

MINUTES

REGULAR MEETING OF MAY 6, 2020 Incline Village General Improvement District

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Wednesday, May 6, 2020 at 5:00 p.m. This meeting was conducted virtually via Zoom.

A. PLEDGE OF ALLEGIANCE*

The pledge of allegiance was recited.

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

On roll call, present were Trustees Peter Morris, Tim Callicrate, Sara Schmitz, Matthew Dent, and Kendra Wong.

Also present were District Staff Members Director of Public Works Joe Pomroy, and Director of Finance Paul Navazio.

No members of the public were present in accordance with State of Nevada, Executive Directive 006 and 016.

C. PUBLIC COMMENTS

District Clerk Susan Herron said that one written comment was received from Garrett Simon; it will be attached to the minutes of this meeting.

Bret Hansen said good evening Trustees and that his name is Bret Hansen and he is the District Manager of Incline Village for Waste Management. He wanted to give an update on how we are managing our work during this COVID-19 epidemic. First, he is happy to report that we have zero cases of COVID-19 amongst our employees and we are working diligently to keep it that way. Our drivers, who are essential workers, are devoted to ensuring that your municipal solid waste is picked up every day. We have ample stock of hand sanitizer, face masks, and gloves to protect our workers as well as disinfectant wipes and sanitizer to clean our offices and trucks. Unfortunately, these changes include suspension of excess waste collection, also known as the "pine needle program." We must prioritize trash and recyclable collection as these volumes are significantly up in recent weeks. We expect continued increased residential volumes for the duration of the crisis as residents have been ordered to stay at home and shelter in place. Because of that,

we have temporarily suspended extra bag pick up to focus our drivers and collection services on immediate customer needs for collection of trash and recyclables critical to protecting health and public safety. We are maximizing our automated collection equipment whenever possible. This limits the physical touching of the items that we pick up. Our employees, like many other essential workers during this time, are very concerned about their safety and want assurances that we are doing everything possible to protect them. They are concerned about their exposure and bringing back the COVID-19 virus back to their families. Waste Management is committed to providing our employees with the safest working conditions possible. Excess waste collection has been temporarily suspended in all of Northern Nevada. We have been following the State of Nevada's guidance in regard to social distancing and we continue to monitor the changing situation. We have been in constant communication throughout this crisis with Public Works and the Interim District General Manager to review our processes. Last week, we reopened the Incline Village transfer station to the public. This week, we have begun to allow customers with pine needles to dump free of charge – regardless of stickers and not using their four free dumps. We understand that this is not a solution for every customer, however, we are constantly monitoring the situation to do what is best for both our essential workers and the public. We understand that Incline Village is in a fire zone and the pine needle program is a valuable tool to reduce the amount of fuel that a fire may use. We want to assure you that we are doing our best to provide necessary services to the community while ensuring the health and safety of our customers and our employees. As more information about the state's reopening plan is unveiled, we will continue to reassess the situation and begin picking up the pine needles as soon as possible. Please keep in mind that once the Spring collection program begins, it will continue for a full twelve weeks from the start date.

Ryan Sommers, Fire Chief for North Lake Tahoe Fire Protection District, said with the announcement of Waste Management and following the CDC guidelines, and the extra pickup of pine needles and green waste, we do feel that there is little bit of fuel load thus we have offered to go and pick up the pine needles for any client where there is an issue. These pickups will not go on forever and they will cease when the sticker program goes into effect.

Linda Newman said as we confront the health and safety challenges of this dangerous pandemic on our staff and our community and the economic fallout on our citizens and our District's finances, there is no margin for error. NONE. Now is the time for professionalism to triumph over personalities and performance to overtake promises. We must begin by placing the leadership, responsibility and accountability where it belongs – with the Board. Interim GM Winquest is eager to take on his responsibilities, but is unable to do so because he has no experience

in setting priorities and running a District and is operating with a skeletal staff. New Director of Finance Navazio has just arrived and does not have an understanding of the District's operations and as he lacks a CPA does not have experience in preparing financial statements or opining on compliance with Government Accounting Standard Board Statements. Our Director of Public Works has not satisfactorily budgeted or executed capital projects and has significantly mismanaged lining our storage pond and replacing the 6 miles of failing effluent pipeline. Our public records officer has difficulty complying with public records requests and the Nevada law governing public record requests. We have recently terminated Counsel Guinasso who has invited a public records lawsuit that has mired our District in what will soon be hundreds of thousands of dollars of legal fees with independent counsel Beko. Now is the time for this Board to approve the engagement of independent experts to provide the professional expertise this Board requires to effectively manage our District and provide the necessary outside resources for our interim General Manager to succeed in his new position. It is also necessary for you to exercise your fiduciary duties and properly shepherd our public money. You cannot in good conscience pay Mr. Beko more than \$42,000 for unapproved and unbudgeted legal expenses. Terminate Mr. Beko immediately and engage a competent lawyer to settle Mr. Smith's lawsuit for public records. She also recommends that the Board revise Policy 3.1.0 and restrict the Interim General Manager's spending authority. Not increase it to \$100,000. How we prioritize and implement Capital Improvement Projects must be overhauled from start to finish. A construction project audit and internal controls review is a good start.

Cliff Dobler said this is on the Smith litigation; a quote from Indra Winquest, January 15 memo to the Board of Trustees – this case started out as case about public records has now morphed into a case about attorney/client privilege. Now this is it, it is vital that this District do everything within its powers to protect this privilege. So there you have it, why. According to Winquest, this lawsuit is not about his right to obtain public records but instead about protecting the one and only person Jason Guinasso who decided on his own without authority that a massive number of documents requested by Smith were attorney/client privileged. From July 30, 2018 to the end of 2019, several actions have ensued. The court decided that Smith was not to pay anything to obtain public records, IVGID asked the court to reconsider and was to go home and IVGID argued about a privilege log that was totally irrelevant and Smith asked the court to perform an in-camera review to determine if 13,000 documents withheld by Guinasso were actually privileged. The court decided that an in-camera review was premature and the court would also dismiss IVGID's motion for summary judgement. Everybody went home for Christmas. In January 2020, Smith motioned the court to ask IVGID to release

approximately 500 documents which could not possibly be considered attorney/client privileged and requested a status conference. IVGID caved paving a way to review the 500 documents seemingly knowing that a defense was impossible. In exchange for release Wong as a defendant, Smith and IVGID agreed that a master would be selected from six attorneys, three each, to review the 500 documents and determine which of the documents are truly attorney/client privileged, if any. The hearing is scheduled on May 13 wherein the court will select the master and the results will come back in the summer. Who will pay the master, the loser which of course will be IVGID. Meanwhile, in this nightmare, Guinasso being the instigator and unauthorized decision maker on attorney/client privilege has been fired. Two Board members have stated in public meetings that all the records of the District are public information. The Nevada Revised Statutes requires the citizens are entitled to public records. What has the citizens gotten so far – lawsuits and legal fees. IVGID has recently threw a settlement offer to Smith which will undoubtedly be rejected. So where does IVGID stand if the master determines that most of the 500 documents were in fact not privileged, Smith will have won again and probably make a motion to the court that the remaining 13,000 documents should be reviewed. Logic suggests that this will be the result. His recommendation is that this Board get off their butts, live up to their obligation and decide what documents are truly not attorney/client privileged, deliver them to Smith and end the litigation and seek recovery of legal fees from Guinasso.

Judith Miller said thank you to the Audit Committee as she listened to their meeting today. It was wonderful to hear that the Audit Committee is taking on the responsibility of being a fiduciary to the citizens. She thinks that internal controls are sorely lacking and hopefully the Board will go forward in hiring someone to head up that effort as well as approve the new policy. Reviewed the packet for tomorrow and we still don't have a very clear picture of what each department, division and fund would look like without the Recreation Fee because instead of appearing under the appropriate program or venue as the facility fee, the capital and debt portion appears as a transfer from that convoluted device that we all know as the Community Services Fund. Second, it is very difficult to read the line item reports in the workshop packet because they don't have descriptions from that legend of our account structure. It would also be greatly appreciated if someone could fix those reports and post them so that those descriptions show. Third, what is division 990, it is not included in the legend so if you could add that, she would appreciate it. Have an idea for a new revenue source – how about Christmas tree sales. IVGID has areas where trees were thinned and they are now filling up with the perfect sized Christmas trees - we could certainly use some new revenue at this particular juncture. Hopefully, you will also consider some cuts as we can always go back and add things but once things are in this budget, it is very difficult

to stop that from moving forward so please be very cautious in your approval of the budget.

Aaron Katz said that he is submitting a couple of written statements that he asks by attached. \$42,000 – his statement is going included some information, you will see that Mr. Guinasso and Trustee Wong are clients and they are obligated to pay these fees. Trustee Wong is not off the hook as she is not removed from the agreement. He agrees with Mr. Wolfe that at the Audit Committee, you need to do your job and that is don't pay attorney fees for litigation you don't know about. This litigation was caused by Mr. Guinasso so go to him. His written statement includes information from 1965 when Mr. Tiller got the right to public recreation and that it was not to be used it to acquire any other recreation. Bocce is a different type of facility thus it becomes an unconstitutional item. Learned today we have spent more than ninety thousand dollars with eleven thousand dollars being spent on design and engineering work. We spent over one hundred thousand dollars for a Community Services Master Plan in which we were all surveyed and the public said don't spend money on new projects and maintain what we have. This Board is going to do the opposite which is disgusting. Mr. Warren sent an e-mail to the Interim District General Manager that Recreation Fee be reduced to four hundred dollars and the response was that is impossible as we will have to shut down our facilities.

Gwen Paul said she was calling to show some appreciation for IVGID and that she would like to start with how excited she is about bocce ball. She has been watching the remote wellness courses and it is really nice to have a resource/outlet as an essential worker who can't go to the Recreation Center. She got an e-mail about golf and she is super excited about getting back on the course. She is excited and she tunes in far too often to these meetings and she wants the Board to know that the majority of people are really happy. The beaches have been fantastic and lovely. It is frustrating to hear the same people when the reality is we are thankful for what you do. Please stay healthy.

Frank Wright said he is a candidate for the Board of Trustees. The agreement that was signed by Trustee Wong, Mr. Guinasso and former District General Manager Pinkerton to retain ETS was done without anyone knowing that they were signing it. They committed themselves to the fees to get public records. The lawsuit moved on for eight months and the Board should have had involvement in this lawsuit as there are three individuals who are clients and they are responsible to the costs. When you break it down, let's say that the District General Manager can initiate this work then you have two more people – Trustee Wong and Mr. Guinasso. If you divide this into equal parts, it means one third each. Trustee Wong you owe

thirty thousand dollars and Mr. Guinasso owes thirty thousand dollars. If we finish, and pay Mr. Smith's fees, you owe another thirty thousand dollars each. Look at why this lawsuit took place - Staff and Mr. Guinasso worked together to hide information and had these people gone before the Board, been above board, maybe the Board could have helped out. Mr. Guinasso doesn't have any clients and unilaterally he became his own client and attorney. It is unbelievable.

Margaret Martini read from a written statement which is attached hereto.

At 5:29 p.m., the Chairman called for a three minute break. The Board reconvened at 5:31 p.m.

Trustee Schmitz said that Mr. Hansen just spoke about twelve weeks of pine needle pick up; the contract says sixteen weeks – can we get that clarified please.

Mike Abel said there is an ongoing issue with Waste Management and then there is the Smith litigation which other participants have adequately handled. He has, within the last hour, e-mailed to the Board members internet links to the petitions that he has sponsored on both of these issues. He wants IVGID to kick the heat up on Waste Management to make them perform properly on their contract with IVGID. Interim District General Manager Winquest has done a good job of standing up for in this area but it is not time to let up. Using the pandemic as an excuse for not doing their job means that Waste Management is trying to cop out. He would also urge any resident to go onto to change.org and sign the petition urging Waste Management to do their job. Search Waste Management Incline Village for the link on change.org or e-mail him at mikeabel@pacbell.net. It just over four days, we have fifty signatures of annoyed residents. His second point this evening relates to the insane Smith lawsuit. Our petition has been signed by thirty nine community members protesting what has already been talked about by others on the Board. He says let Smith review the 13,000 e-mails and Trustees should direct Beko to terminate any defense actions and terminate the lawsuit, pay Mr. Smith his legal fees and say goodbye.

D. APPROVAL OF AGENDA (for possible action)

Chairman Callicrate asked for any changes and said that on General Business Item G.6. he has received some additional information that he has become privy to today and therefore he would like to move that item to the next meeting. Trustee Morris said he would like to have General Business Item G.3. removed and take that forward to the next meeting as the information is incomplete, a bit of mess, he hasn't time to review it, and it is missing the transition plan. Further, he would like

it redone in a proper format so we can compare it as he finds it impossible to compare so let's get it redone and represented next month; let's get it right. Chairman Callicrate asked for Legal Counsel guidance. District General Counsel Alex Velto said it is your discretion and you can hold a vote if you desire.

Chairman Callicrate made a motion to ask the Board members who was in favor of moving forward with General Business G.3. Trustee Schmitz seconded the motion. Chairman Callicrate called the question – Trustees Callicrate, Schmitz, Wong and Dent voted in favor and Trustee Morris voted opposed. Chairman Callicrate said the vote was four to one so General Business Item G.3. is left on the agenda.

Chairman Callicrate said that the agenda is approved as revised.

E. DISTRICT STAFF UPDATE (for discussion only)

E.1. Interim District General Manager Indra Winqest

Interim District General Manager Indra Winqest went over his submitted report.

Chairman Callicrate said that he has been in contact with the Interim District General Manager every day and sometimes more than once per day and that the Interim District General Manager has been in contact with all of us at least a couple of times per week so the District is not being operated in a vacuum. Things change every day and they are on the upside. We are taking all the safety precautions to keep people safe. If you are someone that has some comprised activities and in the age bracket, you need to be responsible and we need to get the District operating again. We are evaluating everything as it moves forward and we are trying to avail the necessary resources to make sure they are best in an expedited manner. As they become more available, they will be made available to the community.

Trustee Schmitz said thank you for making the adjustments at Ski Beach based on the pleas from the paddlers and asked if this has been communicated. Also, do you have sort of a timetable relative to beverages and food and beverages at the beaches. All employees are critical team members and are we taking temperatures before they come to work to ensure that everyone is safe and healthy.

Interim District General Manager Winquest said that he is not sure how we have gotten the information out to the paddlers and that he will work with our communication team to get that message out. The gate is unlocked at 7 a.m. and the armed gate is closed. When we get the boat ramp opened, we will allow drop-offs. We are on hold right now until TRPA gives us the okay. Staff did meet with Incline Spirits on Monday and they want to get out there. Their contract typically begins on Memorial Day and they are fully aware that nothing is happening in the month of May however they may be down there setting up. We did talk about a contract adjustment and he wants to wait a little bit longer. They are laser focused on their operation and all the requirements. Ready to go when they can be; right now, in a wait and see mode. Staff is not currently checking temperatures and we have made it extremely clear to our Staff to check their own temperature. Staff is very well versed on what is going on and we have discussed this topic as well as discussed the opening of our indoor facilities. Staff is sorting through some things so that if we do decide to do that, especially at the beaches, we logistically need to get a lot worked out. It is certainly something worth evaluating and discussing.

F. REPORTS TO THE IVGID BOARD OF TRUSTEES (for discussion only)

F.1. District General Counsel: Law Firm of Hutchison & Steffen

District General Counsel Velto said he had nothing to report.

F.2. Board Treasurer Sara Schmitz

Trustee Schmitz said in the past few weeks, Director of Finance Navazio has been inundated with all the scenarios with our budgets however the two of them have discussed what is needed for the Treasurer's report and they will be meeting next week. She wants to make use of the technology opposed to having some human being to create some type of report; meeting next week to take it to the next level.

F.3. Audit Committee Chairman Matthew Dent

Audit Committee Chairman Dent said that the Audit Committee held a meeting earlier today and that they had several items and they got through two items – the draft framework on internal controls and Policy 15.1.0. We will be holding another Audit Committee meeting at a date/time of to be

determined. Agenda items would be the engagement letter and communications received from the District and the related actions thereto.

Trustee Morris said that he compliments the Director of Finance for getting the workflow together as the discussion was great and it is a good mark of what the Director of Finance has been doing for us; compliment all involved and the Director of Finance for leading that effort.

G. GENERAL BUSINESS (for possible action)

G.1. Review and discuss criteria for pending capital improvement projects (Requesting Staff Members: Interim District General Manager Indra Winquest and Director of Finance Paul Navazio)

Interim District General Manager Winquest and Director of Finance Navazio gave an overview of the submitted materials.

Chairman Callicrate said that there was a comment made about the spending authority of the District General Manager. Our Interim District General Manager has made it clear to him that he won't move forward unless the Board gives the okay because he wants to be cautious. He appreciates what the Interim District General Manager is trying to do and so let's really focus this as he is taking it seriously. Interim District General Manager Winquest said that he has received correspondence from residents about why are we deferring and how are we handling this. We are sensitive to not deferring to next year and doubling our capital expenses and that this is about spending. Beaches is an ongoing project and at this point in time, his spending limit is \$100,000 however he does fully intend to bring a lot of these to the Board to discuss and have final approval.

Trustee Schmitz said that she has a request and that is to include, in Priority A, projects and incentives that deal with our internal controls. We have talked about how important they are and then tie that in with agenda packet page 17, and the e-commerce software, which suddenly integrates all of our systems together and make sure that is a system that would facilitate and improve the District's internal controls. The other thing that she wants to mention is revising Policy 3.1.0 by integrating signature levels so we have consistency on what contracts come to the Board and what ones don't and to add this to our long range calendar. Trustee Schmitz concluded by stating that anything related to internal controls should be category A.

Trustee Dent said that he likes this and that it is a good approach. He agrees with Trustee Schmitz about projects that are in the internal controls category should be more of an A priority.

Trustee Morris said that he has nothing to add and that is it good to see our Director of Finance leading some of this charge and it is heading in the right direction and he appreciates that effort.

Trustee Wong said that she likes the framework layout as it is responsible and makes sense. On the projects that are potentially cancelled, she knows that our Staff has worked really hard to time these projects and that it isn't that the projects aren't unnecessary so let's look to push them out and not cancel them.

Chairman Callicrate said that is a good point and that from his discussions, we are probably leaning towards pushing them out but obviously if it is critical we may have to do something.

Interim District General Manager Winqest said that internal controls are professional services and to not worry about that because it isn't capital and Staff is fully committed to moving forward. With e-commerce, not as much as internal controls, as this will give us a better e-store. Staff really wanted to wait to get together with the new Director of Finance and with having our eye to the future.

Director of Finance Navazio said on internal controls that this fall under liability and risk management and projects that help the District avoid liability and risk management. For e-commerce, yes, internal controls are a component but this is a financial system component and moving Diamond Peak/Ski into the twenty first century. All of the Board's comments have been pretty spot on.

Interim District General Manager Winqest said for a few of these projects that have been cancelled, the Director of Finance came in and got some control and is asking why these projects are important and some of the projects weren't really relevant to where the District was going. It is our job to always identify these projects that have always been in the long term.

Trustee Schmitz said she had a follow up question – Interim District General Manager Winqest and she were e-mailing about a couple of paving projects that are current budgeted projects within the General Manager's signing

authority and asked if they fell through the cracks of being evaluated in this manner.

Interim District General Manager Winqest said no, this work was done as Ski Beach and it had to happen as that pavement was in extremely poor condition with the earth crumbling underneath it and serious cracking. At Incline Beach, it was pavement maintenance. At the Recreation Center, it was a large project and he asked our Engineering team to look at other opportunities to mitigate and how far we can push it out. The contract had been signed, the beaches are extremely important, and thus taking care of the pavement maintenance down there is; there is analysis every year.

Chairman Callicrate said we can get into more of that tomorrow, this was a great overview and initial rolling out and he feels very heartened about this, as there is always room for improvement with nothing cast in stone as they are in constant motion.

G.2. Review, Discuss, and Possibly Authorize Staff to issue the Notice to Proceed for the Bocce Ball Courts– 2020/2021 Capital Improvement (adjusted) Project: Fund: Community Services; Division: Recreation Center; Project # 4378LI1804B; Vendor: Rapid Construction in the amount of \$68,860. (Requesting Staff Member: Director of Public Works Joe Pomroy)

Chairman Callicrate said before we go into this, this is for four bocce courts not two. Interim District General Manager Winqest said yes, it is for four bocce courts and referenced agenda packet page 21 and then proceeded to give an overview of the submitted materials.

Trustee Morris said he has no specific questions and that he is good with it. He has spoken with Interim District General Manager Winqest about social distancing, etc. and stated that this is an excellent addition and really good to get this project going.

Chairman Callicrate said as in tennis, the bocce community has been very patient and we appreciate that as it pays off as they are getting four courts as opposed to one or two with the opportunity of minimal outlay for the community. This is a great opportunity to move forward and he is in support of this project.

Trustee Morris made a motion to authorize Staff to issue the Notice to Proceed for the Bocce Ball Courts – 2020/2021 Capital Improvement (adjusted) Project: Fund: Community Services; Division: Recreation Center; Project # 4378LI1804B; Vendor: Rapid Construction in the amount of \$68,860. Trustee Dent seconded the motion. Chairman Callicrate asked for further comments, receiving none, he called the question – the motion was unanimously passed.

At 6:33 p.m. Chairman Callicrate called for a break; the Board reconvened at 6:43 p.m.

G.3. Review, discuss and possibly take action to approve the amendments to Policy 15.1.0.; these changes will take effect upon the completion of the transition plan (Requesting Trustee: Trustee Sara Schmitz)

Trustee Schmitz gave an overview of the submitted materials.

Trustee Morris said that he has a number of questions and that it was pointed out to him that the transition plan was in the Board packet so thank you. The easiest thing is for him to ask his questions and see how we get along. Trustee Morris then asked approximately forty questions and Trustee Schmitz and other members of the Board answered all the questions posed by Trustee Morris.

Chairman Callicrate said he appreciates the concerns and that the Board has had a robust discussion on a very important policy.

Trustee Wong said, taking a step way back, at our last meeting, we were asked to comment on an Audit Committee Charter and she has the same questions on this policy – are we reviewing and approving these two documents in tandem? Trustee Wong continued that she didn't do a line item review however in reading through Policy 15.1.0, it didn't seem to align with the Audit Committee Charter and in taking a step back, and addressing the comments, she was not the only one who sent in comments thus in looking at both documents, we don't need two documents or do we expand Policy 15.1.0 and save on us maintaining two documents.

Trustee Schmitz said that there aren't two documents and that what was requested was that she take the format of the existing Policy 15.1.0 and incorporate the charter into that format and that this is the document

incorporated into the standard IVGID policy format and formatted into Policy 15.1.0 so there are not two documents.

Trustee Wong said so none of her questions/comments made it into this document.

Trustee Schmitz asked if Trustee Wong has something specific.

Trustee Wong said that she did as requested and that her changes are not in this document and that there were several items that we should discuss.

Trustee Schmitz said that she had all of kinds of inputs and that she incorporated and blended with what the Director of Finance is trying to accomplish and trying to put that into the standard policy format.

Trustee Wong said that she doesn't have her inputs in front of her.

Trustee Schmitz said when we have something like this, it is not the intent to cast it into stone but to have something that is a workable document that, as we work, we incorporate things, modifications, and changes to enhance it. It is important to bring those back and make revisions; that is the thought process behind all of this.

Trustee Wong said that she e-mailed all her comments to the District Clerk so she could forward them onto Trustee Schmitz to incorporate.

Chairman Callicrate said that we have to stick to this agenda and can't deviate; are there any further comments on this item as he wants to make sure everyone gets to get their comments in.

Trustee Morris said that he is concerned that the Chairman would consider moving forward on Policy 15.1.0 given Trustee Wong's comments and Trustee Schmitz' comments. There is only to be one policy and not a charter and that the comments given on the charter didn't make it into this document. Like before, the Board elected to defer it and get those changes in. What he worries about is that he heard from the Chair that you heard all of that but we will go to a motion. If we go to motion, no way for anyone can discuss it. He would like to refer to the minutes and incorporate all that has been stated so far and that, and he is only talking about the policy, he thinks that Trustee Schmitz is very wrong, as those are his words, and that this is a draft working

document as we should be trying to make a new policy as clear as we can make it.

Trustee Schmitz said it is so much more detailed and so much more robust than what we had.

Trustee Morris said Trustee Schmitz spoke over him and that so we can get this right, is a slab more robust than the wood that was put in. No doubt this item will be taken forward and approved. He does understand what it is like to be on the opposite side; this is just a bad piece of work.

Trustee Wong said that given that this is going to be one document it would be good to see everybody comments that were submitted as there are definitely some areas that we need to discuss as a Board so it would be good to get it, compile it, and see how it came together. We have a tracked version and she doesn't know that Trustee Schmitz incorporated all of her comments so who else's got missed.

Trustee Dent said he has no comments and will make the following motion – A motion to approve the amendments to Policy 15.1.0. with the changes requested by Trustee Morris. There was no second to the motion.

Trustee Schmitz said that she didn't second but that she will walk through the changes.

District General Counsel Velto said it would be best if Trustee Dent withdrew his motion and then have Trustee Schmitz make a motion. Trustee Dent withdrew his motion.

Trustee Schmitz made a motion to approve the amendments to Policy 15.1.0. with the various changes that she verbally went through; these changes will take effect upon the completion of the transition plan which is shown below under VI. Comments. Trustee Dent seconded the motion.

Trustee Morris said that clearly this is an unsupportable motion and that he will be voting against it. It is disingenuous to totally ignore Trustee Wong's comments and that none of us can see what other put forward. This is a terrible, terrible move and the Board will do what it wants and he knows that. In the prior Board, there were votes of three to two, and statements made

about not listening to us and riding rough shots. One of the things about the new Board was it was to collegiate and inclusive. This is potentially the majority riding over the minority; this is not the way we should run a District as it was not done that way in the past and it is awful.

Trustee Schmitz said that she answered all of Trustee Morris' questions and he showed her where his concerns were and she made the adjustments as identified.

Trustee Morris asked about the items from Trustee Wong.

Trustee Dent thanked Trustee Schmitz and the Director of Finance for their time and effort on this policy and that we are a lot further along and we have a lot more information. He appreciates the efforts on this and laying out the ground rules; thank you for your efforts.

Hearing no further comments, Chairman Callicrate called the question – Trustees Callicrate, Dent and Schmitz voted in favor of the motion and Trustees Morris and Wong voted opposed; the motion was passed.

Chairman Callicrate called for a five minute break at 8:02 p.m.; the Board reconvened at 8:08 p.m.

PUBLIC COMMENT WILL BE TAKEN ON AGENDA ITEM G.4.

Limited to a maximum of three (3) minutes in duration

- G.4. Review, discuss and possibly approve (1) the draft scope of work and (2) proceed with advertising for a Request for Qualifications for a qualified professional consulting firm for project review, infrastructure assessment, assessment of preliminary design work, value analysis, alternative analysis, scheduling, and cost estimating for the District's Effluent Export Pipeline and Pond Lining Projects which includes the components to store and transport wastewater effluent from the Water Resource Recovery Facility in Incline Village to the disposal facility 21 miles away in Douglas County (Requesting Staff Members: Interim District General Manager Indra Winquest and Director of Public Works Joe Pomroy)**

Chairman Callicrate announced that we will be taking public comments on this particular item and asked that the IT Team get them queued up.

Interim District General Manager Winquest gave an overview of the submitted materials.

Trustee Dent said overall, we have had a couple of meetings, had good discussions, have some constraints that we have to work through with the Nevada Revised Statutes, want to move this through as fast as possible and that as we are doing this assessment and all the parts and pieces that are connected to it, we took a good stab at it and blended a little bit of everything and worked with Staff and the constraints and it is what it is. He does have a couple of questions as he got an e-mail about the agenda and was asked if we are going to evaluate the storage tank and the pump stations as it doesn't mention it here so he wanted to hear from Staff if those are going to be included here.

Interim District General Manager Winquest said that he doesn't remember discussing those two items and he has no problem if we want to add those two items as part of this item. Director of Public Works Joe Pomroy directed attention to agenda packet page 56 which includes the pump station in the scope and that tank can be included however right now it is part of the package that is out for bid and that Staff will be bringing back on June 10; one would say that the tank is included but we definitely included the pumping station.

Trustee Schmitz said so on the Spooner Pumping Station, we spent \$575,749 on design work so she certainly hopes that we aren't having to do additional work there and that is HDR ASA#28 which was \$431,593 in 2011 and \$154,156 in 2006; it is important that those documents get included.

Interim District General Manager Winquest said as you go through the scope of services, he is hopeful that we don't duplicate work that has already been done. We will be providing a plethora of information as the project team is reviewing all the data and if they identify gaps in the data or need further clarity, certainly we would expect them to go ahead and review that and work with them on whatever they need to dig a little further into it. We hope they don't have to re-evaluate but if they do have to, we want to reserve that flexibility but not paying them to duplicate work that has already been done.

Trustee Schmitz said that she wanted to make sure that the committee was aware of that particular deliverable. On agenda packet page 57, the bullet points, June 2012 – there is a typographical error as that is supposed to be

HDR instead of PDR. Director of Public Works Pomroy said that PDR stands for professional design reports. Trustee Schmitz said that she has a document here, from HDR dated June 2012, that is the draft preliminary design report for the Phase 2 Effluent Export Project. Director of Public Works Pomroy said that is most likely the same document for Phase 2. Trustee Schmitz said at the May 2019 bullet point that she is assuming that is the HDR document and the final PICA report. Director of Public Works Pomroy said that is correct and they will be background documents with the RFQ. The Spooner Pumping Stations went through a \$3.5 million construction project with full design and renovation. Trustee Schmitz said end to end and on the pond liner, there is also a pond liner that is further up and that if the upper pond has been decommissioned then it doesn't need to be looked at or reviewed. Director of Public Works Pomroy said that there are two ponds on Sweetwater Road and that it is the much larger pond that we are not looking at.

Trustee Wong said that this was a good process and a good group to work with and that the group tried to be really conscious about what the Board members wanted while having competing priorities and that they tried to distill it down to the most important and then bring the most value to our community and the project as we move forward.

Chairman Callicrate said that he was glad that Trustees Wong and Dent had a chance to work with the team and thanked them both for the amount of time that you both put in as it has been on the radar for years. Thank you also to the team who vetted this all out.

Trustee Morris said that he really wanted to express his appreciation and gratitude to all that worked on this as it is a splendid outcome and to thank his fellow Trustees who worked on this as well as the Staff as he is really very impressed with this as it addresses all that we have discussed up to now – congratulations.

Trustee Dent said that he wanted the community and the Board to know that Interim District General Manager Winqest reached out to members of the community or they reached out to him and asked if we could name them. Information was sought from a lot of people, almost like a subcommittee, and to all of the folks that we reached out to, not everything they suggested was included but we did end up with this product. One of the biggest things that he become more informed on was the Nevada Revised Statutes. Chairman Callicrate said thank you to the unnamed individuals.

Hearing no further comments from the Board, Chairman Callicrate opened the matter to public comment.

Cliff Dobler said that he wants to make a couple of points and that he was one of those people. The problem he has with it is that it says effluent export pipeline and pond lining projects which includes components to store wastewater and so what are the components. When you go down to the scope of items, there is a full end to end review of the storage pump station and you should leave on the water tank. He doesn't know if Staff is telling the truth and he thinks that Staff is telling a story there. On agenda packet page 57, we could be a little less sloppy on the information that we are providing and then Mr. Dobler went over the list of reports and stated on the condition assessment draft that the District never got a final report which bothers him. This talks about NDEP and other agencies and it talks about USACE and TTD and other agencies and there is no need to include this as it is all BS.

Yolanda Knaack said that she is a candidate for IVGID and that she wanted to make a comment and that is that on the pipeline, we should go with a company to do some of the latest technology that can put a liner in it, rather than digging it up. She doesn't know the difference in cost but we should go with a company that has that technology. Other thing on the liner, it would be better for the environment rather than digging it up and might be less time.

Linda Newman said that she has a few comments and questions. Please also provide all plans submitted to the Nevada Department of Environmental Protection ("NDEP") so we know what NDEP has approved and expects of IVGID so the independent project manager can address these issues first. Also, please provide all other outstanding issues with NDEP so that the independent consultant can address these as well. Can you post all the documents you will be including in the RFQ on the District's website as many of our Trustees and our citizens may not have seen them or been aware of their contents? Has anyone called the Project Management Firms that other Nevada municipalities have used for their water and sewer infrastructure projects, so we can better target responsive consultants?

Hearing no further public comments, Chairman Callicrate closed public comments and brought the matter back to the Board of Trustees.

Trustee Dent said, regarding one of the three public comments, that in the background section, is there not a final HDR report and if there is only a draft, why don't we have the final report. On the outstanding issues with NDEP, we already have all the plans and that the commenter might not be aware that there are some.

Director of Public Works Pomroy said that the HDR analysis with PICA is sitting at the draft level because we halted that work and we can request that be changed to final and have it resubmitted to the District. He is not aware of any outstanding NDEP issues as they released the District in May 2019 and they have been satisfied and they have released the District from that violation. Staff does not believe there are any outstanding documents.

Chairman Callicrate said per public comments, whatever information is available, please make it readily available and let's make sure that all that information is out and available such that if they want to look at this, they can and so we are fully engaged with transparency. We want to be sensitive to any document that should be out in the public arena and that should be.

Interim District General Manager Winqest said that trenchless methods are included and that all technologies will be evaluated for Segments 2 and 3. He doesn't disagree with Mr. Dobler's comments and we can clarify them a little bit more as we do the RFQ. There will be other documentation that the consultant will be requesting and that he and the Director of Public Works will work with whatever their needs are so they can do the best job. We will give them everything we have from NDEP and he can double check all of that as he wanted to validate public comment.

Trustee Schmitz said, based on Mr. Dobler's comments and the need for more clarity, does the scope need to be more clearly stated and defined; she will leave that up to the Interim District General Manager and Staff.

Trustee Morris said that he wanted to address a comment made during public comments and that was about making sure that we get the most knowledgeable consultant. He hopes that we are casting the net wide and deep and that we will give it out to people who could really help; he will leave all that to Staff.

Trustee Wong asked if the Director of Public Works could address Trustee Morris' comment.

Director of Public Works Pomroy said that when we go out for an RFQ we describe, in words, what the scope of work is. The consultant will submit a full scope of work that will put into full detail the scope of work. This is when the fine details will be prepared and this is more of a scope of qualifications and the scope they are undertaking; we will be bringing this back to the Board. The District tends to use Planetbids which has hundreds of consultants and contractors who are registered. We put all our plans there and an e-mail blast goes out. For the Burnt Cedar pool, it went out to eighty six different architects and we got eighty six people who picked it up and then we got six replies. We will also put out an advertisement and will reach out in multiple methods. Agenda packet page 87 has the actual document names and these six documents will be uploaded and available for them to view.

Chairman Callicrate said thank you as that helped clarify this effort to the community.

Trustee Morris made a motion to approve (1) the draft scope of work and (2) proceed with advertising for a Request for Qualifications for a qualified professional consulting firm for project review, infrastructure assessment, assessment of preliminary design work, value analysis, alternative analysis, scheduling, and cost estimating for the District's Effluent Export Pipeline and Pond Lining Projects which includes the components to store and transport wastewater effluent from the Water Resource Recovery Facility in Incline Village to the disposal facility 21 miles away in Douglas County. Trustee Wong seconded the motion. Chairman Callicrate asked for further comments, there were none, so he called the question – the motion was unanimously passed.

G.5. Review, discuss and possibly direct the Interim District General Manager and the District Director of Finance to determine a scope of work and cost estimate for an external entity i.e. professional services contractor, to conduct a construction project audit and internal controls review on a sampling of projects (Requesting Trustee: Trustee Sara Schmitz)

Trustee Schmitz gave an overview of the submitted materials.

Interim District General Manager Winquest said that he has had some conversations with Trustee Schmitz and that we don't want this to be seen

as an investigative type of audit. We have a lot of big projects in front of us including the single biggest project in this century and there may be some benefit to make sure however we work through a contract process and how we do things such as the level of oversight and internal controls. Everyone can benefit from any new advice and be better. As we are moving forward with these big projects and the consultants we are going to be working with and moving them forward as efficiently as possible as well as new industry best practices which could benefit the District. We didn't budget for any of these items so we have to determine where we could find the funds for this item as we have to do so with other items. We have the opportunities to get started in late June and put some of this in the upcoming budget. He has heard from some about why is the Interim District General Manager spending unbudgeted dollars and that a lot of folks have been critical and he wants to make sure the people understand why we are doing this – it is because it has the potential to benefit us. The Utility Fund is pretty tight so if the Board moves forward with this matter, we have to determine how we pay for this.

Chairman Callicrate said that is a valid point and we want to make sure, as we move forward, that we make sure we budget for it. It is the perfect time to put some placeholders in so we have the opportunity. He would like to ask the Director of Finance if this sounds like this would fit in with internal controls and is he onboard with this item.

Director of Finance Navazio said in the discussions that he and the Interim District General Manager have had with Trustee Schmitz, his thoughts are if we were to proceed with this scope that it fits with the items on internal controls and that he wants to make sure we aren't duplicating efforts. He does agree with Trustee Schmitz' and Interim District General Manager Winquest's comments that given the projects that are upcoming, this is a high priority in the internal control universe.

Trustee Dent said thank you to the Interim District General Manager, Director of Finance, and Trustee Schmitz and said that if we are looking for a way to pay for it, could we use the General Fund and that his second comment would be that do we have forty five thousand dollars that the Board has already approved for internal controls.

Interim District General Manager Winquest said that the forty five thousand dollars is also unbudgeted and that we can find the funds in the General

Fund but the question becomes if this is within the Utility Fund, can we pay for it out of the General Fund.

Director of Finance Navazio said that the Board has maximum discretion with the General Fund and that the funding source should align with the scope and that if one looks at it in the context of the potential of the other outside help and then come back as a package.

Interim District General Manager Winqest said Staff needs to make sure it all fits together as we have also talked about doing a Utility Reserve Study. This Board took action on the Effluent pipeline and there are a lot of moving pieces and Staff wants to ensure that we are not paying for a duplication of work. All of this fits into all of our goals in looking at internal controls.

Trustee Wong said that she has no comments or concerns and thinks that this should be built into next year's budget.

Chairman Callicrate said he agrees as that seems like what is going to happen.

Trustee Morris said he has no concerns and that he just wants to clarify the potential overlaps between Utilities and General Fund as we do have to be very careful on how we spend the money; please make sure there is no duplication as we want to do things right.

Trustee Schmitz said she wants to reiterate that the real opportunity is to have a wonderful return on investment from improving our efficiencies, do things to the best of our abilities and have huge benefits to our capital projects.

Trustee Schmitz made a motion to direct the Interim District General Manager and the District Director of Finance to determine a scope of work and cost estimate for an external resource to conduct a construction project audit and internal controls review on a sampling of projects. The scope of work should include, at a minimum, to identify industry best practices and recommendations for improvements and the creation or improvements to related internal controls, if deficiencies are found. Trustee Dent seconded the motion. Chairman Callicrate asked for further comments, there were none, so he called the question – the motion was unanimously passed.

- G.6. Case No. CV18-01564 Mark E. Smith v. IVGID (Requesting Staff Member: Interim District General Manager Indra Winqest)**
- (A) Review, discuss and possibly approve a payment in the amount of \$42,282.79 to Erickson, Thorpe & Swainston, Ltd.**
 - (B) Review, discuss and possibly approve a not-to-exceed amount of \$50,000 for legal services to achieve settlement of the above referenced case**

**THIS ITEM WAS REMOVED IN ITS ENTIRETY FROM THIS
AGENDA**

- G.7. Review, discuss and possibly approve amending legal services contract to expand the scope of legal services provided to the District (specifically Task 3) by Best, Best & Krieger (BBK) effective May 7, 2020, and with a proposed budget of \$50,000 (Requesting Trustee: Chairman Tim Callicrate)**

Chairman Callicrate gave an overview of the submitted materials.

Interim District General Manager Winqest said that he wants to make sure that everyone knows that the initial agreement on the first two tasks were not included in the packet but that Staff got it added to the website packet and it is online. Moving forward, this would be an addition such that BBK would be providing general legal counsel to the Board which can be very broad.

Chairman Callicrate said that all five Board members saw the original agreement and the fee agreement as this was an interim situation.

Interim District General Manager Winqest said that this does put a cap on the task and at some point Staff will come back for an additional authorization. The Board can evaluate how this goes and then Staff may go out for a formal process depending on what happens.

Trustee Wong said that this has a limit of fifty thousand dollars and that it isn't clear if we have an existing contract for thirty thousand and that this is going up to eighty thousand dollars; it is not clear to her.

Chairman Callicrate asked District General Counsel for advice. District General Counsel Velto said that the Board does have some flexibility on the

agenda and that you can add that clarification within the motion on how you decide to proceed.

Chairman Callicrate said that Task 3 is for fifty thousand dollars and that authority for thirty thousand dollars had already been given for the other two tasks. Interim District General Manager Winqest added that this is correct – we have thirty thousand presently and that we are adding fifty thousand for this task which should give us plenty of time but that the number/amount can be adjusted.

Trustee Schmitz said, referencing agenda packet page 65, in the background, that the very last sentence seems clear that the first two tasks are thirty thousand dollars. Chairman Callicrate said he agrees. Trustee Morris said we can add words to clarify. District General Counsel Velto said that would work.

Trustee Morris made a motion to approve adding Task 3 to the existing BBK agreement. This task adds legal services for the Board of Trustees effective May 7, 2020 and a proposed additional budget of \$50,000. Trustee Dent seconded the motion.

Trustee Schmitz asked at what point are we using BBK and completely transitioning from Hutchison & Steffen. Interim District General Manager Winqest said that Staff has already begun the discussion and that there is a lot of work that needs to be done and that he will have a better idea in the next few weeks. Trustee Schmitz said that she remembered something in the Hutchison & Steffen notice and wanted to make sure that we don't have to give them yet another notice.

Chairman Callicrate said that the agenda item doesn't include Hutchison & Steffen so let's not go down that road.

Hearing no further comments from the Board, Chairman Callicrate called the question – the motion was unanimously passed.

H. APPROVAL OF MINUTES (for possible action)

H.1. Meeting Minutes of April 11, 2020

Chairman Callicrate asked for changes, receiving none, the minutes were accepted as submitted.

I. BOARD OF TRUSTEES UPDATE (NO DISCUSSION OR ACTION) ON ANY MATTER REGARDING THE DISTRICT AND/OR COMMUNITIES OF CRYSTAL BAY AND INCLINE VILLAGE, NEVADA*

Chairman Callicrate said that he has been in touch with the District Clerk and the Interim District General Manager about bringing back correspondence and that he wanted to give the Board an update – he and the District Clerk are working on a policy with regards to correspondence since the Attorney General’s office has opined on this and that District General Counsel gave us information so we have all the background information in order to draft a policy that makes sense so everyone is aware of inclusion.

J. PUBLIC COMMENTS* - Limited to a maximum of three (3) minutes in duration.

Cliff Dobler said he had two items – he has project contract administration issues to be incorporated with this consultant and that they are the ladders and the wastewater treatment aeration projects and they are mind boggling. On Policy 13.1.0 and 13.2.0, it talks about interest earned and that this interest has to be set aside for the project and can’t be used in general. He did a calculation which added up to \$538,000 so that needs to be added to the set aside and then added to the restricted fund. The calculation is pretty accurate and this is another policy that is being violated and no one knew about it.

Linda Newman said she applauds the Board’s approval to acquire the external resources our District requires to successfully manage our District and triumph over the challenges ahead. She must admonish Trustee Morris for spending more time tearing apart an effective new Audit Committee Charter than actually doing his job when he served on the Audit Committee. She commends Trustee Schmitz for her exceptional commitment to developing this comprehensive charter and thank all those who participated. She is also making a public records request for the Audit Committee Report that was to be presented to the Board with the 2019 CAFR which was never provided and was required under Audit Committee Policy 15.1.0.

Aaron Katz said regarding Task 3 with the new attorneys, what are we paying Hutchison & Steffen firm for after May 7, 2020? His concern is that we are paying \$275 per hour for the new attorneys and that we don’t have

any for Hutchison & Steffen who we are stuck with and that we will spend two hundred thousand dollars on attorney firms. Related to Dick Warren's communication in which he asked to budget a reduced Recreation Fee of four hundred dollars, the Interim District General Manager replied basically it was impossible and that the District would have to shut down our facilities. He sent him an e-mail earlier to ask that the District operate without the Recreation Fee subsidy and his response must be yes. Staff is not proposing any reductions so why aren't they proposed? Direction should be given to the Staff to operate as breakeven or will that be impossible for the rest of our lives; he thinks the answer is impossible. The Recreation Fee is going to keep going up so it is time to dispose of all the facilities. They won't go away, they will be privately owned and operated and all the recreational amenities will be available to everyone and we won't have to subsidize the use.

Frank Wright said that he is a candidate for the Board of Trustees and that he wants to chime in on Trustee Morris' behavior. He found it appalling and that this came from someone who didn't understand it and yet he took forty five minutes to tear it apart piece by piece and then continue to push and push; it was forty five minutes wasted. Trustee Wong, who said her items weren't considered, but she couldn't mention them. Either you work together as a Board or you don't. It was appalling and he still wonders what Trustee Morris was doing. We will keep moving forward.

Yolanda Knaack said that she thinks the Board is doing a great job.

K. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (for possible action)

Interim District General Manager Winquest said that we need to schedule a follow up meeting to the budget workshop that is tomorrow and that we are in crunch time and that Staff does support that and that his preference would be either Wednesday or Thursday of next week. Trustee Wong said that she would rather discuss this after tomorrow's meeting. Interim District General Manager Winquest said we can address this tomorrow and asked that all the Trustees look at their calendars so we can discuss it tomorrow.

Trustee Wong asked about an RFP for legal services. Interim District General Manager Winquest said he would leave that up to Chairman Callicrate. Chairman Callicrate said that he would like to put it out there for two or three months. Trustee Wong said that she agrees and that she would like to have someone under contract

to transition services. Chairman Callicrate said that this has been the goal to have a couple of months for transition. Trustee Schmitz said that we are going to have to change our meeting off of Wednesdays. Interim District General Manager Winquest said that one of the constraints is that they have existing commitments and that on May 27, District General Counsel Velto will be the legal counsel at the meeting.

L. ADJOURNMENT (for possible action)

The meeting was adjourned at 9:33 p.m.

Respectfully submitted,

Susan A. Herron
District Clerk

Attachments*:

*In accordance with NRS 241.035.1(d), the following attachments are included but have neither been fact checked or verified by the District and are solely the thoughts, opinions, statements, etc. of the author as identified below.

Submitted by Garrett Simon (1 page): E-mail dated Wednesday, May 6, 2020

Submitted by Margaret Martini (1 page): May 6th, 2020 IVGID Board of Trustees Public Comments By: Margaret Martini – to be included with the Meeting Minutes

Submitted by Aaron Katz (pages): Written statement to be included in the written minutes of this May 6, 2020 regular IVGID Board meeting – Agenda Item G(2) Construction of Two (2) Bocci ball courts at local parcel owners' expense

Submitted by Aaron Katz (pages): Written statement to be included in the written minutes of this May 6, 2020 regular IVGID Board meeting – Agenda item G(6) – Attorney Beko's request for an additional \$42,22.79 incurred in Mark Smith's public records concealment lawsuit, and up to an additional \$50,000 "to get to (A) settlement" – isn't enough, enough?

Submitted by Aaron Katz (pages): Written statement to be included in the written minutes of this May 6, 2020 regular IVGID Board meeting – Agenda item C – Public Comment – Because our Interim General Manager admits it is impossible to operate our recreational facilities without the annual nearly \$7

million subsidy of the Recreation (“RFF”) and Beach (“BFF”) facility fees, it’s time to either get out of the commercial “for profit” recreation business altogether, or transfer operation of the public’s recreation facilities to a homeowners’ association owned by we local property owners who are the ones required to pay the subsidy

Submitted by Aaron Katz (pages): Written statement to be included in the written minutes of this May 6, 2020 regular IVGID Board meeting – Agenda item C – Public Comment – The Board must amend Resolution 1480 and Policy 3.1.0 because our Interim General Manager represents he has direct supervision over all District employees, and spending authority of up to \$100,000 without Board approval

Herron, Susan

From: Garrett Simon <gsimon@meriwetherco.com>
Sent: Wednesday, May 6, 2020 12:34 PM
To: Info_at_IVGID
Subject: BOT 5/6 Public Comment - Bike Park Opening

With the current beach access availability, tennis court availability and the pending golf course opening, it seems the bike park should also be open. Considerable work has been done to open it for the season and it is ready to go. Thanks for making this happen.

Add Good,

Garrett

Garrett Simon
454 Jill Ct
Incline Village, NV 89451

Phone - (970) 596-6642

May 6th, 2020 IVGID Board of Trustees Meeting Public Comments
By: Margaret Martini – to be included with the Meeting Minutes

These extraordinary times requires Board leadership and a professional senior staff that earns our confidence and ensures our community's safety as well as our District's financial sustainability. As we confront a public health crisis and an economic meltdown, this Board is responsible for establishing the District's priorities and the General Manager is accountable for supervising our Staff and following through on the Board's directives. So how are you doing?

Tonight's agenda, does not inspire my confidence. Although we have learned in the General Manager's report that staff is working on health and safety rules including sanitation, barriers at counters, line distancing and PPE to protect our staff and our residents, where is the clear communication and discussion of these plans with our Board and our community? Don't we all have a stake in how, when, and why recreational venues will be opened and what services will or won't be available? Notices of Staff's decisions on our Beaches and other recreational venues are posted on social media and the District's website – without any Board direction or citizen input. This should have been on tonight's agenda.

Instead, we have a request to pay \$42,282.79 to Mr. Beko for unapproved and unbudgeted legal expenses for the Smith litigation seeking public records. This lawsuit also named Trustee Wong and recently terminated Counsel Guinasso. How is it possible for this Board to even remotely consider paying Mr. Beko for legal expenses this Board did not approve? Or to use public money to pay Mr. Guinasso's legal expenses? And where are these invoices? After spending \$67,500 how is it possible for Mr. Beko to have racked up another \$42,000? Not Acceptable! Mr. Beko should collect this money from Ms. Wong and Mr. Guinasso and this Board should fire Mr. Beko. Hire an independent attorney to settle this lawsuit now. There is no justification to spend hundreds of thousands of our public money to stop a citizen from receiving public records. Only Mr. Guinasso asserts that the records are attorney-client privileged. Under deposition, none of the "clients" have asserted the privilege and to my knowledge, no member of this Board has actually reviewed the 13,000 emails withheld. No one can validate Mr. Guinasso's claim that these records are in fact confidential and privileged and exempt from being released under the public records act. Stop wasting our public money on unnecessary legal fees and demand that our staff comply with the public records act.



WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 6, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM G(2) CONSTRUCTION OF TWO (2) BOCCI BALL COURTS AT LOCAL PARCEL OWNERS' EXPENSE

Introduction: Here staff seek Board approval to construct two (2) Bocci ball courts on Recreation Center property at a cost to local property owners paying the Recreation Facility Fee (“RFF”) of \$90,018¹ or more². Because here staff propose using the RFF to finance this initiative, and its creation breaks a contract the District made with the public when it was granted the additional basic power to furnish facilities for public recreation, I object. And that’s the purpose of this written statement.

On October 25, 1965 the IVGID Board Promised the Washoe County Board of Commissioners (“County Board”) and the Public That it Would Not Exercise the Power to Furnish Facilities for Public Recreation, If That Power Were Granted by the County Board, to Acquire, Develop, Improve or Operate Recreational Facilities Other Than Parks and the Beaches: When IVGID was created by the County Board effective June 1, 1961³, it was *not* granted the basic power to furnish facilities for public recreation because that power was not recognized at the time as a possible power available to general improvement districts (“GIDs”). That power was not recognized by the State Legislature as a possible GID basic power until its fifty-third (1965) session⁴.

Shortly after this new basic power was recognized by the State Legislature (August 12, 1965), the IVGID Board adopted Resolution 279 which asked the County Board to “commence proceedings for the addition of powers of *public recreation*.”⁵ And on October 25, 1965 the County Board held hearings re: IVGID’s “intention to add public recreation powers.” The only testimony in support of

¹ See pages 21-23 of the packet of materials prepared by staff in anticipation of this May 6, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-6-20.pdf (“the 5/6/2020 Board packet”).]

² I say “more” because design fees have not been included in the Board packet and they have been incurred either with a third party, or on an unreimbursed basis “in house.”

³ See <https://www.yourtahoeplace.com/ivgid/about-ivgid/history-of-ivgid>.

⁴ See Chapter 413 [SB297 (Amendment 1905, §21.5)].

⁵ Notably, IVGID was granted the power to furnish facilities for *public versus private* recreation. Although the word “public” was deleted from the former NRS 318.143 and restated at NRS 318.116(13) during the fifty-fourth (1967) session of the Legislature (see SB408, §§23, 24), no retroactive intent was expressed [*Sandpointe Apts. v. Eighth Judicial Dist. Court*, 129 Nev. Adv. Op. 87, 313 P.3d 849 (2013)]. Given this new basic power was never granted to IVGID, I and others are of the opinion it has no power to operate the beaches as private facilities. However since this written statement is not about IVGID’s power to administer the beaches, the subject is not addressed.

IVGID's request came from Harold Tiller⁶ who testified that if IVGID's request were granted, the *only* recreational facilities IVGID would acquire would be:

"Park properties (including two beaches)...*All* (other envisioned)... recreational facilities⁷...w(ould) be *privately owned...operated*"⁸ and presumably privately financed.

And insofar as "economic...sound(ness) and feasibility"⁸ [see NRS 318.055(4)(c)(2)] were concerned, Mr. Tiller testified that:

IVGID's *ad valorem* taxes "together with its expected growth, w(ould) readily finance...acquisition and operation of the...beaches."⁹

Because the County Board Granted IVGID's Request, its Representations Became a Promise, the Equivalent of a Contract Made With the Public: Based upon Mr. Tiller's representations, a divided (3 to 2) County Board approved IVGID's request for this new basic power. And on November 15, 1965, Ordinance 97, Bill 132 was adopted granting IVGID this new basic power. Thus "when (IVGID secured the requested basic power)...a contract was created obliging" IVGID to:

1. Not use the power to furnish facilities for public recreation to acquire, develop, improve or operate recreation facilities other than "park properties (including two beaches);"¹⁰ and,
2. The costs to finance acquisition, improvement and operation of those facilities would come from IVGID's *ad valorem* taxes together with its expected growth.

Once created, "that obligation could not later be impaired by legislative enactment"¹⁰ [*City No. Las Vegas v. Central Tel. Co*¹¹, 85 Nev. 620, 622, 460 P.2d 835 (1969); *Town of Milton v. Attorney General*¹², 314 Mass. 234, 237, 49 N.E.2d 909 (Mass. 1943)].

⁶ Besides being an IVGID Board trustee, Mr. Tiller was a principal in Crystal Bay Development Co. ("CBD"), the developer of Incline Village [*Whiston v. McDonald*, 85 Nev. 508, 458 P.2d 107 (1969)].

⁷ CBD represented to purchasers of residential property that "Incline Village (would)...be a complete recreation area (consisting of)...two great golf courses, the finest tennis facilities in the world...a major ski development, riding stables...trails to the very crest of the mountains...gaming and related night club entertainment(,) and a cultural center with related youth programs."

⁸ Per attorney Wilson's letter to the County Board, IVGID was of the view "findings of convenience and necessity and economy and feasibility" were both required to be made.

⁹ Mr. Tiller's October 25, 1965 letter testimony to the County Board, with an asterisk next to the quoted language, is attached as Exhibit "A" to this written statement.

¹⁰ See *City of Reno v. Goldwater*, 92 Nev. 696, 702, 558 P.2d 532 (1976) [go to <https://www.casemine.com/judgement/us/591494f3add7b049345c55dd2>].

¹¹ Go to <https://www.casemine.com/judgement/us/591498ecadd7b0493460c38d>.

Because the District Entered Into a Contract With the Public That it Would Not Use the Power to Furnish Facilities For Public Recreation, it is Prohibited From Impairing That Contract by Acquiring, Developing, Improving and Operating Bocci Ball Courts: This prohibition comes from the United States (Article 1, §10¹³) and Nevada (Article 1, §15¹⁴) Constitutions which bar States¹⁵ from passing any law which “impair(s) the obligation of contracts.” I object because the action proposed by this agenda item impairs the contract made with the public. If it doesn’t, then the door is open for the District to acquire, develop, improve and operate essentially any type of facility marginally related in some fashion to public recreation¹⁶.

Because the District Entered Into a Contract With the Public That the Financing Source For the Acquisition, Development, Improvement and Operation of the Public Recreation Facilities to Be Acquired Would be its *Ad Valorem* Tax Revenues, it is Prohibited From Impairing That Contract by Creating and Using the RFF to Finance Acquisition, Development, Improvement and Operation of Bocci Ball Courts: This prohibition comes from the above-referenced constitutional provisions which prohibit the passage of any law which “impair(s) the obligation of contracts.”

Rather Than *Ad Valorem* Taxes, Staff Propose Using \$90,018 or More² of the RFF to Acquire, Develop, Improve and Operate Two Bocci Ball Courts: In a companion written statement I have submitted contemporaneously with this statement for inclusion in the minutes of this meeting (payment of \$42,282.79 to Mr. Beko’s law firm for representation in the Mark Smith Public Records lawsuit), I documented how the RFF subsidizes staff’s massive overspending insofar as capital projects assigned to the District’s Community Services Fund are concerned. The proposed Bocci Ball Court project is one of those capital projects.

The Fact the District May Have Breached its Contracts With the Public in the Past, Does Not Justify its Proposed Impairments of Contract With Respect to Bocci Ball Courts: Because “an unconstitutional statute, though having the form and name of law is in reality no law, but is wholly *void*, and ineffective for any purpose” (16 Am. Jur 2d, §178).

¹² Go to <https://www.casemine.com/judgement/us/5914a275add7b04934698d57>.

¹³ “No state...shall pass any...law impairing the obligation of contracts” (go to https://www.usconstitution.net/xconst_A1Sec10.html).

¹⁴ “No...law impairing the obligation of contracts shall ever be passed” (go to <https://www.leg.state.nv.us/Const/NvConst.html#Art1Sec15>).

¹⁵ Freedoms protected against federal encroachment by the First Amendment are entitled, under the Fourteenth Amendment, to the same protection from infringement by the States [*New York Times Co. v. Sullivan*, 376 U.S. 254, 276-277, 84 S.Ct. 710, 723-724 (1964) – go to <https://www.courtlistener.com/opinion/106761/new-york-times-co-v-sullivan/>].

¹⁶ Such as a retail sales facility inside the Hyatt Lake Tahoe shopping mall.

Now That You Know That the Action Proposed by This Agenda Item Violates the Promises the District Made With the Public, Are You Board Members Going to Do the Right Thing or Simply Turn Your Collective Cheeks Because the Ends Justify the Means?

How Can You Ever Expect Cost Reductions When You and Past Boards Expand the District's Footprint, Services Provided and Staff to Operate?

The Proposed Action Financed by the RFF Violates its Stated Justification: We've had this discussion before. Staff tell us that the RFF is a NRS 318.197 "standby and service charge"¹⁷ for the mere "availability to use" public recreation facilities¹⁸ upon the condition those assessed pay additional user fees just like everyone else pays. Not that this is a true description, but "availability to use" is different than acquisition and development of current non-existent recreation facilities. If it isn't, then the door is open for the District to acquire and develop essentially any type of new facility marginally related in some fashion to public recreation¹⁹.

Conclusion: Although we cannot undo past transgressions by past Boards, we can certainly do something about subsequent ones. I say it's time to put your collective feet down and put a stop to this "more and more" and "bigger and bigger" mentality financed by the RFF or the Beach Facility Fee ("BFF"). If the Board wants to use its *ad valorem* and/or C-tax revenues for endeavors such as these, I and others I know don't object because taxes can legitimately be spent on essentially anything that arguably improves the health, safety and welfare of the District's inhabitants. If the Board wants to mandate that the costs of acquiring, developing, improving and operating new recreation facilities like Bocci Ball courts be revenue neutral (in other words, revenues cover expenses), I and others I know don't object. However, I and others I know object to use the RFF to financially subsidize "more and more" and "bigger and bigger" endeavors such as these.

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of the reasons why.

Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

¹⁷ See page 51 of the packet of materials prepared by staff in anticipation of the Board's April 14, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-14-20.pdf ("the 4/14/2020 Board packet")].

¹⁸ See ¶11 at page 53 of the 4/14/2020 Board packet.

¹⁹ Such as a staff administration building or a community center.

EXHIBIT "A"

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

POST OFFICE BOX 877
INCLINE VILLAGE, NEVADA

October 25, 1965

Board of County Commissioners
Washoe County
Nevada

Re: Ordinance to add power to acquire
and operate recreation facilities
to present powers of Incline Village
General Improvement District

PUBLIC CONVENIENCE AND NECESSITY

Incline Village is designed to be a complete recreational area. To this end, when completed, there will be two great golf courses; the finest tennis facilities in the world in the Tahoe Racquet Club; a major ski development; riding stables with a vast area for activities such as trails to the very crest of the mountains and to remote places for evening and all-night cookouts, both by horse back and wagon hay rides; gaming and related night club entertainment and a cultural center with related youth programs.

After all of the foregoing, you have to consider the availability of the use of Lake Tahoe the most important and actually the very heart of a complete recreational base. To this end, it seems highly desirable to acquire facilities for such use and to acquire them as public property (public to the property owners within the District). With the acquisition of the two pieces of lake frontage (see attached maps) the property owners of the Incline Village General Improvement District would be assured forever of access to and use of Lake Tahoe. Those two lake front properties would be used as family parks for picnics and swimming and for boating access to the Lake for fishing and water skiing.

ECONOMIC FEASIBILITY

All of the recreational facilities except the park properties (including the two beaches) are, or will be, privately owned and operated. The assessed value of Incline Village General Improvement District, together with its expected growth, will readily finance the acquisition and operation of the two beaches. The feasibility of a bond issue to acquire these properties will have to be passed upon and approved by the Washoe County Bond Commission. For your present consideration and future use by the Bond Commission, the Trustees of the Incline Village General Improvement District present their projection of taxes necessary to finance the acquisition of the beaches and the operation thereof. The projection is based upon the following assumptions:

65-928

★

89

1. That the beaches can be acquired for \$1,250,000.00;
2. That the operating expense will average \$20,000.00 annually;
3. That the bonds can be sold at a 4-3/4% yield;
4. That the bond issue include a working capital bond reserve for the first two years due to the Nevada property tax being one year behind on collection together with the fact that it will take another year to get the tax levied to apply on the debt retirement; and
5. That the total bond issue amount to \$1,458,000.00 for costs, acquisition and working capital and reserve.

Tax Year	Debt Service Equipment	Operating Expenses	Total	Assessed Value of District	Tax Rate per \$100
1966-67	\$ 69,255.00	20,000.00	89,255.00	15 M	None
1967-68	69,255.00	20,000.00	89,255.00	20 M	None
1968-69	69,255.00	20,000.00	89,255.00	25 M	0.357
1969-70	121,972.00	20,000.00	141,972.00	30 M	0.473
1970-71	119,407.00	20,000.00	139,407.00	35 M	0.398
1971-72	116,842.00	20,000.00	136,842.00	40 M	0.341
1972-73	114,277.00	20,000.00	134,277.00	45 M	0.298
1973-74	111,712.00	20,000.00	131,712.00	50 M	0.263
1974-75	109,147.00	20,000.00	129,147.00	55 M	0.235
1975-76	106,582.00	20,000.00	126,582.00	60 M	0.211
1976-77	104,017.00	20,000.00	124,017.00	65 M	0.206
1977-78	101,452.00	20,000.00	121,452.00	70 M	0.174
1978-79	98,887.00	20,000.00	118,887.00	75 M	0.159
1979-80	96,322.00	20,000.00	116,322.00	80 M	0.145

Tax rate to continue to decrease as assessed value goes up and principal is retired. At this point (1979-80) \$596,000.00 of principal has been retired, leaving an unpaid principal of \$864,000.00 to be retired over the remaining 16 years.

To clarify again the no tax for the first two years, the bond proceeds would be used as follows:

Acquisition	\$1,250,000.00
Working capital bond reserve	178,510.00
Expense of bond issue	29,490.00
	<u>\$1,458,000.00</u>

Attachments:
 Development Map
 Summary of Appraisal by
 Real Estate Research Corporation

Submitted for the record by
 INCLINE VILLAGE GENERAL IMPROVE-
 MENT DISTRICT

By Harold B. Miller
 Harold B. Miller, Treasurer

The attached certificate is at-
 tached to the best copy of the
 resolution and is filed in my office.

Harold B. Miller
 County Clerk in and for the
 County of Washoe, State of Nevada
 Deputy

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 6, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM G(6) – ATTORNEY BEKO’S REQUEST FOR AN ADDITIONAL \$42,282.79 INCURRED IN MARK SMITH’S PUBLIC RECORDS CONCEALMENT LAWSUIT, AND UP TO AN ADDITIONAL \$50,000 “TO GET TO (A) SETTLEMENT” – ISN’T ENOUGH, ENOUGH?

Introduction: Here our chairperson seeks Board approval to make two payments to attorneys Erickson, Thorpe & Swainston (“ET&S”) pertaining to Mark Smith’s public records concealment litigation (Second Judicial District Case #CV18-01564, Washoe County). The first is for \$42,282.79 in outstanding fees/costs incurred in the defense of this litigation. And the second is for not to exceed \$50,000 to appear “at “a status conference scheduled for May 12, 2020...to get to a settlement, without including any (of Mr. Smith’s) fees in the settlement.”¹ For the reasons which follow I say no; enough is enough. And that’s the purpose of this written statement.

So Far This “Misadventure” Has Cost the District Nearly \$88,000: The staff memorandum dated April 27, 2020 reveals that so far, \$87,891.61 in legal fees have been incurred with ET&S; one payment in the amount of \$45,608.82 for the period August of 2018-June 12, 2019² which has already been made, and the additional \$42,282.79 sought herein for the “outstanding balance owed to ET&S” through April 1, 2020.

And With the Additional Not-to-Exceed \$50,000 Requested “to Get a Settlement” (see discussion below), **We’re Now Up to Possibly \$138,000;**

And Haven’t We Really Paid More Already Because Task 2 With the Best, Best & Krieger Law Firm (“BBK”) Consisted of “Review(ing) the Status of the...Smith...Case, Provid(ing) Opinions on Potential Settlement Options, and Assist(ing) the Board...With the Settlement of the Case?”³

And Isn’t the Board Proposing to Pay Up to an Additional \$50,000 to Perform the Same Services Pertaining to the Smith Case? Take a look at Agenda G(7) on this evening’s agenda. There Chairperson Callicrate is proposing we spend up to an additional \$50,000 to add Task 3 to current Tasks 1 and 2 which again extends to the Mark Smith case⁴?

¹ See page 64 of the packet of materials prepared by staff in anticipation of this May 6, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-6-20.pdf (“the 5/6/2020 Board packet”)].

² See page 296 of the packet of materials prepared by staff in anticipation of the Board’s December 11, 2019 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_12-11-2019.pdf (“the 12/11/2019 Board packet”)].

³ See page 67 of the 5/6/2020 Board packet.

⁴ See pages 65-67 of the 5/6/2020 Board packet.

And All of This Was Caused by Staff's Refusal to Provide Mr. Smith With Public Records He Asked to Examine:

Mr. Smith's Public Records Request Was Meritorious, Given on May 10, 2019 the Court Ordered Summary Judgment Against IVGID And in Mr. Smith's Favor⁵:

Mr. Smith is Entitled to His Attorney's Fees and Costs⁶, And After the Court's Summary Judgment Order Filed a Motion Seeking \$23,065⁷:

Because Several Post-Judgment Motions Were Filed Both by Mr. Smith and IVGID⁸, on June 12, 2019 Mr. Beko Told the Board an Additional \$15,000 Would be Needed to Complete Post-Judgment Litigation²:

Thus Mr. Beko Requested Appropriation of These Sums (\$10,000 Above Former GM Pinkerton's Alleged Spending Authority), And on a Divided 3-2 Vote His Request Was Granted⁹:

On June 12, 2019 Mr. Beko Argued IVGID Should Appeal the Judgment in Mr. Smith's Favor¹⁰, And That the Estimated Appeal Costs Would Total an Additional \$15,000⁷: But His Request Was Denied¹¹.

At the Board's January 22, 2020 Meeting Mr. Beko's Request For a Combined Additional \$20,500 (\$7,500¹² and \$13,000¹³) to Continue Defense of the Smith Litigation Was Denied: Only Expenditure of the First \$7,500 Was Approved (on a Divided 4-1 Vote)¹⁴.

⁵ See page 292 of the 12/11/2019 Board packet.

⁶ NRS 239.011(2) states that "if the requester (of a public record) prevails (in his litigation to compel its production), the requester is entitled to recover from the governmental entity that has legal custody or control of the record his or her costs and reasonable attorney's fees in the proceeding."

⁷ See page 297 of the 12/11/2019 Board packet.

⁸ See pages 295-296 of the 12/11/2019 Board packet.

⁹ See page 172 of the packet of materials prepared by staff in anticipation of the Board's July 17, 2019 meeting [https://www.yourtahoepalce.com/uploads/pdf-ivgid/BOT_Packet_Regular_7-17-19.pdf ("the 7/17/2019 Board packet")].

¹⁰ See page 296 of the 12/11/2019 Board packet.

¹¹ See page 171 of the 7/17/2019 Board packet.

¹² See page 199 of the packet of materials prepared by staff in anticipation of the Board's January 22, 2020 meeting [https://www.yourtahoepalce.com/uploads/pdf-ivgid/BOT_Packet_Regular_1-22-2020.pdf ("the 1/22/2020 Board packet")].

¹³ See page 200 of the 1/22/2020 Board packet.

Now Staff Explains They Expect to Spend Up to an Additional \$50,000 “to Get to a Settlement” With Mr. Smith: Page 64 of the 5/6/2020 Board packet states the following: “This case has a status conference scheduled for May 12, 2020. Anticipated (future) legal services to get to settlement, without including any fees in the settlement agreement, is estimated at not-to-exceed \$50,000.”

As a Result of All This Additional IVGID Activity, I Have Been Informed Mr. Smith Has Now More Than Doubled His Attorney’s Fee Request: I have been informed that Mr. Smith’s attorney’s fees now greatly exceed the \$23,065 he initially requested. Thus by the time attorney Beko finishes his scorched earth policy, Mr. Smith is going to be entitled to a whole lot more. Remember, prevailing requesters are entitled to their attorney’s fees in public records litigation⁶.

The Board Never Voted to Retain Attorney Beko to Defend the District Against Mark Smith’s Lawsuit: NRS 318.115 instructs only “*the board* shall have the power to sue and be sued¹⁵, and be a party to suits, actions and proceeding.” But the IVGID Board never made that decision. Former GM Pinkerton, Trustee Wong and counsel Guinasso made that decision on the Board’s behalf (see discussion below). Thus Mr. Beko knows he should be pursuing the fees he claims are owed from those who retained him (see discussion below).

The Decision to Defend Mr. Smith’s Lawsuit as Well as Through the Beko Law Firm, Was Former GM Pinkerton’s, Kendra Wong’s and attorney Guinasso’s: According to attorney Beko¹⁶, former “General Manager Pinkerton approved the defense against th(is) litigation under the (alleged) authority given to him under IVGID Board Resolution No. 495¹⁷ ...NRS Chapter 41, and Policy 3.1.0(f) & (g).”¹⁸ Whether or not GM Pinkerton had this authority, now that more than \$50,000 has been incurred the Board must affirm the agreement to pay him anything more.

¹⁴ The \$7,500 request was approved at pages 61-62 of the packet of materials prepared by staff in anticipation of the Board’s February 12, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_2-12-2020.pdf (“the 2/12/2020 Board packet”)]. The \$13,000 request did not pass (see page 64 of the 2/12/2020 Board packet).

¹⁵ Furthermore, I and others I know believe *Comm’n on Ethics of Nevada v. Hansen*, 133 Nev. Adv. Op. 39, 396 P.3d 807 (2017) instructs that *only* the Board had the power to retain attorney Beko and decide to be a party to Mark Smith’s lawsuit because both matters involved in the expenditure of public monies.

¹⁶ See page 164 of the packet of materials prepared by staff in anticipation of the Board’s June 19, 2019 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_6-19-19.pdf (“the 6/19/2019 Board packet”)].

¹⁷ Go to pages 5-7 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf.

¹⁸ Go to page 10 at <https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID-Board-Policies.pdf>.

The “Clients” Who Agreed to Pay Mr. Beko’s Billings Included Kendra Wong and Jason Guinasso: I have secured the legal services agreement under which Mr. Beko has presumably billed the District the \$42,282.79 sought herein, and it is attached as Exhibit “A” to this written statement. Note the identification of “clients” on pages 1 and 3 of the agreement; Jason Guinasso, Kendra Wong and IVGID. Note ¶4 of the agreement: “Clients agree to pay for legal services” as follows... Given the Board never authorized the District’s entrance into the agreement, yet Mr. Guinasso and Ms. Wong authorized their entrance into the agreement, it is they who are obligated and should pay.

So Why Rush to Pay? Why Not Defer to Mr. Guinasso and Ms. Wong Who Agreed to Pay?

Moreover, Because Kendra Wong is a Party to the Legal Services Agreement With ETS and Thus Interested in the Outcome of This Agenda Item, She Can Neither Vote Nor Advocate For its Passage: NRS 318.0957(1)(b) makes it “unlawful for a member of the board...to be interested in any contract made by the board of which he or she is a member.” *It does not matter that she may no longer be part of the Mark Smith litigation. She is still a party to the legal services agreement.* Therefore setting aside the issue that the Board did not lawfully make the subject agreement with Mr. Beko, Ms. Wong is precluded from voting on this agenda item.

Moreover, NRS 281A addresses ethics in government. NRS 281A.420 addresses conflicts of interest. And NRS 281A.420(3) in particular addresses a public officer’s ability to vote or advocate the passage or failure of a matter where he/she has a conflict of interest. In particular,

“Public officer(s) shall not vote upon or advocate the passage or failure of ...a matter with respect to which the independence of judgment of a reasonable person in the public officer’s situation would be materially affected by:

- (a) The public officer’s acceptance of a gift or loan;
- (b) *The public officer’s significant pecuniary interest; or*
- (c) The public officer’s commitment in a private capacity to the interests of another person.”

Because Ms. Wong is a party to the subject legal services agreement, and if this agenda item does not pass she personally will be obligated to pay, she has a significant pecuniary interest in the outcome of this agenda item. And as a result, she is barred from voting or advocating its passage.

Although NRS 281A.420(4)(b) instructs that “the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer’s situation would be materially affected by the public officer’s...significant pecuniary interest,” here I submit the reasonable person would conclude Ms. Wong should abstain from voting.

Whether or Not Trustee Wong Can Vote or Advocate For Passage of This Agenda Item, She Must Disclose Her Potential Significant Pecuniary Interest: NRS 281A.420(1)(b) instructs that,

“Except as otherwise provided in this section, a public officer...shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter...In which the public officer or employee has a significant pecuniary interest...without disclosing information concerning the...significant pecuniary interest...that is sufficient to inform the public of the potential effect of the action or abstention upon the...public officer’s...significant pecuniary interest...Such a disclosure must be made at the time the matter is considered. If the public officer...is a member of a body which makes decisions, the public officer...shall make the disclosure in public to the chair and other members of the body.”

And notwithstanding the presumption of NRS 281A.420(4)(a)¹⁹, it “does not affect the applicability of the (advance disclosure) requirements set forth in (NRS 281A.420) subsection 1 relating to the duty of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.” In other words, since Trustee Wong has a significant pecuniary interest in the outcome of this agenda item, whether or not she can vote or advocate for the passage of this agenda item, she must make proper disclosure of the potential significant pecuniary interest.

Trustee Morris Must Also Disclose His Potential Significant Pecuniary Interest in the Passage of This Agenda Item: Like Trustee Wong, NRS 281A.420(1)(b) requires Trustee Morris to disclose his potential significant pecuniary interest in the passage of this agenda item. Trustee Morris was a defendant in a different piece of litigation where his defense was being provided by the same ETS law firm that is providing a defense to IVGID, Trustee Wong and attorney Guinasso in the Mark Smith litigation. But Trustee Morris did not have the financial wherewithal to pay for his defense. The public strongly suspects that Trustee Morris’ legal costs were somehow connected to IVGID’s payment of attorney Beko’s fees in the subject litigation with Mr. Smith²⁰. For this reason the public believes Trustee Morris has a significant pecuniary interest in the outcome of this agenda item. And whether or not this is accurate, the public believes Trustee Morris has the affirmative obligation to disclose this pecuniary interest, in public, at the time this matter is considered.

Whether or Not Trustee Morris Can Vote or Advocate For the Passage of This Agenda Item, He Must Disclose His Potential Significant Pecuniary Interest in its Passage: For the same reasons Trustee Wong must disclose her potential significant pecuniary interest in the passage of this agenda item (see discussion above), NRS 281A.420(1)(b) instructs the must do likewise.

¹⁹ “It must be presumed that the independence of judgment of a reasonable person in the public officer’s situation would not be materially affected by the public officer’s...significant pecuniary interest ...where the resulting benefit...accruing to the public officer...is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter.”

²⁰ Trustee Morris refuses to share the particulars of his fee arrangement with the Beko law firm in this different piece of litigation.

We Now See Attorney Beko's and Guinasso's Intransigence Have Unnecessarily Cost the Public Well Over \$125,000. And By the Time IVGID Pays For Mr. Smith's Legal Fees, Likely a Whole Lot More: How much of this is recoverable by the District? The answer is ZERO!

Moreover, I and others believe that attorney Beko's estimate of only \$15,000 for an appeal is grossly inaccurate. We've all seen Mr. Beko's handiwork when it comes to appeals, and he has demonstrated that his firm is incapable of completing an appeal for less than \$50,000.

When everything is said and done, *don't be surprised if this litigation ends up costing the District \$250,000, if not more!* And for what?

This Isn't the First Time IVGID Staff Have Unilaterally Cost Taxpayers Hundreds of Thousands of Dollars in Attorney's Fees Without First Coming to the Board for Approval/Direction: Consider,

IVGID v. Governance Sciences Group, Inc. ("CSGI"): Can any of us forget how GM Pinkerton and attorney Guinasso conspired amongst themselves to initiate a lawsuit against local citizen Kevin Lyon's CSGI aka Flash Vote service for allegedly stealing confidential IVGID customer information? When attorney came to the IVGID Board asking for more money after GM Pinkerton's unilateral \$50,000 spending authority was about to run out, the Board was outraged and instructed Mr. Guinasso to settle the litigation. Although a settlement was reached, it cost IVGID a \$10,000 contribution to the High School in lieu of payment to Mr. Lyons, on top of the \$60,000 or more in fees paid to Mr. Guinasso. All without Board approval;

IVGID v. Frank Wright: several years ago Mr. Wright bought a small claims action against IVGID to recover two years worth of Recreation Facility Fees ("RFFs"). Although IVGID didn't require an attorney in small claims court, staff engaged the services of the late Scott Brooke. When Mr. Wright's case was dismissed at the trial level, he appealed to District Court. After he was unsuccessful on appeal, Mr. Guinasso's partner, Devon Reese, initiated an attorney's fee proceeding against Mr. Wright for harassment. In that proceeding Mr. Reese attempted, unsuccessfully, to recover approximately \$3,200 of attorney's fees against Mr. Wright. Again, all without Board approval.

Katz v. IVGID: of course we all recall the retaliatory action IVGID staff took against me, again, all without Board approval. Although this case is still pending on appeal, we don't know the full extent of fees and costs IVGID has incurred. However with two appeals, the number is probably close to \$450,000. Like Mr. Wright, IVGID staff conspired with attorneys Guinasso and Beko to go after me without Board approval.

Smith v. IVGID: And now the same set of facts is being played out with attorney Beko. And again after what looks like a cost to IVGID of \$250,000 or more, all of this has been occasioned without Board approval.

Please Understand That Attorney's Fees Like These Are Being Paid With Your Water/Sewer Rates, And Recreation ("RFF") and Beach ("BFF") Facility Fees: That's right! I made a records request for the chart of account number assigned by staff to the \$45,608.82 payment previously made to Mr. Beko for work in the Mark Smith litigation. That number (100-10-990-1010) reveals that this expense

was assigned to the District's General Fund²¹. But the expenses staff assign to the District's General Fund exceed available revenues. Which requires a subsidy. Which staff disingenuously label "Central Services Costs." According to the current fiscal year's budget²² ("the 2019-20 budget"), "Central Services Costs" represent "the amount allocated between the Utility, Community Service and Beach Funds to cover the cost of services provided by the General Fund."²³ So let's examine the General Fund's budgeted revenues and expenses to see if reported Central Service Costs revenues in fact subsidize overspending and if so, from where.

Preface: I and others believe staff's reporting of the District's financials is unnecessarily complicated and deceitful. So to help the reader find the truth, I have created the discussion which follows. Please understand I am using staff's numbers even though I and others don't necessarily believe they are accurate.

General Fund: Budgeted revenues and expenditures assigned to the 2019-20 budget General Fund are attached as Exhibit "C" to this written statement. Note where I have placed asterisks next to: revenue from all sources (\$5,020,299); the portion of that revenue budgeted from "Central Services Cost Allocation" (\$1,367,400); and, expenditures (\$5,102,369) including \$686,445 of capital expenditures. Remove Central Services revenue from the equation and I hope you see that staff have budgeted to overspend.

Central Services Cost Allocation: We've all heard the maxim that although numbers don't lie, liars using numbers do. Well staff's Central Services Cost Allocation is a prime example of the principle. Staff's allocation appears at page 114 of the 2019-20 budget, and it is attached as Exhibit "D" to this written statement. Note where I have placed an asterisk next to \$1,367,400. This represents the total amounts transferred from the Community Services (i.e., recreation other than the beaches), Beach and Utility Funds. The reader will note this is the same number which appears as Central Services Cost revenue on Exhibit "C."

Note where I have placed circles on the exhibit. The first is under the "Utility" column, and it totals \$353,700. The second is under the "Beach" column, and it totals \$110,500. If one subtracts these two numbers from the total of \$1,367,400, one is left with \$903,200. This is the total for all venues under the umbrella "Community Services." Simply stated, \$353,700 of the Community Services Cost subsidy comes from water/sewer rates paid by utility customers; \$110,500 comes from Beach revenues; and, \$903,200 comes from Community Services revenues. And as I will demonstrate, since staff budget to overspend in the Beach and Community Services Funds, and that overspending is subsidized by the BFF and RFF respectively, the Community Services Cost subsidy comes from the BFF/RFF.

²¹ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/Account_Structure-All_legend_7-1-19.pdf.

²² Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf.

²³ Page 157 of the 2019-20 budget is attached to this written statement as Exhibit "B." I have placed an asterisk next to the quoted language.

Community Services Fund: Budgeted revenues and expenditures assigned to the 2019-20 budget General Fund are attached as Exhibit "E" to this written statement. Note where I have placed asterisks next to: revenue from all sources (\$22,598,780); the portion of that revenue budgeted from "the RFF" (\$5,783,115); and, expenditures (\$27,197,671) including \$8,886,502 of capital expenditures. The \$903,200 in Central Services Costs transferred to the General Fund is included in the various Services and Supplies expenditure entries. Remove RFF revenue from the equation and I hope you see that staff have budgeted to overspend.

Beach Fund: Budgeted revenues and expenditures assigned to the 2019-20 budget General Fund are attached as Exhibit "F" to this written statement. Note where I have placed asterisks next to: revenue from all sources (\$2,479,800); the portion of that revenue budgeted from "the BFF" (\$968,500); and, expenditures (\$3,105,529) including \$990,050 of capital expenditures. The \$110,500 in Central Services Costs transferred to the General Fund is included in the various Services and Supplies expenditure entries. Remove BFF revenue from the equation and I hope you see that staff have budgeted to overspend.

Conclusion: Again I ask who's running the bus here? I say it's time to put a stop to this "dig your heels into the dirt and fight to the ends of the earth" at local property owners' expense. In retrospect wouldn't we have been better off simply turning over the records requested right from the beginning? There are ways to settle litigation without acting as your un-elected staff have acted for decades. I say deny attorney Beko's request and put an end to Mark Smith's litigation. Isn't it a far more judicious use of taxpayer dollars to simply turn over the public records Mr. Smith had to sue to examine? ***Given Kendra Wong and Jason Guinasso have jointly agreed to pay Mr. Beko's fees, isn't it time the Board told Mr. Beko to obtain his fees from these individuals?***

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of the reasons why.

Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

EXHIBIT "A"

Attorney-Client Fee Contract

This ATTORNEY-CLIENT FEE CONTRACT ("Contract") is entered into by and between the Incline Village General Improvement District, Jason Guinasso and Kendra Wong ("Clients") and the law firm of ERICKSON, THORPE & SWAINSTON, LTD., ("Attorneys") on this 8th day of October, 2018.

1. CONDITIONS: This contract will not take effect, and Attorneys will have no obligation to provide legal services in accordance herewith, until Clients return a signed copy of this Contract and pay the deposit called for under paragraph 3.

2. SCOPE AND DUTIES: Clients hire Attorneys to provide legal services in connection with the legal action entitled *Mark E. Smith, an Individual, Plaintiff, vs. Incline Village General Improvement District, aka, IVGID a governmental subdivision of the State of Nevada; Jason Guinasso, individually and as counsel and de facto records officer for IVGID, Kendra Wong, Chairwoman of IVGID's Board of Trustees, ABC Corporations, I through X: Black and White Companies, I through X, and John Does, I through X, Inclusive, Defendants*, case number CV18-01564, currently pending in the Second Judicial District Court, in and for the State of Nevada, County of Washoe. Clients hire Attorneys to defend this action and take appropriate action to recover the costs associated with the defense of the matter.

Attorneys shall provide those legal services reasonably required to represent Clients, and shall take reasonable steps to keep Clients informed of progress and to respond to Clients' inquiries. Clients shall be truthful with Attorneys, cooperate with Attorneys, keep Attorneys informed of developments, abide by this Contract, pay Attorneys' bills on time, and keep Attorneys advised of Clients' address, telephone number and whereabouts.

3. DEPOSIT. Attorneys waive any requirement for the deposit of any retainer.

4. LEGAL FEES: Clients agree to pay for legal services at the following rates: Partners \$275.00/hour; Associates \$200.00/hour; Paralegals \$100.00/hour. Erickson, Thorpe & Swainston, Ltd. is comprised of lawyers with a variety of skills, experience and expertise, and they often draw upon one another's skills to provide the best and most cost effective service, and to provide the client with the benefit of all resources available in the firm. Certain matters will be assigned to persons with lower billing rates as appropriate in order to minimize Clients' legal costs, however, all work will be performed under the direct supervision of Thomas P. Beko, Esq. For the benefit of Clients, travel time greater than one hour will be billed at 50% of the above-stated rates. Attorneys charges in minimum units of .1 hour.

5. COSTS AND EXPENSES: In addition to paying legal fees, Clients shall reimburse Attorneys for all costs and expenses incurred by Attorneys, including, but not limited to, process servers' fees, fees fixed by law or assessed by courts or other agencies, court reporters' fees, long distance telephone calls (or faxes), messenger and other delivery fees, postage, in-office photocopying at \$0.25 per page, parking, mileage at \$0.50 per mile, investigation expenses, consultant and expert fees. Clients authorize Attorneys to incur all reasonable costs and to hire any investigators, consultants or expert witnesses reasonably necessary in Attorneys' judgment. Clients understand and agree that should Attorneys retain any expert, consultant or investigator, Clients shall be responsible for payment of all costs associated therewith, and that Attorneys are only retaining said expert/consultant on behalf of Clients.

6. STATEMENTS: Attorneys shall send Clients periodic statements for fees and costs incurred. Clients shall pay Attorneys' statement within 30 days after each statement's date. All sums due and owing beyond this date will accrue interest at the rate of 12 % per annum. Clients may request a statement at intervals of no less than 30 days. Upon Clients' request, Attorneys will provide a statement within 10 days.

7. DISCHARGE AND WITHDRAWAL: Clients may discharge Attorneys at any time and for any reason. Attorneys may withdraw with Clients' consent or for any just reason permitted by the Rules of Professional Conduct as adopted by the Nevada Supreme Court. Just reason would include, but is not limited to, Clients' breach of this Contract, Clients' refusal to cooperate with Attorneys or to follow Attorneys' advice on a material matter or any other fact or circumstance that would render Attorneys' continuing representation unlawful or unethical.

8. CONCLUSION OF SERVICES: When Attorneys' services conclude, all unpaid charges shall become immediately due and payable. After Attorneys' services conclude, Attorneys will, upon Clients' request, deliver Clients' file to Clients, along with any Client funds or property in Attorneys' possession.

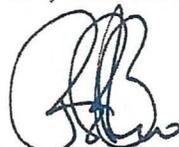
9. DISCLAIMER OF GUARANTEE: Nothing in this Contract and nothing in Attorneys' statement to Clients will be construed as a promise or guarantee about the outcome of Clients' matter. Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of Clients' matters are expressions of opinions only.

10. AWARD OF ATTORNEY'S FEES: Should any action be necessary to enforce the terms of this agreement, the prevailing party shall be entitled to an award of reasonable Attorneys' fees and costs of suit.

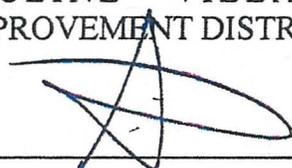
11. EFFECTIVE DATE: This Contract will take effect when Clients have performed the conditions stated in Paragraph 1, but its effective date will be retroactive to the date

Attorneys first provided services. The date at the beginning of this Contract is for reference only. Even if this Contract does not take effect, Clients will be obligated to pay Attorneys the reasonable value of any services Attorneys may have performed for Clients.

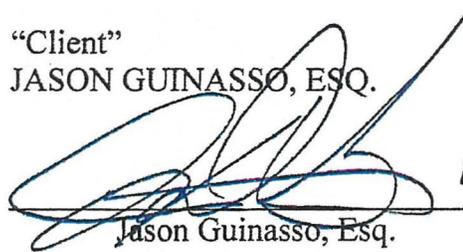
“Attorneys”
ERICKSON, THORPE & SWAINSTON, LTD.

By: 
Thomas P. Beko, Esq.

“Client”
INCLINE VILLAGE GENERAL
IMPROVEMENT DISTRICT

By: 

“Client”
JASON GUINASSO, ESQ.

 10/16/18
Jason Guinasso, Esq.

“Client”
KENDRA WONG

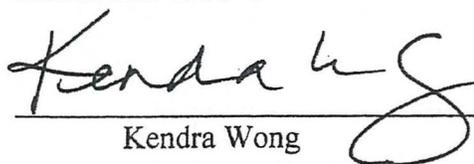
 10/16/18
Kendra Wong

EXHIBIT "B"

- **Bureau of Land Management** – US Government agency which is responsible for carrying out a variety of programs for the management and conservation, of resources on 256 million surface acres, as well as 700 million acres of subsurface mineral estate.
- **Capital Budget** - A single year plan for acquisition or construction of fixed assets, like infrastructure, facilities and equipment.
- **Capital Carryover** - Capital budget projects not spent in the previous fiscal year(s) that will be spent in a future fiscal year.
- **Capital Grants** - Grants from a specified source in support of a specified capital improvement project.
- **Capital Expenditure** - Spending to acquire or upgrade physical assets such as systems, buildings and, equipment and machinery. By District policy these assets have a useful life beyond 3 years. Also called capital spending or capital expense.
- **Capital Improvement Plan (CIP)** - A five-year plan outlining expenditures related to long-term outlays for property, plant and equipment. All capital expenditures are made within the parameters of the District's rolling Capital Improvement Plan. They are also part of the longer-term Multi Year Capital Plan for planning purposes.
- **Capital Improvement Plan/Project Reports** – Periodic reports on the status of expected spending versus actual as of a reporting date.
- **Capital Improvements** - Acquisition of assets having a cost over \$5000 and a useful life greater than 2 years.
- **Capital Outlay** - Spending to acquire or upgrade fixed assets in the General Fund.
- **Capital Project Committee (CPC)** - The committee that reviews capital projects before they are included in the CIP or capital budget.
- **Capital Project Fund** – A governmental fund type use to report the flow of resources for capital expenditures including current year and carryover projects.
- **Cash Flow** - A measure of activity based on inflow and outflow of cash. Activity equals cash receipts minus cash payments over a given period of time; or equivalently, based on measured operations adjusted for depreciation, depletion, and amortization, and other non-cash transactions.
- ★ **Central Services Cost Allocation** - The amount allocated between the Utility, Community Service and Beach Funds to cover the cost of services provided by the General Fund under Board Policy.
- **Charges for Services** – Revenues that are based on exchange transactions from providing goods and services and privileges directly between customers and the District.
- **Communications** - Transmission of messages or information including social media, telephone, and other electronic means.
- **Community Relations** - Costs to promote the District and local events.
- **Consumer Price Index (CPI)** - An inflationary indicator that measures the change in the cost of a fixed basket of products and services, including housing, electricity, food, and transportation. The CPI is published monthly. It is also called cost-of-living index. The District references the Bureau of Labor Statistics CPI-W.
- **Contractual Services** - Purchased services from providers, other than employees.

EXHIBIT "C"

REVENUES	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/20	
	ACTUAL PRIOR YEAR ENDING 6/30/2018	ESTIMATED CURRENT YEAR ENDING 6/30/2019	TENTATIVE APPROVED	FINAL APPROVED
Taxes:				
Property Tax	1,524,623	1,598,000	1,697,807	1,697,807
Personal Property Tax	12,671	12,000	12,000	12,000
Subtotal Taxes	1,537,294	1,610,000	1,709,807	1,709,807
Intergovernmental:				
Consolidated Tax (CTX)	1,388,529	1,441,000	1,490,692	1,490,692
LGTA tax	248,721	244,000	249,000	249,000
State Grants	-	-	-	-
Subtotal Intergovernmental	1,637,250	1,685,000	1,739,692	1,739,692
Miscellaneous:				
Investment income	89,960	150,000	201,000	201,000
Other	2,033	2,600	2,400	2,400
Central Services Cost Allocation	1,094,000	1,169,400	1,367,900	1,367,400
Subtotal Other	1,185,993	1,322,000	1,571,300	1,570,800
SUBTOTAL REVENUE ALL SOURCES	4,360,537	4,617,000	5,020,799	5,020,299
OTHER FINANCING SOURCES				
Transfers In (Schedule T)				
Sale of capital assets	16	-	-	-
SUBTOTAL OTHER FINANCING SOURCES	16	-	-	-
BEGINNING FUND BALANCE				
Prior Period Adjustments				
Residual Equity Transfers	-	174,326		
TOTAL BEGINNING FUND BALANCE	1,862,249	2,522,786	2,838,162	3,093,112
TOTAL AVAILABLE RESOURCES	6,222,802	7,314,112	7,858,961	8,113,411

☆ \$5,020,299
 < 1,367,400
 \$3,652,899

Incline Village General Improvement District



SCHEDULE B - GENERAL FUND

EXHIBIT "D"

Incline Village General Improvement District
 Central Services Cost Allocation Plan
 For the Fiscal Year Ending June 30, 2020

	General	Utility	Championship Golf	Mountain Golf	Facilities	Ski	Recreation Center	Parks	Tennis	Comm. Services Admin	Beach	Internal Services	Total District
Base Cost													
Budgeted FTE by Fund Allocation	23.8 8.63%	34.2 12.41%	43.9 15.92%	11.6 4.21%	2.5 0.92%	78.5 28.48%	25.0 9.07%	7.1 2.58%	2.5 0.90%	2.5 0.89%	25.5 9.25%	18.6 6.75%	275.7 100%
Budgeted Wages by Fund Allocation	\$ 2,125,940 14.91%	\$ 2,799,411 19.63%	\$ 1,592,508 11.17%	\$ 372,113 2.61%	\$ 89,488 0.63%	\$ 2,970,495 20.83%	\$ 1,164,024 8.16%	\$ 345,389 2.42%	\$ 139,281 0.98%	\$ 183,759 1.29%	\$ 932,898 6.54%	\$ 1,544,270 10.83%	\$ 14,259,576 100%
Budgeted Benefits by Fund Allocation	\$ 1,068,804 18.68%	\$ 1,407,335 24.60%	\$ 512,154 8.95%	\$ 115,629 2.02%	\$ 47,157 0.82%	\$ 985,297 17.22%	\$ 368,533 6.44%	\$ 85,289 1.49%	\$ 29,131 0.51%	\$ 60,652 1.06%	\$ 240,804 4.21%	\$ 799,470 13.98%	\$ 5,720,255 100%
Budgeted Services & Supplies by Fund Allocation	\$ 1,221,180 8.67%	\$ 3,284,771 23.31%	\$ 2,362,177 16.76%	\$ 486,135 3.45%	\$ 386,890 2.75%	\$ 3,221,476 22.86%	\$ 818,566 5.81%	\$ 418,301 2.97%	\$ 89,311 0.63%	\$ 179,860 1.28%	\$ 824,987 5.85%	\$ 798,377 5.67%	\$ 14,092,031 100%
Budgeted Accounting - Invest. Int.	\$ 757,297												
Percentage of Costs Allocated	80%												
Allocation based on Services & Supplies	52,500	141,217	101,554	20,900	16,633	138,496	35,191	17,983	3,840	7,732	35,467	34,323	\$ 605,838
Blended Allocation	14%	19%	12%	3%	1%	22%	8%	2%	1%	1%	7%	11%	
Budgeted Human Resources	\$ 974,317												
HR + 20% Accounting	\$ 1,125,776												
Based on Wages, Benefits & FTE	158,460	212,548	135,265	33,168	8,906	249,667	88,840	24,349	8,952	12,157	75,059	118,405	\$ 1,125,776
Central Services Cost Allocation	\$ 363,688	\$ 353,765	\$ 236,819	\$ 54,068	\$ 25,539	\$ 388,163	\$ 124,031	\$ 42,333	\$ 12,792	\$ 19,889	\$ 110,527		\$ 1,731,614
Annual Billing for Adopted Budget	\$ 353,700	\$ 236,800	\$ 54,000	\$ 25,500	\$ 388,100	\$ 124,000	\$ 42,300	\$ 12,700	\$ 19,800	\$ 110,500		\$ 1,367,400	★

Prepared and calculated in accordance with NRS 354.613 Subsection 1c and IVGID Board Policy 18.1.0

Note: The basis for Services & Supplies for the Central Services Cost Allocation differs from the Budgeted Services & Supplies by excluding costs for the allocation itself.

By: Gerald W. Eick, Director of Finance



EXHIBIT "E"

EXPENDITURES	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/20	
	ACTUAL PRIOR YEAR ENDING 6/30/2018	ESTIMATED CURRENT YEAR ENDING 6/30/2019	TENTATIVE APPROVED	FINAL APPROVED
Championship Golf Course				
Salaries and Wages	1,450,745	1,495,000	1,592,508	1,592,508
Employee Benefits	378,678	425,000	512,154	512,154
Services and Supplies	2,226,279	2,301,600	2,587,477	2,598,977
Capital Outlay	-	-	613,782	653,200
Subtotal Championship Golf Course	4,055,702	4,221,600	5,305,921	5,356,839
Mountain Golf Course				
Salaries and Wages	327,821	380,000	372,113	372,113
Employee Benefits	88,958	110,000	115,629	115,629
Services and Supplies	555,392	510,800	540,035	540,135
Capital Outlay	-	-	1,541,238	2,420,700
Subtotal Mountain Golf Course	972,171	1,000,800	2,569,015	3,448,577
Facilities (Chateau and Aspen Grove)				
Salaries and Wages	80,096	86,000	89,488	89,488
Employee Benefits	38,460	43,000	47,157	47,157
Services and Supplies	330,241	394,600	412,290	412,390
Capital Outlay	-	-	180,400	180,400
Subtotal Facilities	448,797	523,600	729,335	729,435
Ski				
Salaries and Wages	2,767,963	3,043,000	2,970,495	2,970,495
Employee Benefits	847,817	950,000	985,297	985,297
Services and Supplies	3,408,547	3,762,000	3,662,826	3,609,576
Capital Outlay	-	-	2,482,166	2,770,850
Subtotal Ski	7,024,327	7,755,000	10,100,784	10,336,218
Community Programming (Including Rec Center)				
Salaries and Wages	1,093,852	1,112,000	1,164,024	1,164,024
Employee Benefits	319,199	335,000	368,533	368,533
Services and Supplies	819,054	862,300	948,366	942,566
Capital Outlay	-	-	413,700	468,650
Subtotal Community Programming	2,232,105	2,309,300	2,894,623	2,943,773
Parks				
Salaries and Wages	332,157	327,000	345,389	345,389
Employee Benefits	71,527	80,000	85,289	85,289
Services and Supplies	414,614	429,600	459,201	460,601
Capital Outlay	-	-	880,252	1,028,752
Subtotal Parks	818,298	836,600	1,770,131	1,920,031
Tennis				
Salaries and Wages	120,151	139,000	139,281	139,281
Employee Benefits	19,854	27,500	29,131	29,131
Services and Supplies	88,525	99,200	102,011	102,011
Capital Outlay	-	-	793,500	1,363,950
Subtotal Tennis	228,530	265,700	1,063,923	1,634,373
Community Services Administration				
Salaries and Wages	144,815	135,000	183,759	183,759
Employee Benefits	41,518	43,000	60,652	60,652
Services and Supplies	171,165	189,000	199,660	199,660
Capital Outlay	-	-	-	-
Subtotal Comm. Serv. Administration	357,498	367,000	444,071	444,071
Debt Service - G.O. Revenue Supported Bond				
Principal	-	-	355,188	355,188
Interest	-	-	29,166	29,166
Subtotal Debt Service	-	-	384,354	384,354
Subtotal - Comm. Services Expenditures	16,137,428	17,279,600	25,262,157	27,197,671
Transfers Out	4,960,341	4,241,577	-	-
ENDING FUND BALANCE	10,645,469	13,183,167	10,453,105	9,146,076
TOTAL COMMITMENTS & FUND BALANCE	31,743,238	34,704,344	35,715,262	36,343,747

Incline Village General Improvement District

Community Services Special Revenue Fund

Note prior to July 1, 2019 Capital Outlay and Debt Service were reported under separate funds.

Page: 18
Schedule B-13

FORM 4404LGF

Last Revised 11/30/2018

REVENUES	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/20	
	ACTUAL PRIOR YEAR ENDING 6/30/2018	ESTIMATED CURRENT YEAR ENDING 6/30/2019	TENTATIVE APPROVED	FINAL APPROVED
Charges for Services				
Championship Golf Course	3,765,419	4,130,000	4,516,321	4,516,321
Mountain Golf Course	630,214	700,000	678,573	678,573
Facilities (Chateau & Aspen Grove)	355,696	410,000	420,793	420,793
Ski	9,155,646	11,700,000	9,222,320	9,222,320
Community Programming	1,289,953	1,305,000	1,285,209	1,285,209
Parks	48,910	55,000	62,178	62,178
Tennis	145,197	159,000	156,100	156,100
Recreation Administration	(758,481)	(725,000)	(748,600)	(748,600)
Subtotal Charged for Services	14,632,554	17,734,000	15,592,894	15,592,894
Facility Fee				
Championship Golf Course	795,437	804,000	976,157	976,157
Mountain Golf Course	505,878	517,000	689,052	689,052
Facilities (Chateau & Aspen Grove)	458,325	467,000	524,992	524,992
Ski	220,978	238,000	(336,323)	(336,323)
Community Programming	1,293,131	1,305,000	1,574,976	1,574,976
Parks	957,571	968,000	992,563	992,563
Tennis	163,667	164,000	196,872	196,872
Recreation Administration	1,374,975	1,321,000	1,164,826	1,164,826
Subtotal Facility Fees	5,769,982	5,784,000	5,783,115	5,783,115
Other miscellaneous				
Operating Grants	17,000	17,000	17,000	17,000
Investment income	69,303	69,000	50,000	50,000
Sale of Assets	85,562	-	-	-
Interfund services (green spaces)	74,014	77,000	98,210	98,210
Intergovernmental (IV high school fields)	20,220	18,000	23,400	23,400
Miscellaneous other & Cell Tower Leases	109,462	118,000	110,361	110,361
Capital Grants	-	-	486,000	623,800
Insurance proceeds	-	-	300,000	300,000
Subtotal Other Miscellaneous	375,561	299,000	1,084,971	1,222,771
Subtotal	20,778,097	23,817,000	22,460,980	22,598,780
OTHER FINANCING SOURCES (specify)				
Transfers In (Schedule T)	645,000	241,875	561,800	561,800
BEGINNING FUND BALANCE				
Prior Period Adjustments				
Residual Equity Transfers				
TOTAL BEGINNING FUND BALANCE	10,320,141	10,645,469	12,692,482	13,183,167
TOTAL AVAILABLE RESOURCES	31,743,238	34,704,344	35,715,262	36,343,747

* 22,598,780
 < 5,783,115
 = 16,815,665

Incline Village General Improvement District

Community Services Special Revenue Fund

EXHIBIT "F"

REVENUES	(1)	(2)	(3) BUDGET YEAR ENDING 06/30/20	
	ACTUAL PRIOR YEAR ENDING 6/30/2018	ESTIMATED CURRENT YEAR ENDING 6/30/2019	TENTATIVE APPROVED	FINAL APPROVED
Charges for Services	1,266,613	1,450,000	1,488,800	1,488,800
Facility Fees	967,414	969,500	968,500	968,500
Investment income	2,288	13,500	22,500	22,500
Sales of capital assets	857	-	-	-
Capital Grants	-	-	150,000	-
Subtotal	2,237,172	2,433,000	2,629,800	2,479,800
OTHER FINANCING SOURCES:				
Operating Transfers in (Schedule T)	35,000	13,125	-	-
BEGINNING FUND BALANCE				
Prior Period Adjustment(s)				
Residual Equity Transfers				
TOTAL BEGINNING FUND BALANCE	1,070,237	1,413,091	1,729,521	1,749,171
TOTAL RESOURCES	3,342,409	3,859,216	4,359,321	4,228,971
EXPENDITURES				
Salaries and Wages	748,538	820,000	932,898	932,898
Employee Benefits	182,791	200,000	240,804	240,804
Services and Supplies	688,417	879,600	931,087	935,488
Capital Outlay	-	-	859,600	990,050
Debt Service - G.O. Revenue Supported Bond				
Principal	-	-	5,812	5,812
Interest	-	-	477	477
Subtotal	1,619,746	1,899,600	2,970,678	3,105,529
OTHER USES				
CONTINGENCY (not to exceed 3% of total expenditures)	-	-	-	-
Transfers Out (Schedule T)	309,572	210,445	-	-
ENDING FUND BALANCE	1,413,091	1,749,171	1,388,643	1,123,442
TOTAL COMMITMENTS & FUND BALANCE	3,342,409	3,859,216	4,359,321	4,228,971

★ \$ 2,479,800
 < 968,500 >
 \$ 1,511,300

Incline Village General Improvement District

★ Beach Special Revenue Fund

Note prior to July 1, 2019 Capital Outlay and Debt Service were reported under separate funds.

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 6, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENT – BECAUSE OUR INTERIM GENERAL MANAGER ADMITS IT IS IMPOSSIBLE TO OPERATE OUR RECREATIONAL FACILITIES WITHOUT THE ANNUAL NEARLY \$7 MILLION SUBSIDY OF THE RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEES, IT’S TIME TO EITHER GET OUT OF THE COMMERCIAL “FOR PROFIT” RECREATION BUSINESS ALTOGETHER, OR TRANSFER OPERATION OF THE PUBLIC’S RECREATION FACILITIES TO A HOMEOWNERS’ ASSOCIATION OWNED BY WE LOCAL PROPERTY OWNERS WHO ARE THE ONES REQUIRED TO PAY THE SUBSIDY

Introduction: This morning I was forwarded some e-mail communications between our interim General Manager, Indra Winquest, and local property owner Dick Warren, concerning staff’s proposed 2020-21 budget¹. In those communications Mr. Warren stated that if he were on the Board, he would “approve a (reduced) Rec Fee of \$400 per parcel, and demand a revised (balanced) budget from staff in 7 days.” In response Indra stated that to do as Mr. Warren had suggested would mean “shutting down most of our venues and projects for the year.”

What I believe Indra was really telling Mr. Warren was that without the involuntary subsidy of the RFF/BFF, it is *impossible* for staff to operate the public’s recreation facilities as “for profit” commercial business enterprises, at least on a balanced budget basis.

Just to make sure I had it right I e-mailed Indra asking he confirm/deny/clarify². As of this meeting, I have not heard back from Indra. But his response must be to agree with me because otherwise, he should be able to present a proposed budget which cuts costs and the RFF/BFF.

In any event, with this revelation I thought it timely to again raise the issue of either getting out of the money losing commercial recreation business altogether, or simply turn over the public’s recreation revenues to an homeowners’ association made up of the local property owners who have been financially subsidizing them, for their/their legitimate guests’ exclusive use. And that’s the purpose of this written statement.

Divesting Ourselves of All of IVGID’s Money Losing Recreation Facilities And Returning Them to Private Ownership/Operation is Nothing More Than What the IVGID Board Promised to the Washoe County Board of Commissioners (“County Board”) and the Public on October 25, 1965: I have prepared a companion written statement (“the companion statement”) I’ve asked be attached to the minutes of this meeting which documents Harold Tiller’s promise to the public that if IVGID were granted the basic power to furnish facilities for public recreation, the *only* recreation facilities IVGID would acquire would be:

¹ Copies of those communications are attached as Exhibit “A” to this written statement.

² A copy of my e-mail is attached as Exhibit “B” to this written statement.

“Park properties (including two beaches)...All (other envisioned)... recreational facilities³...w(ould) be *privately owned...operated*”⁴ and presumably privately financed.

And insofar as “economic...sound(ness) and feasib(ility)”⁴ [see NRS 318.055(4)(c)(2)] are concerned, Mr. Tiller testified that:

IVGID’s *ad valorem* taxes “together with its expected growth, w(ould) readily finance...acquisition and operation of the...beaches.”⁵

Divesting Ourselves of All of IVGID’s Public’s Recreation Facilities Will Not Make Them Unavailable For Our Local Property Owners’ Use: Instead, it will put them under private ownership/operation and eliminate the financial subsidy the majority of us have been compelled to pay given they primarily benefit the world’s tourists.

Even if These Facilities Were No Longer Available For Our Local Property Owners’ Use, We Really Don’t “Need” Any of Them Inasmuch as We Already Have a Myriad of Alternatives Readily Available: For instance,

Golf: Many alternatives are offered in Kings Beach, Truckee and Reno. Granted, the commute time might be a bit longer. However, look at the cost savings;

Ski: Many alternatives are offered in Reno (Mt. Rose), Truckee, Tahoe City and South Shore. Moreover, they’re superior in quality/amenities;

Recreation Center: High Altitude Fitness is here in town;

Tennis: We have an inter-local agreement with the Washoe County School District (“WCSD”) whereby our residents are entitled to use WCSD recreational facilities at no charge. These facilities include WCSD tennis courts;

Parks and Athletic Fields: Since we are under the auspices of Washoe County governance, if for some reason there were no parks nor athletic fields in Incline Village, legitimately they should be provided by Washoe County. In fact, maybe we can sell our parks and athletic fields to

³ The developer of Incline Village, Crystal Bay Development Co. (“CBD”) represented to purchasers of residential property that “Incline Village (would)...be a complete recreation area (consisting of)...two great golf courses, the finest tennis facilities in the world...a major ski development, riding stables... trails to the very crest of the mountains...gaming and related night club entertainment(,) and a cultural center with related youth programs.”

⁴ Per attorney Wilson’s letter to the County Board, IVGID was of the view that “findings of convenience and necessity and economy and feasibility” were both required.

⁵ Mr. Tiller’s October 25, 1965 letter testimony to the County Board, with an asterisk next to the quoted language, is attached as Exhibit “A” to the companion statement.

Washoe County? Additionally, there are parks and athletic fields available to our residents in Kings Beach, Tahoe City and Truckee.

Conclusion: When IVGID was granted additional public recreation powers by the County Board, there was massive opposition in our community. Does anyone really think that if the District had been upfront and honest, sharing with the public it expected local property owners to bear the financial burden of owning, developing and operating all of the money losing facilities CBD envisioned³, the public would not have vehemently objected? To anyone who answers “yes,” I have a couple of publicly owned bridges I’d like to sell you. To everyone else, why is it acceptable to shackle local property owners with a lifetime of financial subsidies?

The truth is we either:

1. Operate our recreation facilities and the programs offered thereat on a break even or positive cash flow basis without local property owner subsidy (the District can use part or all of the \$3 million of yearly *ad valorem* and C-tax revenues it receives);

2. Sell these facilities to someone else who can operate them without involuntary local property owner subsidy; or,

3. Let’s make these facilities available to local property owners *ONLY* for their exclusive use. As a by-product, can you imagine how much our property values would increase over night?

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of the reasons why.

Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

EXHIBIT "A"

Re: FY2021 Draft Budget

From: Dick Warren <bd1947@icloud.com>
To: "Winquest, Indra S."
Cc: "Paul C. Navazio" <pcn@ivgid.org>, Tim Callicrate <callicrate_trustee@ivgid.org>, Matthew Dent <dent_trustee@ivgid.org>, Sara Schmitz <trustee_schmitz@ivgid.org>, Peter Morris <morris_trustee@ivgid.org>, Kendra Wong <wong_trustee@ivgid.org>
Subject: Re: FY2021 Draft Budget
Date: May 5, 2020 9:42 PM

Well, Indra, I am sure you have a lot of support from the Community, especially those not paying the Rec Fee.

BTW I never said to shut down the Venues, I simply said to operate the Venues without the level of Rec Fee support you have had in the past. Why is it that you can not run IVGID without the Rec Fee? Shouldn't the Venues break even WITHOUT the Rec Fee support? If you look at February/March/April, when nothing was going on, you still got those Rec Fee revenues. Where is that money now? Why aren't those funds going to be used to placate issues in FY2021? You not only want the \$830 per parcel from last year, but now you want the \$830 for this year too. Can you connect the dots on this for me? I doubt it.

I'm sure you have a ton of support in the Community Indra, after, most folks support "freebies". But as an interim GM, you need to be fiscally responsible; that is, you need to make tough decisions based on facts, not what the Community "freeloaders" want.

But then, Indra, as the local Candy Man, that would make you unpopular, and God forbid that the interim GM of IVGID would be unpopular. It is a shame that you are more of a politician than a competent Manager....IVGID needs the latter.

Sent from my iPad

> On May 5, 2020, at 9:02 PM, Winquest, Indra S. <ISW@ivgid.org> wrote:

>

> Thanks for your email Mr Warren. I completely disagree with your opinion. Quite frankly i have not heard anything this extreme from anyone in the community but you but of course you are entitled to your opinion. Basically what you are recommending is shutting down most of our venues and projects for the year. The golf courses and Tennis are opening later this month. Beaches are already up and going and will continue to get busier as restrictions are lifted. Rec Center and Programs not so lucky but we expect to start gradually opening these back up in June unless things regress.] ☆

>

> Additionally, we are planning for DP to have a solid season. It will not be business as usual for some time and we are planning for this but remember, the worst of the impact is going to be over by July/August so most of the revenue loss is occurring now in this fiscal year. We are planning for close to normal operations next spring and early summer as we finish up the 20-21 fiscal year. If things worsen for whatever reason we will

manage it as we are now. Noone can predict what is happening so we will adjust however needed.

>

> If you understood the community and our venues you would know people are really anxious to get back to the facilities and doubtful they want reduced levels of service after being at home for months. We are ready to adjust our operations to whatever is happening. Staff is not getting paid for sitting around doing nothing. Im taking a pay decrease and im working more than i ever have in my life managing through all of this. Im confident in what we are doing. Sorry you disagree. We have a ton of support.

>

>

>

> Cheers, Indra

>

>>> On May 5, 2020, at 7:59 PM, Dick Warren <bd1947@icloud.com> wrote:

>> You guys are amazing, but I have to give you credit for having an incredible amount of "chutzpah & hubris" in delivering this FY2021 Budget. Not only do you wait until 2 days before the meeting starts to deliver 160 pages for individuals like the Board of Trustees & interested residents to digest, but, based on page 43, you are recommending that the Rec Fee remain at \$705 for 8,203 residents, and \$125 for 7,748 residents, a total of \$6.751M, basically the \$830 Rec Fee from previous years. Please tell me that my analysis is wrong, page 43 does not represent your recommendation, etc. But if I am correct that you are as audacious as revealed, then, if I were the Board, I would immediately approve a Rec Fee of \$400 per parcel, and demand a revised budget from Staff in 7 days. I doubt this Board has the intestinal fortitude to do that, but that's the only way you "IVGID Malcontents" will be forced into doing your job as managers.]*

>> Further down in your 160 page epistle you discuss the allocation between the Rec Fee & the Beach Fee...who gives a damn? It still stays at \$830.

>> Indra, I know, you are the Candy Man, you abhor eliminating worthless expenses, especially labor expenses, because this is your source of community support (My God, Indra wouldn't eliminate my daughter's job????!!!!???). But Indra, as the interim GM, don't you at least feel a little quiver of fairness to do what is right for the resident who pays the bill? I find your thinking, and Paul's thinking too since it's obvious that Paul has bought into the "IVGID Way", really amazing. You really do not mind screwing the residents for the benefit of locals that get benefits but do not have to pay for them.

>> Please tell me that my facts are wrong, that you are not as worthless as you appear to be.

>> How do you guys sleep at night? No problem, we're going to get that \$830 Rec Fee...all problems solved!

>> Worthless Management at the top of IVGID.

>>>> On May 4, 2020, at 6:40 PM, Dick Warren <bd1947@icloud.com> wrote:

>>> Hey guys, this draft budget should have been out today. But so far it is not there for me to review.

>>> For the record, if you come out with a budget that assumes an \$830 Rec Fee, I would say that budget is DOA (Dead On Arrival). At a minimum, the Rec Fee should at least be cut by 50%.

>>> So if your objective is to continue things "as usual", the Trustees should reject it immediately.

EXHIBIT "B"

Re: FY2021 Draft Budget

From: s4s@ix.netcom.com
To: "Winqest, Indra S."
Cc: "Paul C. Navazio" <pcn@ivgid.org>, Tim Callicrate <callicrate_trustee@ivgid.org>, Matthew Dent <dent_trustee@ivgid.org>, Sara Schmitz <trustee_schmitz@ivgid.org>, Peter Morris <morris_trustee@ivgid.org>, Kendra Wong <wong_trustee@ivgid.org>
Subject: Re: FY2021 Draft Budget
Date: May 6, 2020 11:49 AM

Hello Indra -

I have been forwarded some recent communications between you and local resident/property owner Dick Warren concerning staff's proposed 2020-21 budget.

In the same Dick suggests that staff should reduce the combined Rec Fee to \$400 and reduce expenses accordingly, and in response you state that by doing what Dick suggests, staff would be forced to shut down essentially all recreation venues and proposed capital improvement projects for at least the next year. Do I have this right? If I don't, can you please set me straighten me out as to where I am wrong?

Assuming I am not wrong, what you're basically saying is that without an annual Rec Fee subsidy of in excess of \$400 (and you don't state how much of an excess) per parcel/dwelling unit, it is IMPOSSIBLE for staff to operate the public's recreation facilities at a break even or on a possible positive cash flow basis for at least the next year. Do I have this right?

Assuming I do, let's be honest and straightforward with the Board and our local parcel owners; it's called "transparency." Without the subsidy of our Rec and Beach Facility Fees, it is IMPOSSIBLE for staff to operate the public's recreational facilities, as commercial "for profit" business enterprises, FOR THE REST OF OUR LIVES! Do I have this right?

If I don't, and assuming staff is unable to generate additional revenues over those budgeted, please tell me how much lower the combined Rec Fee can go for staff to be able to operate the public's recreational facilities, as commercial "for profit" business enterprises, at a break even or on a possible positive cash flow basis. And whatever that number is, why haven't staff proposed reductions in spending to make that a reality?

Thank you for your cooperation. Aaron Katz

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 6, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENT – THE BOARD MUST AMEND RESOLUTION 1480 AND POLICY 3.1.0 BECAUSE OUR INTERIM GENERAL MANAGER REPRESENTS HE HAS DIRECT SUPERVISION OVER ALL DISTRICT EMPLOYEES, AND SPENDING AUTHORITY OF UP TO \$100,000 WITHOUT BOARD APPROVAL

Introduction: At page 11 of the Board packet¹, our interim General Manager, Indra Winqest, and local property owner Dick Warren, reminds us that “as stated in Resolution 1480², (it is) the General Manager (who) has direct supervision over *all* District employees.” And at page 16 of the 5/6/2020 Board packet, under Policy 3.1.0³, the General Manager has the authority to enter into contracts totaling and to spend up to \$100,000 without advance Board approval. For these reasons I urge the Board to modify both Resolution 1480 and Policy 3.1.0. And these are the purposes of this written statement.

¶II of Resolution 1480: states that “the District operates under a Board-Manager form of government which places the Board of Trustees in the role of establishing overall IVGID policy direction. IVGID Staff is appointed to administer and execute day-to-day operations. The (General) Manager is responsible for supervising these operations and providing general administrative direction. With regarding to IVGID personnel, it is the Board’s responsibility to establish overall guidelines governing IVGID’s approach to personnel matters. The (General) Manager’s role is to put these guidelines into the day-to-day practice of hiring, firing, motivating, promoting, demoting, compensating, and training individual employees.” This makes the General Manager our employees’ boss to whom they owe their loyalty.

This language conflicts with NRS 318.180⁴, 318.185⁵ and 318.210⁶ which state, respectively, that it is the IVGID Board which has the power to: “hire and retain agents, employees, servants, engineers and attorneys, and any other persons necessary or desirable to effect the purposes of this chapter;” “prescribe the duties of officers, agents, employees and servants, and fix their compensation;” and, “all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter.”

¹ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-6-2020_BOT_Packet_Regular.pdf (“the 5/6/2020 Board packet”).

² See pages 12-17 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf.

³ See pages 8-13 at <https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID-Board-Policies.pdf>.

⁴ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec180>.

⁵ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec185>.

⁶ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec210>.

The Board needs to modify Resolution 1480 to make it mirror the expansive grant of power NRS 318 bestows upon the Board rather than the General Manager.

¶(f) of Policy 3.1.0.6: states that “contracts, other than those covered by Nevada Revised Statutes 332.115⁷ and which are not subject to the advertising thresholds of Nevada Revised Statutes 332 and/or 338, may be authorized, approved and executed by the General Manager of the District or (his/her) designee, unless otherwise ordered by the Board of Trustees. Contracts covered by Nevada Revised Statutes 332.115 may be authorized, approved and executed by the General Manager or his designee of the District, if it is for an amount less than the advertising threshold of Nevada Revised Statute 332.”

Given NRS 332.065(1)⁸ instructs that *only* “if the estimated annual amount required to perform a contract is more than \$100,000, (may) the governing body or its authorized representative: (a)... advertise the contract in the manner prescribed in NRS 332.045; and, (b)...issue a solicitation for the contract,” contracts under \$100,000 “may be authorized, approved and executed by (our) General Manager...unless otherwise ordered by the Board of Trustees.”

The Board needs to modify Policy 3.1.0 to reduce the expansive grant of power NRS 332 bestows upon the General Manager rather than the Board.

¶(h) of Policy 3.1.0.6: While the Board is at it, the Mark Smith litigation demonstrates it should modify this portion of Policy 3.1.0.6, “litigation,” to “obtain Board of Trustees authorization, at a public meeting, (not only) to initiate any lawsuit,” but to *defend any lawsuit*.

¶(g) of Policy 3.1.0.6: While the Board is at it, the Mark Smith and Aaron Katz litigations demonstrate it should modify this portion of Policy 3.1.0.6, “claims,” to give the General Manager and General Counsel, and/or their designees, the authority “to negotiate on behalf of IVGID, the settlement of all property damage, personal injury...liability (*as well as other*) claims, unless otherwise ordered by the Board of Trustees.”

Policy 3.1.0.8: While the Board is at it, it should modify this portion of Policy 3.1.0.6, “agenda preparation,” to change the word “will” to “shall” where highlighted in the following second sentence: “The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda for each meeting. The Chair **will** place on the Agenda any item requested by a fellow Trustee.”

Policy 3.1.0.10: While the Board is at it, it should modify this portion of Policy 3.1.0.6, “public participation,” to solicit “comments...from the public during (*at least*) two comment periods” of any Board or committee meeting, one at the start of the meeting and one prior to adjournment.“ Notwithstanding, additional language should be added which makes it clear that nothing provided for therein shall limit nor prohibit the power of the Board chairperson “from taking (additional)

⁷ Those “which by their nature are not adapted to award by a competitive solicitation.”

⁸ Go to <https://www.leg.state.nv.us/NRS/NRS-332.html#NRS332Sec065>.

comments by the general public in addition to what is required pursuant to” the above, such as “after each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item” [see NRS 241.020(3)(d)(3)(II)⁹].

Conclusion: Past Boards have abdicated their administrative and spending responsibilities to un-elected General Managers. Now that the spending authority of authorized representatives of governing bodies has been doubled to \$100,000, it’s time for this Board to take back the District.

And to those asking why our Recreation (“RFF”) and/or Beach (“BFF”) Facility Fees are as high as they are, and never seem to go down, now you have another example of the reasons why.

Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

⁹ Go to <https://www.leg.state.nv.us/NRS/NRS-241.html#NRS241Sec020>.