

ACTION ITEM MINUTES

The General Managers Advisory Committee Meeting on Ordinance 7, **5:00 p.m.** on **Monday, December 7, 2020** (held on Zoom).

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District General Manager Indra Winqest welcomed everyone, made sure that everyone had the agenda, and briefly explained the agenda.

A. ROLL CALL OF COMMITTEE MEMBERS

Committee Members: Diane Becker, Mary Danahey, Denise Davis, Kristen Ferrall, Scott Hill, Margaret Martini, Hal Paris, Trevor Smith, Bruce Townsend, Karen Viel, and Frank Wright. Indra Winqest, IVGID District General Manager and Tim Callicrate, IVGID Board of Trustees, Chairman. **Administrative Support Staff:** Kari Ferguson and Susan Herron

Reminder Only: Rules of Engagement: All committee members shall be respectful of one another and treat each other with kindness. No one member shall talk over another member. All ideas are welcome however they may not be discussed in depth or in detail depending upon time and/or merit and that determination is solely held with the General Manager. All committee members are equal participants.

B. RECAP OF MEETING OF NOVEMBER 10, 2020

GM Winqest gave a brief recap of the last meeting.

- Went over beach data
- History of Ord 7

C. PRESENTATION FROM IVGID'S DISTRICT LEGAL COUNSEL JOSHUA NELSON

1. Legal Counsel determination, opinions, and recommendations related to questions/ concerns raised by the members of the Committee
2. Questions and discussion

GM Winqest introduced Mr. Josh Nelson, Legal Counsel for the District who is going to provide some legal information and hopefully, after this, we will be more comfortable with making recommendations. Mr. Nelson began his presentation.

What are we talking about tonight?

- Beach dead
- What I think a court would do regarding the beach dead?
- I think, probably, in my opinion, will be used- do the fact of the nature of the situation

Focus our attention on the following:

What is the purpose of the property? Use for recreation for home owners, guests, motels,

Mr. Nelson shared his screen/presentation; **ACTION ITEM 019:** Place a copy of this presentation onto the website.

Board of Trustees is to adopt reasonable rules and regulations for use can charge for use.

- The beach dead doesn't mention the word passes.
- Access for owners and tenants
- Fees: Determined by the board
- The Board of Trustees can determine the property owners; Ordinance 7 states that each property is eligible for five picture passes.

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Mr. Wright said that he is questioning the owner, guest of parcel. And the deed restrictions because this was made so long ago. Things have changed since then. Interpretation of the deed. Language is up to interpretation. Need solid language. He has challenged all of this language. Picture passes and punch cards are a disaster. Keep the assets for those of us who pay for them. He is here to protect it.

Mr. Nelson said that if there are 3 different people in a room, one would get 30 different interpretations to the deed. We are trying to lessen the litigation risk.

Ms. Davis said are timeshares LLC's and/or what about fractional ownership? Beach deed is only for beach. The other, Ord 7, is for other venues. Is it lawful to provide to provide picture passes? Look at 2a - tenants have more access than guest. Ability to charge different fees and rates

Mr. Hill said that he appreciates the initial comments. Re: "Reasonable way" Is it reasonable for a picture pass holder accompanying a guest? Is it reasonable for guests to pay a certain fee?

Mr. Nelson responded that he thinks we will have a higher risk of litigation if we require owner accompanying guests.

Mr. Wright chimed in and talked about his past case and how past practices might be a problem for litigation. States that there are public events are on the beaches and reference Policy 136. What about parcel owners accompanying anyone else?

Ms. Martini said she had an attorney look at it. Precedents have been set and we are close to losing the beaches. Stricter access requirements would help protect them. After things have evolved, it will be hard to go back

GM Winquest responds we are still looking at the history and past practices. He has had owners of STR's tell him they will sue us if we require them to accompany their "guests". If we make decisions, we want to try and lessen the risk of litigation.

Mr. Wright said that the white forms from the Hyatt are not consistent.

Mr. Hill said that the deed cites the hotels and motels as having access in the deed.

Mr. Nelson went back to the document; letter 2b.

Ms. Becker asks about licenses rather than leases? Are they writing the STR as licenses instead of leases.?

Ms. Viel said we have a lease drawn up for STRs

Ms. Becker asked if we could see the lease; maybe we can take a look at these?

Ms. Viel said she will send the lease to Mr. Nelson and the committee. **ACTION ITEM 020**

Mr. Nelson returned to his presentation and said that the best idea is to make reasonable restrictions for owners and tenants and STRs will fall where they will.

Mr. Wright said back to the beach deed - licenses were not considered when this was written. We cannot expand the deed.

Ms. Viel said our company has been here since 1968 so STR/vacation homes have been here.

Ms. Becker said leases vs license – further explain the difference.

Mr. Smith said can we talk about the issues about owners accompanying guests to the beach as they could mean leaving work and bring them to the beach. Also, this town was built as a resort, people do come here to visit.

GM Winquest responded that there were 16%- 18% vacation rentals pre COVID-19. Owners used the white forms too as a convenience.

Mr. Paris said if we change the language then the contracts, licenses, and leases will change this as well. Also, maybe we call everyone a guest.

Mr. Wright said that the beaches have been horrible-pre-COVID-19. He is not sure where these people are coming from but they are here.

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Ms. Ferrall said punch cards - for purchase for businesses purposes or for friends or family. Who/how do we separate it?

Ms. Becker said how do we determine the difference from STR and boat rental company; GM Winquest responded.

Mr. Nelson continued his presentation.

Mr. Hill asked about restrictions regarding buildable lots – possible litigation risk.

Mr. Nelson read information and explained the buildable lots.

Chairman Callicrate talked about the unbuildable lots and what has happened in the past. The 24 lots that don't qualify. Should they pay for the past rec dues?

Mr. Smith said that the Bitterbrush lots have been paying fees. They were taken to the Board to sell them. Also the place across from High Altitude - they have 6 units. TRPA regulates what is buildable or not buildable.

Mr. Wright talked about the dead interpretation about the buildable lots. Asks Mr. Nelson about his opinion on the easement vs deeded access. Mr. Nelson said he wants to double check and do some more homework and get back to the group.

Chairman Callicrate said the deeded restriction on access in 1960 is not an easement.

Mr. Smith mentioned the subdivision map – unique APN to parcels is what allowed you to go get access.

Chairman Callicrate said he missed that, urgh, sorry.

Mr. Hill asked about limited access in the future on unbuildable lots? If we created something to add buildable lots in the future.

Mr. Wright said there are so many caveats thrown in the beaches access. APN numbers - were they additions or part of the original deed?

Ms. Ferrall asked if parcel and APN are they the same or different?

Mr. Smith said the parcel number is at the assessor level which is the legal creation of a lot.

Mr. Nelson said that grandfathering is also a possibly to reduce risk of litigation. The punch card is not considered a gift certificate (NRS 598.021) no expiration date excluded; it doesn't qualify.

Ms. Becker said she agrees with Mr. Nelson about the gift card.

Mr. Nelson continued his presentation.

Mr. Hill suggests a base fee charging possibly.

Mr. Nelson said that could be permissible.

Ms. Viel said it would not be fair to do this for folks who have larger families.

Mr. Nelson said it was permissible however there might be other reasons why this group wouldn't want to do this.

General Manager Winquest said on boat operations, we have no jurisdiction over what happens on the water. Our residents are the owners of these boat companies. The District and this group could stop this type of activity and regulate it right Mr. Nelson?

Mr. Nelson said yes, that is correct. Selling access to the beach, that isn't permitted.

Chairman Callicrate said this is good news that we can do something about this and change the way we are handling it.

Mr. Nelson said that is for going forward- not as it reads now.

Ms. Becker said that the STRs market the beaches vs. market beaches as a boat rental company.

Mr. Nelson said it is different.

General Manager Winquest said it talks about the fact that some of the people getting in the beaches by the boat rental company is also someone who is staying here at a STR so they could have gotten in with the STR.

Mr. Paris concurred with this observation.

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Ms. Martini suggested that one idea is to use someone else's picture pass to get in the beach. **Mr. Wright** said that there is possible litigation with IVGID due to the boat rental companies. General Manager Winqest said that this talks to TRPA because we do not have jurisdiction over the water; it's hard to regulate. **Mr. Wright** said that we have got a problem about boat rental companies. General Manager Winqest asked all committee members to please get me your questions so that we can get them to Mr. Nelson **ACTION ITEM 021**. **Mr. Townsend** asked if can we change the restrictions for different people; we can change Ord 7. General Manager Winqest thanked Mr. Nelson for all of your help and information.

D. GOALS FOR NEXT MEETING

1. Holiday homework – Thorough reading of Ordinance 7
2. Final Committee review of the existing ordinance
3. Review identified areas of the Ordinance to be addressed
4. Develop action items and framework for making revisions to the Ordinance
5. Set next meeting date – proposed Tuesday, January 5, 2021

General Manager Winqest asked that all the Committee Members please go through the entire Ordinance 7 and highlight any questions or areas we need to addressing so we can get a framework and an idea of what we need to tackle. Let's dive in and think about how reasonably we are going to make changes.

Next meeting: January 5, Tuesday and possibly moving to two meetings a month. **[POST MEETING NOTATION – Rescheduled to January 12, Tuesday]**

E. ADJOURNMENT – 7:00 p.m.

ACTION ITEM LIST

DATE	ACTION ITEM NUMBER AND BRIEF DESCRIPTION	WHO WILL COMPLETE	DATE COMPLETED
09/28/2020	001 – Form revision dates and explanation of revisions	GM Winqest	
09/28/2020	002 – Livestream links and survey results	Support Staff Herron	10/01/2020
09/28/2020	003 – Financial data	GM Winqest	
09/28/2020	004 – Historical spend	GM Winqest	
09/28/2020	005 – Input on Board philosophy	Chairman Callicrate	
09/28/2020	006 – Presentation from 09/09/2020	Support Staff Herron	10/01/2020
09/28/2020	007 – Resolution 1881	Support Staff Herron	10/01/2020
09/28/2020	008 – Two lawsuits	Support Staff Herron	10/26/2020 (posted to the website)
09/28/2020	009 – Punch card info	GM Winqest	
09/28/2020	010 – Info about guest accompanying picture pass holder	Committee Member Martini	

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09/28/2020	011 – Visit distribution	GM Winquest	
09/28/2020	012 – 10/27 10 a.m. meeting date/time – does it work	All Committee Members	Scheduled
10/27/2020	013 – E-mail lawsuit information that is posted to the website	Support Staff Herron	
10/27/2020	014 - Ms. Becker will write up the questions then Staff will circulate and get feedback. Following that feedback, will send to lawyers for their thoughts.	Ms. Becker	
10/27/2020	015 - Ms. Martini to share the Bob McDonald document with the committee.	Ms. Martini	
10/27/2020	016 - Staff to get all this information to the committee (from March 25, 2020).	Support Staff	
10/27/2020	017 - Winquest – at the other venues and programs, about 80% used by residents. Golf courses is less than that, number does change, will try and get better data	GM Winquest	
11/02/2020	018 - 11/18 presentation included in the BOT packet to be e-mailed to all committee members	Support Staff Herron	
12/07/2020	019 - Obtain a copy of Mr. Nelson's presentation and place it on the website	Support Staff	
12/07/2020	020 - Send lease that they have prepared for STR's	Ms. Viel	
12/07/2020	021 - All questions for legal – provide them to General Manager Winquest so he can get them to Legal Counsel Nelson	All Committee Members	