OPINION
May 7, 2019

Via U.S. Mail

Jim Smith
P.O. Box 3671
Incline Village, NV 89450

Re: Open Meeting Law Complaint, O.A.G. File No. 13897-313
Incline Village General Improvement District

Dear Mr. Smith:

You filed a complaint on October 28, 2018, (Complaint) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the Incline Village General Improvement District (IVGID) Board of Trustees (Board). The Complaint alleges that the Board violated the OML by conducting a meeting without public notice or participation.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The investigation of the Complaint included OAG review of the Complaint and supporting materials, and the response to the Complaint from the Board’s counsel, Jason Guinasso, and attachments thereto. The OAG attempted to contact a witness listed in the Complaint, but failed to elicit a response.

FACTUAL BACKGROUND

The Board is a “public body” as defined in NRS 241.015(4) and is subject to the OML. The Board is comprised of five trustees, who are elected voting members. On the evening of October 15, 2018, three trustees attended a gathering at Crosby’s Tavern & Gaming in Incline Village, Nevada. IVGID staff members and other individuals were also present at the gathering.

The Complaint alleges that the trustees discussed the Board’s upcoming meeting agenda, and strategies regarding the upcoming election of Board trustees. The three trustees who attended the gathering, as well as one IVGID staff member who was present at the gathering, provided sworn affidavits with the Board’s response affirmatively stating that the trustees did not deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction, or advisory power during the gathering.
DISCUSSION AND LEGAL ANALYSIS

The OML requires that “all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies” unless otherwise provided by specific statute. NRS 241.020(1). A “meeting” generally requires a “gathering of members of a public body at which quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.” NRS 241.015(3). The OML provides an exception for a gathering which occurs at a social function if the members do not deliberate or take action. Id. A quorum of members of the Board attended the gathering in question. However, the OAG does not possess sufficient evidence that deliberation or action occurred at the gathering, and thus does not find that a meeting occurred in violation of the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General

Rosalie Bodelove
Chief Deputy Attorney General

cc: Jason D. Guinasso, Counsel for the Board
RESPONSE
January 25, 2019

Via Electronic Mail - RBordelove@ag.nv.gov
& Hand Delivery to:

Ms. Rosalie Bordelove, Deputy Attorney General
State of Nevada Office of The Attorney General
Boards and Open Government Division
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

Re: RESPONSE OF INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES - OPEN MEETING LAW COMPLAINT, SMITH, JIM - O.A.G. FILE NO. 13897-313

Dear Ms. Bordelove:

We received your November 19, 2018 correspondence on January 11, 2019 notifying the Incline Village General Improvement District (herein referenced as “IVGID” or “District”) of the above referenced complaint by Jim Smith alleging that IVGID has violated the Nevada Open Meeting Law (“OML”). Please accept this correspondence and the referenced enclosures as IVGID’s response.

Issue Presented

1. Whether IVGID Board of Trustees Chairwoman Kendra Wong, Trustee Phil Horan, Trustee Peter Morris, and Board Clerk Susan Herron violated Nevada Open Meeting Law by gathering for the purpose of social function, and not to conduct District business, on October 15, 2018 at Crosby’s Tavern & Gaming.

IVGID’s Position

IVGID will not respond to each and every assertion submitted in Mr. Smith’s narrative. IVGID’s response will focus on whether there was a violation of the Nevada Open Meeting Law.

Mr. Smith alleges the IVGID Board of Trustees Chairwoman Kendra Wong, Trustee Phil Horan, Trustee Peter Morris, and Board Clerk Susan Herron violated Nevada Open Meeting Law by gathering at Crosby’s Restaurant on the night of October 15, 2018 for a social gathering.

NRS 214.015 (b)(1) provides as follows:

“Meeting”:

... .

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present, whether in person or by means of electronic communication:
(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

The Nevada Open Meeting Law further explains the exclusion of gatherings which occur at social functions in the definition of “meeting” and their subjectivity to the OML:

Nothing in the Open Meeting Law purports to regulate or restrict the attendance of members of public bodies at purely social functions. A social function only would be reached under the law if it is scheduled or designed, at least in part, for the purpose of having a majority of the members of the public body deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction, or advisory power.


Here there was no violation of the Open Meeting law following the community forum at Sierra Nevada College on October 15, 2018. After the forum concluded on October 15, 2018, former Director of Human Resources of IVGID, Susan Johnson, District Clerk Susan Herron, Chairwoman Kendra Wong, IVGID Trustee Phil Horan, and Trustee Peter Morris decided to meet for a social gathering and arrived at Crosby's Tavern & Gaming at approximately 8:00 p.m. See Exhibit 1 at ¶ 1-7 (Affidavit of Susan Johnson). See also Exhibit 2 at ¶5-6 (Affidavit of Kendra Wong). See also Exhibit 3 at ¶5-6 (Affidavit of Philip Horan). See also Exhibit 4 at ¶5-6 (Affidavit of Peter Morris).

At no time during the social function did any of the members of the Board deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction or advisory power. See Exhibit 1 at ¶13; Exhibit 2 at ¶7; Exhibit 3 at ¶7; Exhibit 4 at ¶7.

Incline Village is a very small town with only approximately 9,000 residents. It is not uncommon for Board members and IVGID staff to gather, see, and/or socialize with each other at social functions and restaurants. Mr. Smith asserts that those present engaged in discussions regarding upcoming IVGID Board meetings, Trustee Callicrate and Dent’s Agenda requests, and the responses made at the Candidate Forum; however, Complainant has thus far failed to satisfy the burden to provide substantial evidence to support his accusations. Though complainant has provided pictures of the individuals named in this Open Meeting Law complaint See Exhibit 1 at ¶5-12, his pictures are not evidence enough to support his allegations. He did not provide recordings of conversations substantiating his allegations because no such evidence exists. _Id._

Whether Mr. Smith misheard the discussions of those present or is attempting to misrepresent the events thereby disparaging Board and Staff is unknown.

**Conclusion**

As evidenced by the supporting affidavits included in this response, and since there is no evidence contradicting these sworn statements, there was no deliberation or action taken toward any matter subject to the Board’s supervision, control, jurisdiction, or advisory power, this recreational gathering supporting by the aforementioned facts does not constitute.
Ms. Rosalie Bordello, Deputy Attorney General  
State of Nevada Office of The Attorney General  
January 25, 2019

Scope of Response

IVGID has not responded to each and every assertion submitted in Mr. Smith’s narrative. IVGID’s response has focused on whether there was a violation of the Nevada Open Meeting Law.

IVGID Did Not Violate the Open Meeting Law

In the event that this memorandum has failed to address an alleged violation of the Nevada Open Meeting Law due to the vagueness and ambiguity of Mr. Smith’s Complaint, IVGID denies that any such violation has occurred. IVGID has a record of abiding by the provisions of NRS Chapter 241 and has worked diligently over the years to make sure that District business is conducted with openness and transparency.

Concluding Remarks

In accordance with the foregoing, IVGID respectfully requests that the Attorney General conclude that there has been no violation of the Nevada Open Meeting Law.

Thank you for the opportunity to respond to the Open Meeting Law Complaint of Jim Smith, A.G. File No. 13897-313.

Sincere regards,

HUTCHISON & STENFEN, LLC  
Jason D. Guinasso, Esq.

cc: Chairwoman Kendra Wong  
General Manager Steve Pinkerton  
District Clerk Susan Herron

JDG:ts
EXHIBIT 1

EXHIBIT 1
AFFIDAVIT OF SUSAN JOHNSON

STATE OF NEVADA

COUNTY OF WASHOE

Under penalty of perjury, I, Susan Johnson, hereby swear that the information contained in this Affidavit is true and accurate:

1. My name is Susan Johnson.

2. I am a resident of the State of Nevada.

3. I am over 18 years of age.

4. I served as the former Director of Human Resources for the Incline Village General Improvement District ("IVGID"), a Nevada quasi-public agency.

5. On October 15th, 2018, my friend Susan Herron and I stopped at Crosby’s Tavern & Gaming, located at 868 Tahoe Blvd., #4, Incline Village, Nevada 89451, to get a quick dinner before heading to the community forum at Sierra Nevada College to listen to the trustee candidates for IVGID.

6. As Susan Herron and I were leaving to go to the forum, we noticed Ex-Trustee, Jim Smith sitting down at the bar. I recall making a comment to Ms. Herron that I guessed Mr. Smith would not be attending the forum that night.

7. After the forum, Ms. Herron and I greeted others we knew that were in attendance and it was decided we would meet for a social gathering. At approximately 8:00 p.m., we arrived back at Crosby’s Tavern & Gaming.

8. In addition to myself and Ms. Herron, Chairwoman Kendra Wong, IVGID Trustee Phil Horan and Trustee Peter Morris were in attendance.

9. As Ms. Herron and I were preparing to leave Crosby’s Tavern & Gaming, I again noticed ex-Trustee Jim Smith as he was leaving the restroom area. Mr. Smith was acting
coyly as he turned his hips and legs to the right, as if he was walking towards the bar area, but his upper body was turned towards our table. I realized then he had an iPad or large iPhone in his hands, on his left hip, and was taking pictures of our group.

10. I pointed Mr. Smith’s actions out to Ms. Herron, and simultaneously heard the other members of our group noticing the same.

11. Mr. Smith left quickly after taking the pictures and we could see him through the windows again taking pictures from his vehicle as the flash was very evident. Susan and I left soon after, negatively impacted by Jim Smith’s devious picture taking.

12. Mr. Smith’s behavior was inappropriate and unwarranted.

13. At no time during this function did any of the members of Board deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction or advisory power.

DATED: This 25th day of January, 2019.

[Signature]
SUSAN JOHNSON

SUBSCRIBED and SWORN to before me
This 25th day of January, 2019.

[Signature]
NOTARY PUBLIC

State of Nevada
County of Carson City
Subscribed and sworn before me on 25th day of January 2019

[Signature]
(Public Notary)
AFFIDAVIT OF KENDRA WONG

STATE OF NEVADA )
             ) ss.
COUNTY OF WASHOE )

Under penalty of perjury, I, Kendra Wong, hereby swear that the information contained in this Affidavit is true and accurate:

1. My name is Kendra Wong.

2. I am a resident of the State of Nevada.

3. I am over 18 years of age.

4. I serve as Chairwoman for the Board of Trustees ("Board") for the Incline Village General Improvement District ("IVGID"), a Nevada quasi-public agency.

5. On October 15th, 2018, at or about 8:00pm, I attended a social gathering at Crosby’s Tavern & Gaming, located at 868 Tahoe Blvd., #4, Incline Village, NV 89451.

6. In addition to myself, IVGID Trustee Phil Horan and Trustee Peter Morris were in attendance.

7. During this function, members of Board did not deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction or advisory power.

DATED: This 23rd day of January 2019.

KENDRA WONG

SUBSCRIBED and SWORN to before me
This 23rd day of January 2019.

SUSAN A. HERRON
NOTARY PUBLIC
EXHIBIT 3

EXHIBIT 3
AFFIDAVIT OF PHILIP HORAN

STATE OF NEVADA  
COUNTY OF WASHOE

) ss.

Under penalty of perjury, I, Philip Horan, hereby swear that the information contained in this Affidavit is true and accurate:

1. My name is Philip Horan.

2. I am a resident of the State of Nevada.

3. I am over 18 years of age.

4. I serve as Trustee for the Board of Trustees ("Board") for the Incline Village General Improvement District ("IVGID"), a Nevada quasi-public agency.

5. On October 15th, 2018, at or about 8:00pm, I attended a social gathering at Crosby’s Tavern & Gaming, located at 868 Tahoe Blvd., #4, Incline Village, NV 89451.

6. In addition to myself, IVGID Board of Trustees Chairwoman Kendra Wong and Trustee Peter Morris were in attendance.

7. During this function, members of Board did not deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction or advisory power.

DATED: This 23rd day of January 2019.

PHILIP HORAN

SUBSCRIBED and SWORN to before me This 23rd day of January 2019.

SUSAN A. HERRON
NOTARY PUBLIC
EXHIBIT 4
AFFIDAVIT OF PETER MORRIS

STATE OF NEVADA

COUNTY OF WASHOE

) ss.

Under penalty of perjury, I, Peter Morris, hereby swear that the information contained in this Affidavit is true and accurate:

1. My name is Peter Morris.
2. I am a resident of the State of Nevada.
3. I am over 18 years of age.
4. I serve as Trustee for the Board of Trustees ("Board") for the Incline Village General Improvement District ("IVGID"), a Nevada quasi-public agency.
5. On October 15th, 2018, at or about 8:00pm, I attended a social gathering at Crosby’s Tavern & Gaming, located at 868 Tahoe Blvd., #4, Incline Village, NV 89451.
6. In addition to myself, IVGID Board of Trustees Chairwoman Kendra Wong and Trustee Phil Horan were in attendance.
7. During this function, members of Board did not deliberate toward a decision or take action on any matter over which the Board has supervision, control, jurisdiction or advisory power.

DATED: This 24th day of January 2019.

SUBSCRIBED and SWORN to before me
This 24th day of January 2019.

PETER MORRIS

NOTARY PUBLIC
COMPLAINT
Via U.S. Mail

Incline Village General Improvement District – Board of Trustees
Kendra Wong, Chair
895 Southwood Boulevard
Incline Village, NV 89451

Re: Incline Village General Improvement District –
Open Meeting Law Complaint, OAG File No. 13897-313

Dear Chair Wong:

The Office of the Attorney General (OAG) has the authority to investigate and prosecute alleged violations of the Open Meeting Law (OML). NRS 241.039. The OAG is in receipt of a Complaint alleging OML violations by the Incline Village General Improvement District (District).

The OAG requests that the District, by and through its legal counsel, prepare a response and/or defense to the allegations contained in the attached Complaints. Please include any records or documentation that support the response.

Due to the time limitations set forth in NRS 241, the OAG asks that you respond on or before December 7, 2018.

Should you have any questions, please contact Althea Zayas at (702) 486-3224 or via email at azayas@ag.nv.gov.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: /s/ Rosalie Bordelove

ROSALIE BORDELOVE
Deputy Attorney General

RB: arz
Enclosures
STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
100 N. CARSON ST., CARSON CITY, NV 89701 – TEL# 775-684-1100 – FAX# 775-684-1108
555 E. WASHINGTON AVE., STE 3900, LAS VEGAS, NV 89101 – TEL# 702-486-3420 – FAX# 702-486-3768

COMPLAINT FORM

The information you provide on this form may be used to help us investigate violations of state laws. Please be sure to complete all required fields. The length of this process can vary depending on the circumstances and information you provide. The Attorney General’s office may contact you if additional information is needed. Supplemental materials can be attached to Section 6 of this complaint form, and if additional supplemental materials are acquired after submitting this form, please email them to AGINFO@oa.nv.gov with COMPLAINT in the subject line.

***ONLY COMPLAINTS THAT ARE SIGNED WILL BE PROCESSED***

HAVE YOU PREVIOUSLY FILED A COMPLAINT WITH OUR OFFICE? □ YES □ NO
If so, what are the approximate dates of previously filed complaint(s)?

SECTION 1: COMPLAINANT INFORMATION

<table>
<thead>
<tr>
<th>LAST NAME: Smith</th>
<th>FIRST NAME: Jim</th>
<th>M.I.N</th>
</tr>
</thead>
</table>

ORGANIZATION:

ADDRESS: PO BOX 3671  CITY: Incline Village  STATE: NV  ZIP: 89450

PHONE/MOBILE: 9169559705  EMAIL: JSmith@ServiceScouts.com

AGE GROUP □ UNDER 21 □ 21-39 □ 40-65 □ OVER 65

PRIMARY LANGUAGE:

SECTION 2: TYPE OF COMPLAINT

□ GENERAL INVESTIGATIONS □ OPEN MEETING LAW – skip to section 4
□ HIGH TECH CRIME □ PUBLIC INTEGRITY – against public officials or employees – skip to section 5
□ INSURANCE FRAUD □ WORKERS COMP FRAUD
□ MEDICAID FRAUD □ TICKET SALES
□ MORTGAGE FRAUD □ OTHER

Facebook: NVAttorneyGeneral  Twitter: @NevadaAG_YouTube: NevadaAG

Complaint Form: Rev. 10/2018

1 | Page
SECTION 3: BUSINESS OR INDIVIDUAL COMPLAINT IS AGAINST

<table>
<thead>
<tr>
<th>NAME OF BUSINESS OR PROVIDER:</th>
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<tbody>
<tr>
<td>INDIVIDUAL CONTACT NAME AND TITLE:</td>
</tr>
<tr>
<td>INDIVIDUAL/BUSINESS ADDRESS:</td>
</tr>
<tr>
<td>CONTACT TELEPHONE NUMBER:</td>
</tr>
<tr>
<td>INDIVIDUAL OR BUSINESS EMAIL:</td>
</tr>
<tr>
<td>INDIVIDUAL OR BUSINESS WEBSITE:</td>
</tr>
<tr>
<td>HAVE YOU CONTACTED AN ATTORNEY? □ YES □ NO IF SO, PROVIDE ATTORNEY'S CONTACT INFORMATION:</td>
</tr>
</tbody>
</table>

DETAIL THE FULL NATURE OF YOUR COMPLAINT, PROVIDE IDENTIFYING SPECIFICS:

DETAILS OF YOUR COMPLAINT

<table>
<thead>
<tr>
<th>DID YOU MAKE ANY PAYMENTS TO THIS INDIVIDUAL OR BUSINESS?</th>
<th>□ YES-Continue to Next Question</th>
<th>□ NO-Skip to Section 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>HOW MUCH DID THE INDIVIDUAL OR BUSINESS ASK YOU TO PAY?</td>
<td>$</td>
<td>DATE OF PAYMENT:</td>
</tr>
<tr>
<td>HOW MUCH DID YOU ACTUALLY PAY?</td>
<td>$</td>
<td>PAYMENT METHOD:</td>
</tr>
</tbody>
</table>

WAS A CONTRACT SIGNED? □ YES □ NO IF SO, DATE SIGNED:
IS A COURT ACTION PENDING? □ YES □ NO
HAVE YOU LOST A LAWSUIT IN THIS MATTER? □ YES □ NO
HAVE YOU CONTACTED ANOTHER AGENCY FOR ASSISTANCE? □ YES □ NO IF SO, WHICH AGENCY:
EXPLAIN YOUR ATTEMPTS TO RESOLVE THE ISSUE:

Facebook: @NVAttorneyGeneral Twitter: @NevadaAG YouTube: NevadaAG
SECTION 4: ALLEGED OPEN MEETING LAW VIOLATION IS AGAINST

| NAME OF PUBLIC BODY: (SPECIFIC BOARD, COMMISSION, AGENCY OR PERSON, ETC.) |
| IGID Board of Trustees: Chair Kendra Wong, Vice Chair Phil Horan, Treasurer Peter Morris and Board Clerk Susan Herron |
| DATE OF MEETING WHERE ALLEGED VIOLATION OCCURRED: October 15, 2018 |
| HAVE YOU CONTACTED ANOTHER AGENCY FOR ASSISTANCE? □ YES □ NO IF SO, WHICH AGENCY? |
| HAVE YOU CONTACTED AN ATTORNEY? □ YES □ NO IF SO, PROVIDE ATTORNEY'S CONTACT INFORMATION: |

MY COMPLAINT IS:
See Attachment A_
Complaint_IGIDTrusteesWongHoranMorris_Herron10152018.pdf

SECTION 5: PUBLIC OFFICIAL'S INFORMATION (WHOM YOUR COMPLAINT IS AGAINST)

| OFFICIAL'S NAME AND TITLE: | Chair Kendra Wong, Vice Chair Phil Horan, Treasurer Peter Morris and Board Clerk Susan Herron |
| GOVERNMENT AGENCY: | Incline Village General Improvement District |
| ADDRESS, CITY, STATE, ZIP: | 893 Southwood Boulevard, Incline Village, NV 89451 |
| OFFICIAL'S TELEPHONE NUMBER: | Wong 9162519664; Horan 7755446566; Morris 4156135664; Herron 7758466158 |
| HAVE YOU CONTACTED ANOTHER AGENCY FOR ASSISTANCE? □ YES □ NO IF SO, WHICH AGENCY? |
| HAVE YOU CONTACTED AN ATTORNEY? □ YES □ NO IF SO, PROVIDE ATTORNEY'S CONTACT INFORMATION: |

MY COMPLAINT IS:
See Attachment A_
Complaint_IGIDTrusteesWongHoranMorris_Herron10152018.pdf

Facebook: /NVAttorneyGeneral Twitter: @NevadaAG YouTube: NevadaAG
SECTION 6: EVIDENCE

List and attach photocopies of any relevant documents, agreements, correspondence or receipts that support your complaint. Copy both sides of any canceled checks that pertain to this complaint.

See Attachment A _Complaint_IVGIDTrusteesWongHoranMorris_Herron10152018.pdf

SECTION 7: WITNESSES

List any other known witnesses or victims. Please provide names, addresses, phone numbers, email address and website information.

Swarn Singh, P.O. Box 5195 Incline Village, NV 89450 (775) 846-2244

SECTION 8: SIGN AND DATE THIS FORM

(The Attorney General's Office will not process any unsigned, incomplete or illegible complaint forms)

I understand that the Attorney General is not my private attorney, but rather represents the public by enforcing laws prohibiting fraudulent, deceptive or unfair business practices. I understand that the Attorney General does not represent private citizens seeking refunds or other legal remedies. I am filing this complaint to notify the Attorney General's Office of the activities of a particular business or individual. I understand that the information contained in this complaint may be used to establish violations of Nevada law in both private and public enforcement actions. In order to resolve your complaint, we may send a copy of this form to the person or firm about whom you are complaining. I authorize the Attorney General's Office to send my complaint and supporting documents to the individual or business identified in this complaint. I also understand that the Attorney General may need to refer my complaint to a more appropriate agency.

I certify under penalty of perjury that the information provided on this form is true and correct to the best of my knowledge.

**ONLY COMPLAINTS THAT ARE SIGNED WILL BE PROCESSED**

SIGNATURE: Jim Smith
PRINT NAME: Jim Smith
DATE: October 28, 2018

Facebook: NVAttorneyGeneral Twitter: @NevadaAG YouTube: NevadaAG

Complaint Form: Rev. 10/2018nw
4 | Page
- **GENDER:** □ MALE □ FEMALE □ OTHER

- **ETHNICITY:** □ WHITE/CAUCASIAN □ BLACK/AFRICAN AMERICAN □ HISPANIC/LATINO □ NATIVE AMERICAN/ALASKAN NATIVE □ ASIAN/PACIFIC ISLANDER □ OTHER

- **MAY WE PROVIDE YOUR NAME AND TELEPHONE NUMBER TO THE MEDIA IN THE EVENT OF AN INQUIRY ABOUT THIS MATTER?** □ YES □ NO


Facebook: /NVAttorneyGeneral Twitter: @NevadaAG YouTube: NevadaAG

EMAIL AGINFO@ag.nv.gov to submit any additional information.
Attachment A: Complaint Open Meeting Law and Public Integrity

In violation of the Open Meeting Law three IVGID Board Trustees convened a quorum without public notice to deliberate and decide upon matters over which the public body has supervision, control, jurisdiction or advisory power. These matters included discussion of the Board's upcoming October 24th, 2018 meeting agenda. In addition, these three Trustees consisting of IVGID Board Chair Kendra Wong, IVGID Board Vice Chair Phil Horan and IVGID Board Treasurer Peter Morris discussed strategy to discredit a current Trustee's bid for re-election along with his running mate, Sara Schmitz using IVGID and other resources to ensure the re-election of current Chair Wong and her running mate, former Trustee Bruce Simonian. There are two open IVGID Board seats in the upcoming General Election.

As a former IVGID Trustee (2013-2015) and Chairman of the Board of Trustees in 2015, I know this is an Open Meeting Law Violation. Crosby’s restaurant staff and many Incline Village residents came to me at the restaurant to voice their concerns that a quorum of our public body and IVGID senior management were meeting in this manner. Crosby’s staff said, “This meeting is wrong and to hear what they are saying is upsetting.” Crosby’s staff along with many concerned citizens requested I report this to the Office of the Attorney General. I followed up with each of these individuals in the following days(s) and they asked me to file this report and notify the community. Crosby’s staff as well as other Incline Village residents (except a Witness on the Complaint Form) asked not to be named in this complaint as they feared retaliation by Trustees Wong, Horan, and Morris, Candidate Simonian, Board Clerk Susan Herron, IVGID and TrueBlueFacts. I'm a Licensed Private Investigator (NV License#2604) with the best interests of the community in mind and I feel it’s my duty to report this.

Here are the details:

On the evening of Monday, October 15th, 2018 between the hours of 5:30 pm to 7:45 pm the Tahoe Daily Tribune held an IVGID Trustee Candidate Forum at Sierra Nevada College. Current Chair Wong, current Trustee Callcricate, Sara Schmitz and a former IVGID Board Chair Bruce Simonian presented their campaign positions and answered questions from the moderator. Over 100 Incline Village/Crystal Bay citizens were in attendance. In addition to current Trustees Morris and Horan, there were many IVGID employees present, including Susan Herron, IVGID Board Clerk and Executive Assistant to the IVGID General Manager.

At about 8:10 pm, I noticed IVGID Trustees Kendra Wong, Phil Horan, Peter Morris, Board Clerk Susan Herron, and former IVGID Trustee and Trustee Candidate Bruce Simonian arriving at Crosby’s Restaurant within a few minutes of each other. I observed tables being pushed together and a gathering of additional chairs to accommodate them and others arriving for this meeting. I recognized Susan Johnson, former IVGID Human Resource Director and IVGID Consultant seated with them. Other folks arrived and joined them in what appeared to be a meeting of 12 people. (Crosby’s Restaurant is located in Incline Village at 868 Tahoe Blvd. #4.)

Trustees Kendra Wong, Peter Morris and Phil Horan could be overheard talking about the Board agenda for the upcoming monthly IVGID October 24th Board Meeting. Concerns were raised about holding the upcoming meeting before the General Election as Peter Morris would be out of the country and would not be present to support their Agenda as well as counter any unwelcome comments from the public and other Trustees. It was overheard they should cancel the Board of Trustee Meeting for October 24. Ever since Peter Morris was seated on the Board in 2017 through the present, there is strong evidence of a “majority voting block” as Wong, Horan and...
Morris have voted together on every single Board Action except one. (Please note, on Friday, October 19th, Trustees Dent and Callicate were notified by the Board Clerk via email that the October 24th Board meeting was cancelled. There was no explanation provided.)

Trustees Callicate and Dent’s written requests to put FlashVote, Public Records Conduct, and Wong Letter for $7.5 million in matching funds on the October 24th Meeting Agenda was discussed. Concerns could be overheard by Trustee Wong regarding emails sent to the Board from Kevin Lyons and Trustee Callicate’s and Trustee Dent’s email correspondence requesting Board Action Agenda items as attached herein and how this might negatively effect her re-election if presented and discussed at the October 24th Board of Trustee Public Meeting.

Trustees Wong, Horan, Morris, Herron, Simonian and others could be overheard discussing the responses made by Trustee Callicate and Sara Schmitz at the Candidate Forum along with comments on how IVGID resources and TrueBlueFacts could be used to discredit them. TrueBlueFacts ("TBF") is an unregistered Political Action Committee. TBF has specifically designed its website, mass emails, postal and newspaper ads to manufacture false and misleading information to malign the professional and personal integrity of Candidates Callicate and Schmitz in order to influence the General Election. This organization has also sent out threatening emails to citizens in our community for disclosing Chair Wong’s unlawful actions as IVGID Board Chair. Almost all of TBF’s members are financial supporters of Chair Wong and Former Chair Simonian’s election campaigns. A few of the individuals associated with TrueBlueFacts who post on social media material obtained from TrueBlueFacts website, emails and postal mailers were seated at this table.

This meeting of IVGID Board Chair Wong, Board Vice Chair Horan and Board Treasurer Morris was a quorum as the Incline Village Board of Trustees consists of 5 Trustees. Trustees Matthew Dent and Tim Callicate were not present and were not in the restaurant. Callicate and Dent informed me that they were not invited to the meeting held at Crosby’s.

This meeting was not publicly noticed.

I departed at about 9 pm and they were all still seated; many were consuming food and alcoholic beverages as depicted in the photos. Crosby’s staff informed me that this meeting lasted until closing (about 11 pm) and they continued to consume alcoholic beverages.

I’m aware that IVGID Trustee Kendra Wong’s actions as Board Chair has resulted in many Open Meeting Law Complaints filed against IVGID as a consequence of her disrespect for the law. As a result, IVGID has been cited for more than 16 violations. In addition, IVGID and its legal counsel have been cited for violating the intent and the spirit of the Open Meeting Law. I feel strongly that it is time to hold Chair Wong accountable along with those Trustees who are intentionally violating the Open Meeting Law. The Office of the Attorney General should take action to protect the rights of our citizens and not permit further abuse of Nevada law to continue. If these Trustees all feel that they can meet in a public place as a quorum without proper notice, what are they doing in private?

*I am requesting that this Complaint along with all the Attachments be shared with the Public Integrity Unit. I am extremely concerned that these three Trustees have been working with IVGID Staff and TrueBlueFacts to influence the General Election. Trustee Morris has been particularly active on social media posting information from the TBF website and viral emails that are bullying in nature. At the Candidate Forum Trustee Wong stated specifically that she
along with members of IVGID staff had provided one of TBF’s Officers, Jim Croley, with information he posted on the TBF website and blast emails as well as his postings on other social media. Mr. Croley is a seasonal part-time IVGID ski instructor and his wife is also employed by IVGID as a receptionist.

Further concern about IVGID Trustee election interference occurred after Trustee Horan had volunteered as a poll worker in Incline Village during the primary elections and I was informed he fired by Washoe County for his inappropriate behavior as a poll worker and his attempts to influence the Primary Election by suggesting our residents vote for Simonian and Wong. It is my understanding that several Incline Village/Crystal Bay voters filed complaints with the Secretary of State as well as corresponding with Washoe County Commissioner Chair Marsha Berkbigler. Trustee Horan was fired as a poll worker shortly thereafter on or about May 7, 2018. An Election Integrity Violation regarding IVGID Vice Chair trustee Phil Horan was filed to the Secretary of State Office on May 6, 2018.

These photos were taken on October 15, 2018 at Crosby’s Restaurant at approximately 8:40 pm. Seated together at the meeting: Chair Kendra Wong, Vice Chair Phil Horan, Treasurer Peter Morris, IVGID Board Clerk/Executive Secretary to the General Manager Susan Herron, former IVGID Human Resource Director and Consultant Susan Johnson, and former IVGID Trustee/IVGID Trustee Candidate Bruce Simonian:
Email from IVGID Trustee Mathew Dent requesting three (3) Business items for “Possible Action” to be placed on the October 24, 2018 Agenda and correspondence:

Matt,

The first two items were not prepared in accordance with Policy 3.1.0.

From Policy 3.1.0

0.5 Item(s) of Business. The item(s) of business at the regular meetings of said Board may include, but are not limited to:

- Roll call of the Trustees
- Initial Public Comment
- Public Hearings (if any)
- Approval of minutes
- Approval of agenda
- Approval of bills
- Reports
- Consent Calendar*
- General Business*
- Final Public Comment
- Adjournment

* Unless otherwise approved by the Board Chair, no matter shall be heard, or acted upon unless all relevant materials have been included in the Board of Trustees Meeting Packet.

As I said last time you requested agenda items, you need to prepare request agenda items, prepare memorandums, and submit the necessary materials to myself and the Board Clerk before they can be considered for an agenda item.

The third item is not an agenda item at this point because it is a litigation non-meeting matter. I am working with Jason and Steve to schedule a litigation non-meeting.

Best,
Kendra

On Mon, Oct 15, 2018 at 3:33 PM Matthew Dent <matthew.ivgid@gmail.com> wrote:

As discussed, I would like to add the following items to the agenda for next week's meeting:

1. (For Possible Action) Public Records Conduct: Discussion of the ongoing IVGID public records fulfillment conduct with citizen and staff, to include presentation of

https://mail.google.com/mail/u/1?ik=001e04f505&view=pt&search=all&pli=1&permmsgid=msg-f%3A0144638719234035687&dsq=1&simp=%3A10148...
material evidence by citizens, as available, and to include review and discussion of material evidence for staff compliance, with possible direction to staff.

- I request this item be placed at the front of the agenda to ensure maximum public participation.

2. (For Possible Action) Review and discuss the $7.5M matching funds letter sent by Board Chair Wong for the Tahoe Transportation District’s BUILD application.

And... I just noticed an email regarding violating the GSGI settlement please include the following agenda item:

3. (For Possible Action) Remedy of breach of GSGI settlement agreement by Trustee Wong acting without authorization or approval of the Board of Trustees. Issue a statement directing Ms. Wong to comply with the GSGI settlement agreement going forward. Issue a statement directing Ms. Wong to immediately and materially comply with the standard remedies for breach proposed by GSGI.

If you have any questions, please call me. Thank you, Matthew

Trustee Matthew Dent
Incline Village GID Board of Trustees
(775) 530-1345 | www.matthewdent.com
893 Southwood Blvd. Incline Village, NV 89451
Email from IVGID Trustee Tim Callicrate requesting a Business item to be placed on the October 24, 2018 Agenda and correspondence:

From: tim callicrate <tim2tahoe@msn.com>
Sent: Monday, October 15, 2018 3:06 PM
To: Kevin Lyons <kevin@flashvote.com>; Pinkerton, Steve J. <steve_pinkerton@ivgid.org>
Cc: Herron, Susan <Susan_Herron@ivgid.org>
Subject: Re: Ms. Wong's recent defamation against GSGI and breach of the settlement agreement between IVGID and GSGI

Dear Steve,

Please put this item on our next meeting’s (October 24) agenda. Thank you.

Tim

From: Kevin Lyons <kevin@flashvote.com>
Sent: Monday, October 15, 2018 2:58 PM
To: horan_trustee@ivgid.org; morris_trustee@ivgid.org; dent_trustee@ivgid.org; callicrate_trustee@ivgid.org
Cc: Kendra Wong; kwong.ivgid@gmail.com
Subject: Ms. Wong’s recent defamation against GSGI and breach of the settlement agreement between IVGID and GSGI

Dear Mr. Horan, Mr. Morris, Mr. Dent and Mr. Callicrate-

This email is to inform you that one of your colleagues, Kendra Wong, has violated the settlement agreement with GSGI on behalf of IVGID by making false and disparaging statements about “protecting resident’s personal data from misuse by FlashVote”.

Despite our repeated notices and patience (emails below) Ms. Wong has to yet to respond or inform us that she will be taking the standard corrective action we have outlined.

As you know, a core provision of the settlement agreement between IVGID and GSGI was that IVGID officers and employees would cease making false and disparaging statements pertaining to FlashVote and GSGI. We allowed IVGID to settle its fraudulent and unauthorized lawsuit against GSGI for a payment of only $10,000 because the settlement also included this important “non-disparagement” covenant.

We trust that the actions of Ms. Wong were not authorized by the board or any of you individually and that each of you condemn those actions. To confirm that this is true, and to ensure that this breach is cured promptly and amicably, we request
that you place the following item (or a substantially similar item) on the agenda for the next public meeting to hasten corrective action:

“For possible action – Remedy of breach of GSGI settlement agreement by Trustee Wong acting without authorization or approval of the Board of Trustees. Issue a statement directing Ms. Wong to comply with the GSGI settlement agreement going forward. Issue a statement directing Ms. Wong to immediately and materially comply with the standard remedies for breach proposed by GSGI.”

To confirm that none of you condone this misconduct, feel free to cc me (kevin@flashvote.com) on your individual email(s) making your demand for this agenda item and action.

Compliance with this request and corresponding immediate corrective action by Ms. Wong will cure this breach as to IVGID. Noncompliance will result in GSGI taking additional actions, including aggressive self-help, and IVGID incurring additional liability.

Thank you for your prompt attention to this matter and do not hesitate to contact me with any questions.

Best,

-Kevin

510-593-4901

CEO, Governance Sciences Group, Inc.

From: Kevin Lyons [mailto:kevin@flashvote.com]
Sent: Tuesday, October 2, 2018 4:20 PM
To: 'Kendra Wong'; 'kwong.ivgid@gmail.com'
Subject: RE: your recent defamation against GSGI and breach of the settlement agreement between IVGID and GSGI

Hi Kendra-

We are now aware of a third defamatory print advertisement in the Tahoe Daily Tribune on or about September 28, 2018 stating that you:

“Led legal action protecting resident’s personal data from misuse by FlashVote”

Your continued defamatory misconduct is outrageous and another breach of the non-disparagement clause of the settlement agreement. Our demands remain as follows, with an extra (third) print advertisement retraction required now of course:
-Our first demand is that you provide a full accounting of all publications or media, print or digital of any kind, within which these or similar advertisements or messaging have been placed or appeared.

-Our second demand is that you cease and desist any similar advertisements or messaging.

-Our third demand is that you publish a full retraction and apology of equal prominence, size and frequency as the defamatory advertisements or messages, in the same publications and media in which they have been placed or appeared.

If you do not confirm or wish to confirm that you will be complying with these very reasonable demands by noon this Friday October 5th, 2018, we will be escalating this matter with a mix of corrections, legal action and other self-help remedies for which we will hold you liable for all costs, in addition to defamation damages.

We look forward to your prompt reply and agreement to remedy this matter.

Best,

-Kevin

From: Kevin Lyons [mailto:kevin@flashvote.com]
Sent: Tuesday, September 25, 2018 8:08 PM
To: 'Kendra Wong'
Subject: your recent defamation against GSGI and breach of the settlement agreement between IVGID and GSGI

Hi Kendra-

It has come to the attention of Governance Sciences Group, Inc. (GSGI) that you recently ran a print advertisement in the Tahoe Daily Tribune on or about September 14, 2018 stating that you:

“Led legal action protecting resident’s personal data from misuse by FlashVote”

We are also aware of a previous print advertisement in the same publication on or about May 31, 2018 in which you similarly stated that you:

“Spearheaded legal action protecting resident’s personal data from misuse by FlashVote”

These are false and disparaging statements.
As you know, a core provision of the settlement agreement between IVGID and GSGI was that you and other IVGID officers and employees would cease making false and disparaging statements pertaining to FlashVote and GSGI. We allowed IVGID to settle its fraudulent and unauthorized lawsuit against GSGI for a payment of only $10,000 because the settlement also included this important covenant.

Each of your statements clearly violate the settlement provision with IVGID, and constitute acts of defamation by you against GSGI.

Based on your known and stated involvement in this matter you are fully aware of the settlement agreement and its terms. You know (and have seen proof) that IVGID never provided any resident data of any kind to FlashVote. You know that FlashVote has never misused any resident data or user data of any kind. You know that there has never been any possibility of misuse of personal data by FlashVote because people who signed up for FlashVote (including you) are governed by their ongoing decisions to participate and by the FlashVote terms of service.

You know that IVGID’s legal action had nothing to do with “protecting resident’s personal data from misuse by FlashVote” because there was nothing for IVGID to protect. You know that IVGID’s legal action was actually a misguided and illegal attempt to steal residents data from FlashVote and to interfere with the rights of residents and other FlashVote users to provide feedback to IVGID. You know there has never been any basis for your recent false statement and accusation that FlashVote would misuse resident data.

You even know that the referenced legal action was so totally and obviously fraudulent that it could never be authorized in a public meeting with public oversight, or filed by any disinterested counsel, so you conspired with staff to “spearhead” the filing of the legal action in secret and without the legally required approvals to take action and spend public money.

And finally, to reiterate, you know that for all the above reasons and more, IVGID wrote a $10,000 check to settle the legal action that it initiated.

Your statements are serious misconduct for which GSGI demands an immediate and appropriate remedy.

Our first demand is that you provide a full accounting of all publications or media, print or digital of any kind, within which these or similar advertisements or messaging have been placed or appeared.

Our second demand is that you cease and desist any similar advertisements or messaging.
Our third demand is that you publish a full retraction and apology of equal prominence, size and frequency as the defamatory advertisements or messages, in the same publications and media in which they have been placed or appeared.

We will give you the opportunity to propose language for the retraction and apology by 3pm tomorrow (3pm on Wednesday September 26, 2018). If you do not wish to provide proposed language by that time we will be happy to provide acceptable language to you.

We trust you will agree to cure your breach of agreement and defamation against GSGI in the reasonable manner we have specified so that we are not required to take legal action against you as an individual for defamation, and against IVGID and you (as an IVGID official) for breach of the settlement agreement.

We thank you in advance for your full and prompt cooperation in resolving this matter. Do not hesitate to contact me with any questions.

Best,

-Kevin

510-593-4901

CEO, Governance Sciences Group, Inc.

This photo taken on May 6, 2018 at Raley’s Supermarket, Incline Village, NV - Washoe County Polling Place. IVGID Vice Chair Phil Horan at the podium on the phone in the photo and a complaint was filed as he was suggesting voters to vote for Wong and Simonian:
TrueBlueFacts Postcards received in Direct Mail and one blast Email of many sent out to Incline Village/Crystal Bay voters:

SARA SCHMITZ FAILS TO LIVE UP TO HER STATED VALUES

- Sara Schmitz lacks the three values: Honesty, Integrity and Appreciation.
- Her behavior during this campaign demonstrates that she's not living up to these values.

We should expect more of the same if she is elected to be an NVGID trustee.
From: TrueBlueFacts <info@truebluefacts.com>
Sent: Thursday, October 11, 2018 10:09:22 PM
To:
Subject: IVGID Financial Transparency is There for All to See

View this email in your browser

Callicrate and Schmitz Claim TrueBlueFacts Tells Lies Instead of Facts
The mission of TrueBlueFacts is to educate our residents with fact-based information to inform their decisions in the upcoming election for the IVGID Board of Trustees
Through objective research, TrueBlueFacts analyzes candidate policy positions and identifies facts that may indicate their fitness to hold office
It is Callicrate and Schmitz who have repeatedly demonstrated character flaws and lack of capability to be IVGID trustees
Key findings by TrueBlueFacts shared through various media include:
Callicrate:
Character:
Forensic analysis and statements by two eye witnesses confirm he lied that his Facebook account was hacked, and that 45 vile, bigoted posts in 2014-2018 are his
DUI convictions demonstrate repeated disregard for public safety and poor decisions
Capability: Financial performance while a leader of Red White and Tahoe Blue demonstrates he lacks the ability to deliver on his highest priority of fiscal responsibility
Schmitz
Character: Her behavior during the campaign demonstrates she’s not living up to her stated values of Honesty, Integrity and Appreciation
Capability: Participation at Board of Trustee meetings demonstrates her Inability to move beyond minutia to address strategy matters

Callicrate and Schmitz policy positions are based upon propaganda that falsely accuse IVGID and its leadership of fraud and incompetence, including:
Demands for a forensic audit, that presumes fraudulent accounting
Accusations that IVGID financial data lacks transparency based on their own lack of understanding. Claims that IVGID project management is deeply flawed when external reviews and publicly available data say just the opposite. Most disturbingly, Callicrate and Schmitz have stated their intent to partner with Trustee Dent to control the IVGID Board, putting it under the control of Cliff Dobler, who loaned Dent $400,000 and contributed to both Callicrate and Schmitz’s campaigns.

TrueBlueFacts stands by these FACTS, and challenges Callicrate and Schmitz to produce evidence that we are materially wrong. If our facts were in error, we’ll publicize it and donate $500 to a charity of their choice.

TrueBlueFacts was registered on August 1, 2018 and is not a political organization. Its officers are publicly disclosed and are supported by many community volunteers.

Gene.Brockman
(IVGID Trustee 2002–10, Chair 2005, 2010)
Jim Clark
Jim Croley
Ed Gurowitz
John Iannucci
Chuck Otto
Steve Pulver
Kaye Shackford
Joe Shackford
Joe Wolfe
(IVGID Trustee 2010–14, Chair 2014)
Paid for True Blue Facts Image

Want to change how you receive these emails?
You can update your preferences or unsubscribe from this list.

Email Marketing Powered by Mailchimp

True Blue Facts Officers Campaign Contributions:

Kendra Wong Campaign Contributions from officers of TrueBlueFacts (Jim Clark, Joe Wolfe, John Iannucci, Steve Pulver, Joe Shackford.
Source: www.nvsos.gov/SOSCandidateServices

Bruce Simonian Campaign Contributions from officers of TrueBlueFacts: (Joe Wolfe, Jim Clark, Joe and Kaye Shackford.
source https://www.nvsos.gov/SOSCandidateServices