	Nay
Mayor Tami Tran	Nay
Mayor Joy Petro	Nay
Council Member Tony London	Nay
Commissioner Mike Newton	Yea
Mayor Brian Horrocks	Yea
Mayor Rod Westbroek	Yea
Council Member Nakish Rigley	Yea
Council Member Jordan Savage	Yea
Mayor Ken Romney	Yea
Mayor Brian Vincent	Nay
Council Member Wally Larrabee	Yea

The vote was 10 to 8 in favor of denying passage of Resolution 24-02 Rescinding Resolution 23-15 Bundled Recycling Program.

Chairwoman Petro asked for a substitute motion.

There was none offered.

In response to a question, Chairwoman Petro clarified that the motion to deny passage of Resolution 24-02 Rescinding Resolution 23-15 Bundled Recycling Program passed so the resolution was denied. Because of the split vote, she explained that she thought board members may want to make a substitute motion, possibly amending Resolution 23-15.

Mayor Tami Tran made a motion that a committee be formed and alternatives to Resolution 23-15, including input be heard and options discussed. The motion was seconded.

Council Member Tony London asked about the hardship program that the District was suggesting.

Mr. Rich said that each city may make a decision regarding how the hardship program is structured, although the District would like the hardship program to include a recycling can unless the resident strongly objects.

In response to a question, Chairwoman Petro said that the purpose of the committee is to explore options for District-wide recycling without the mandate.

Council Member Savage asked if we could add, "if needed" to the substitute motion, since it may not be necessary to have a special committee to explore options.

Mayor Tran confirmed that discussions could be effectively held in committee meetings. She stated that she is completely behind curbside recycling and does not want to rescind Resolution 23-15 but would like to keep the discussion open regarding ways the resolution might be improved.

Mayor Stanger said the board already meets in committees and can discuss this issue there.

Mayor Wilkinson made a friendly amendment to strike the wording requiring an additional committee.

Mayor Tran agreed to Mayor Wilkinsons friendly amendment.

Chairwoman Petro restated Mayor Tran's motion, which was to further discuss the recycling program in existing committees and to address concerns of member cities while continuing on the path forward.

Council Member Nike Peterson	Yea
Mayor Brandon Stanger	Yea
Mayor Clark Wilkinson	Yea
Commissioner Lorene Kamalu	Yea
Commissioner Bob Stevenson	did not vote (left the meeting prior to the vote)
Mayor Brett Anderson	Yea
Mayor John Pohlman	Yea
Mayor Tami Tran	Yea
Mayor Joy Petro	Yea
Council Member Tony London	Yea
Commissioner Mike Newton	Yea
Mayor Brian Horrocks	Yea
Mayor Rod Westbroek	Yea
Council Member Nakish Rigley	Yea
Council Member Jordan Savage	Yea
Mayor Ken Romney	Yea
Mayor Brian Vincent	Yea
Council Member Wally Larrabee	Yea

The vote was unanimously approved.

Mr. Rich commented that we have never had a vote as close as 10 to 8 in the 23 years he's been the Director.

### **Financial Model Presentation**

Chairwoman Petro introduced Mr. Fred Philpot, LRB Public Finance, who presented a newly updated financial model. The updated, and independently verified models will be used to assist the District in setting rates for the future as it responds to short term inflationary pressures and the long term transition away from reliance on the relatively cheap operation of the Davis Landfill.

Mr. Philpot walked the board through various assumptions and considerations and the process of modeling for the future. Several models were consolidated into one model. Models are never finished but can be manipulated and changed depending upon policy decisions.

Mr. Philpot discussed revenues, general growth and waste inflow, historic trends, recyclables (assuming a substantial increase), landfill capacity and future diversions, and inflationary pressures.

He discussed how the model contemplates cost variables, transportation and transfer costs, the regional landfill's tipping fees, capital improvements, timelines, construction of a transfer station at the landfill, and scenarios based on the date of the landfill closure and other factors.

He discussed rate increases and at what increments rates must be increased to ensure the health of the District in the future. He also discussed the importance of always measuring revenue against operating expenses and cash reserves.

He noted that policy changes now, like recycling, create meaningful impact over time.

In response to a question, Mr. Rich said that the board had considered the option of closing the landfill as quickly as possible when they discussed the updated Integrated Solid Waste Management Plan, and from a strictly monetary standpoint, that option looks fairly good, however there are other considerations besides the short term monetary, including the ability to use the landfill when it's not possible to haul to the regional landfill and diverting recyclables to the MRF, which means less waste to the regional landfill.

In response to another question, Mr. Rich explained the goal is to transfer less by recycling more.

Mayor Ken Romney said he would like to see how diversion impacts long term costs.

Mr. Philpot said that transportation, transfer, and regional landfill fees are a huge driver of this model and inflation is one of the things that is hard to determine.

Mr. Rich said that long-term projections won't be completely accurate due to the many variables Mr. Philpot mentioned.

### **Recycling Education Presentation**

Ms. Collette West, Sustainability Specialist, gave a presentation on the benefits of recycling. She presented reasons for a circular economy, including less packaging, less pollution, and economic benefits. She discussed what can be recycled and the cost saving in using recyclable materials over virgin materials.

Mayor Wilkinson asked what to put in the blue recycling can at your home.

Ms. West said that cardboard, paper, #1 and #2 plastics, aluminum and steel cans can go in the bin.

Board members suggested a video of what can and cannot go in the can would be helpful for residents; also, why recycling is important.

Chairwoman Petro said that she would caution conveying the message about recycling because of plastics being dumped into the ocean.

Mr. Rich showed a slide and explained that 70 percent of ocean plastics come from Asia, primarily India. Less than one percent of ocean plastics are from North and Central America.

Mayor Westbroek asked who was creating the District's instructional videos and recommended the Davis Catalyst Center, a school in Kaysville that will do them at no cost as part of their training.

### **Financial Report**

Financial Statements through December 31, 2023, including the balance sheet, statement of revenues, expenses and changes in net position and review of the capital budget, and Disbursement

Report for October 1 through December 31, 2023 were included in the board mailing, which board members had already had the opportunity to review.

Upon motion duly made and seconded, disbursements were approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Council Member Nike Peterson abstained. Voting in favor of said motion was unanimous with one abstention.

### **Resolutions**

Chairwoman Petro presented Resolution 24-03, Authorizing the Executive Director to Execute an Agreement with CP Group.

Mr. Rich explained that the recently updated 20 year Integrated Solid Waste Management Plan, adopted by the Board in November 2022, included the recommendation to make physical improvements to the Material Recovery Facility to increase throughput and recovery while processing comingled recyclable materials. Detailed design of the proposed improvements has been completed by CP Group with the assistance of RRT, who is acting as owner's engineer. Final project design and pricing has been provided and the District now desires to execute a contract to complete the work which will be scheduled for December 2024. The project is included in the current year capital budget.

Council Member Peterson asked if any invoicing would cross budget years.

Mr. Rich explained that all expenses must be accounted for in the year they occur. Expenses will cross fiscal years. The project won't be capitalized until it is completed.

Council Member Peterson asked if the expenses would require a budget amendment.

Mr. Rich said that the overall cost of the project will be greater than what has been budgeted for this fiscal year but the remaining project costs will be budgeted for in the next fiscal year. Whatever money not spent in this year's budget will be allocated in next year's budget. All funds being spent this budget year have already been budgeted for.

He added, the District is authorized to spend money once it's been budgeted, even for capital projects. But resolutions are presented for approval, specifically for large projects, so the board is aware of them and they can be discussed in detail.

Upon motion duly made and seconded, Resolution 24-03, Authorizing the Executive Director to Execute an Agreement with CP Group was approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Council Member Nike Peterson abstained. Voting in favor of said motion was unanimous with one abstention.

Chairwoman Petro presented Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

Mr. Rich said that the District currently sells landfill gas to Ameresco under a 20 year agreement which expires in January 2026. The District has worked diligently through a procurement process which began in 2022 to select the best developer to move the landfill gas project into a new long term contract. Three developers were prequalified based upon technical and financial ability and experience. Bids were then solicited from the prequalified developers and Ameresco has been selected as the highest ranked offeror based upon proposed revenue to the District. Their proposal provides a substantial royalty payment based on a percentage of gross project revenues and anticipates the installation of a plant which will upgrade the landfill gas to pipeline quality Renewable

Natural Gas (RNG). The project will require a capital investment by Ameresco likely exceeding \$40 million. The proposed contract term is 25 years.

Mr. Rich explained that the current draft contract with Ameresco is 25 pages long and due to the length was not attached to the resolution. He explained that current contract royalties include 17 ½ percent royalty on up to \$10 million gross project receipts per year, 22 ½ percent royalty on \$10-15 million per year, and 27 percent royalties on over \$15 million per year. He is hopeful that this will be the culmination of an almost two-year procurement process.

He explained that with the current project, the landfill produces the same volume gas, with the same partner, but the District is receiving a small flat fee on the gas, with a small escalator, which results in approximately \$100,000 annually.

Mayor Stanger asked if there was any way to change the agreement terms from 25 years to 20 years.

Mr. Rich said that would likely be an option, but the royalty terms would almost certainly be reduced.

Mayor Pohlman asked if any of the proposers had contested the awarding of the contract to Ameresco.

Mr. Rich said that second highest rated developer, WAGA Energy, contested the award. A third-party consulting firm evaluated the proposals and agreed that Ameresco provided the best project, including the highest anticipated revenue to the District. The District then closed the protest and WAGA Energy did not appeal. He added that if Ameresco doesn't work out, WAGA Energy is the second ranked choice.

Mayor Pohlman asked if the District has the ability to terminate the current contract with Ameresco early in order to bring the new project online more quickly.

Mr. Rich explained that Ameresco first signed a contract with Hill Air Force Base and some months later signed a contract with the District, which means that there will be a period of time when Wasatch is required to provide landfill gas to Ameresco but their contract with Hill Air Force Base will have expired and Ameresco will have no customer to deliver gas to. He said that for that reason, Ameresco might choose to bring the project online more quickly.

Upon motion duly made and seconded, Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco was approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Council Member Nike Peterson, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Mayor John Pohlman voted nay. The resolution passed 16 to one, 16 in favor and one against.

Chairwoman Petro presented Resolution 24-05, Amending Title 2, Personnel Policies.

Mr. Rich explained that Utah Code requires the District to review its personnel policies annually to ensure that they conform to the requirements of State and Federal Law. District staff and counsel completed that review and are recommending several changes be made to the personnel policies, Title 2 of the District Code. Proposed changes include, 1) the addition of a voting leave policy providing employees up to two hours paid leave to vote in person and under specific circumstances, 2) addition of a new policy complying with the federal Pregnant Workers Fairness Act which provides certain accommodations related to pregnancy, childbirth, breastfeeding, or a related condition, and 3) the addition of a provision to the appeal policy providing that if an employee files a lawsuit, charge of discrimination, or other complaint with a government body the District may discontinue or forego the grievance procedure.

Upon motion duly made and seconded, Resolution 24-05, Amending Title 2, Personnel Policies was approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Council Member Nike Peterson, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council

Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Voting in favor of said motion was unanimous.

Chairwoman Petro presented Resolution 24-06, Amending Title 8, Fiscal Policy.

Mr. Rich explained that Title 8 being is amended to clarify the difference between a receipt and a ticket as used in our scale and accounting systems for receiving payment. Additionally, the policy is modified to add a new six percent fee for the use of credit cards for payments on customer accounts. Credit card payments at the scale will not be charged the fee, only those making payments on accounts through the office. Six percent is an average of the credit card fees charged and small transactions are charged at a lower percentage rate than large transaction, making large transaction fees quite expensive for the District.

Mayor Wilkinson suggested we increase the fee in order to completely cover the fees charged by the credit card company.

Upon motion duly made and seconded, Resolution 24-06, Amending Title 8, Fiscal Policy with a six percent fee for the use of credit cards for payments on customer accounts was approved. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Secretary Mayor Brian Vincent, Council Member Nike Peterson, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Brian Horrocks, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Voting in favor of said motion was unanimous.

### **Director's Update**

Mr. Rich presented the Director's Update and Report to the Board, noting just a couple of items; hauling costs have been reduced to \$23 per ton after bringing regional landfill hauling of municipal solid waste in house. Mr. Rich recognized the work of staff to make this arm of operations a success.

Mr. Rich recognized Mr. Dan Ramos and the excellent safety record at District facilities. There was not a single lost time accident within the District in 2023. This is a significant improvement over 2018 when the District experienced seven recordable incidents at the landfill alone.

Mr. Ramos said that at the Material Recovery Facility in 2021 there were 18 reportable incidences, in 2022 it was down to seven reportable incidences and in 2023 down to zero, a record to be proud of especially considering that the solid waste industry is on the federal government's list of 10 most dangerous jobs.

In response to a comment Mr. Rich confirmed that with fewer reportable instances, the District is saving money with Workers Compensation as well as keeping employees on the job and improving morale.

Council Member Savage commented that a few of the truck drivers at the Christmas Party had mentioned to him how much safer they feel since working for the District because they have input regarding whether road conditions are safe for hauling. Most of the District drivers were hired from the previous hauling company used by the District for municipal solid waste delivery to a regional landfill.

### **General Business**

Chairwoman Petro opened for discussion the items Mayor Pohlman raised concerns about, listed as follows:

- i. Amend District Bylaws Limiting Board Chair Term to One Year
- ii. Amend District Bylaws Limiting Executive Committee Members to Three Years
- iii. Restrict Future Board Members from the Transfer or Trade of Appreciating District Assets, by Resolution
- iv. Restrict Executive Director or Staff from Finalizing Sale of Appreciating District Assets, by Resolution
- v. Require the District to Hire an Appraisal Company to Review the Sale of all Appreciating District Assets, by Resolution

- vi. Require the Board to Periodically Review Appraised Values for the Benefit of Buyer and Seller
- vii. Require the District to Allocate \$1 Million Per Year to Invest in Revenue Generating Projects to Offset Future Fee Increase and District Expenses, by Resolution
- viii. Create a Long-Term Sustainability Committee to Review Appreciating District Assets and to Explore Potential Revenue Generating Projects

Mayor Pohlman explained that he has concerns regarding decisions made by the District, particularly the decision benefitting Layton City alone, and discussed the list of areas of concern that he would like addressed at the board level. He said all board members are equally responsible for board decisions but would like us to learn from past mistakes.

Another area of concern is that a Layton City representative has been chair of the board seven of the last eight years and suggested that the board would be better served by variety.

He also said that the District should strive to make the best use of their appreciating assets.

Board Members discussed the emergency meeting for the sale of District property to Layton City and the need for an emergency meeting, which caused many board members to feel rushed and not be given enough time or information to make an informed decision.

Council Member Savage said he did not believe that the meeting topic constituted an emergency.

Mayor Stanger said that the board member whose city was affected by the sale of property should have recused themselves from voting.

Chairwoman Petro said that board members are not required to recuse themselves from voting unless the topic is a personal matter.

Mayor Wilkinson commented that Mayor Pohlman's comments are well said, but the board must determine and ensure that the District's policies and purposes are maintained. Should the District pursue revenue generating projects?

After some board discussion about how some of these listed concerns might be implemented, Mayor Pohlman conceded that this topic could be discussed further at the next meeting.

Commissioner Lorene Kamalu thanked the board members who had participated in formulating, advising, and implementing the Integrated Solid Waste Management Plan.

Council Member Nike Peterson commented that when the board approved Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco, she assumed the board had already reviewed the contract, but later realized Mayor Pohlman had voted against the resolution because he had not seen the contract.

Mr. Rich explained that a contract is always attached to a resolution with wording within the resolution stating that the agreement is in substantially the same form as will be signed but gives the Executive Director leeway to make amendments to the agreement prior to signing it. He added that this is the first time he has not attached an agreement to a resolution authorizing his signature but if we waited until an agreement was finalized for approval at the May board meeting, the project would be delayed by three months. He suggested that a special board meeting be called to approve the resolution if the board would like to reconsider approval of Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

He also said that while the board meeting is still in progress a motion could be made to that effect, bringing the resolution back to the board in May for ratification. Alternately, Mr. Rich offered to email board members a copy of the current draft resolution for review and comment.

Council Member Peterson said that asking the board to approve a contract and approving a resolution without the agreement attached is the wrong approach.

After some discussion and much confusion, Council Member Peterson made a motion to reconsider the vote of Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.



A roll call vote was taken to allow Council Member Peterson to revote on Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

Board Members voted as follows:

Council Member Nike Peterson	Yea
Mayor Brandon Stanger	Yea
Mayor Clark Wilkinson	Yea
Commissioner Lorene Kamalu	Yea
Mayor Brett Anderson	Yea
Mayor John Pohlman	Yea
Mayor Tami Tran	Yea
Mayor Joy Petro	Yea
Council Member Tony London	Yea
Commissioner Mike Newton	Yea
Mayor Brian Horrocks	Yea
Mayor Rod Westbroek	Yea
Council Member Nakish Rigley	Nay
Council Member Jordan Savage	Yea
Mayor Ken Romney	Yea
Mayor Brian Vincent	Yea
Council Member Wally Larrabee	Yea

The vote was 16 to 1 in favor of allowing a revote on Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

Mayor Stanger made a motion to reconsider approval of Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

The motion was seconded.

Mr. Rich again suggested that board members vote no, and he would email the contract to board members who will then have an opportunity to review it after which a special meeting will be held.

Mayor Stanger offered an alternate option, suggesting that the board vote now knowing that Mr. Rich will send a draft that board members could be assured would be in substantially the same form as the final contract.

Upon motion duly made and seconded, Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco was again approved. Secretary Mayor Brian Vincent, Mayor Brandon Stanger, Commissioner Lorene Kamalu, Mayor Brett Anderson, Mayor John Pohlman, Mayor Tami Tran, Council Member Tony London, Commissioner Mike Newton, Mayor Rod Westbroek, Council Member Nakisha Rigley, Council Member Jordan Savage, Mayor Ken Romney, and Council Member Wally Larrabee voted yea. Chairwoman Petro, Vice Chair Mayor Clark Wilkinson, Council Member Nike Peterson, Mayor John Pohlman, Mayor Brian Horrocks, and Council Member Jordan Savage voted no. The vote was 11 to 6 in favor of Resolution 24-04, Authorizing the Executive Director to Execute an Agreement with Ameresco.

#### **Adjournment**

Upon motion duly made and seconded, the Administrative Control Board meeting was adjourned at 8:03 p.m. Voting in favor of said motion was unanimous.

  
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Mayor Joy Petro, Board Chair

  
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Nathan Rich, Executive Director