MINUTES

REGULAR MEETING OF JULY 17, 2019
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 Chairwoman Kendra Wong on Wednesday, July 17, 2019 at 6:00 p.m. at the Chateau located at 955 Fairway Boulevard, Incline Village, Nevada.

A. PLEDGE OF ALLEGIANCE*

The pledge of allegiance was recited.

B. ROLL CALL OF THE IVGD BOARD OF TRUSTEES*

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

Also present were District Staff Members Director of Public Works Joe Pomroy, Assistant General Manager Indra Winquest, Director of Finance Gerry Eick, Director of Golf/Community Services Darren Howard, and Director of Human Resources Dee Carey.

Members of the public present were Steve Dolan, Pete Todoroff, Linda Newman, Margaret Martini, Cliff Dobler, Iljosa Dobler, Sara Schmitz, Barbara Perlman-Whyman, Andy Whyman, Aaron Katz, Judith Miller, and others.

(33 individuals in attendance at the start of the meeting which includes Trustees, Staff, and members of the public.)

C. PUBLIC COMMENTS

Judith Miller said this evening there are a couple of items and one she wants to focus on, she has a background in public service, is finding a replacement for the District General Manager. She remembers the last time, which was very extensive, and one of the things that is unique is that the public needs to be very involved in the selection of the District General Manager. The appointment of the Interim General, who then becomes the District General Manager, deprives the public from looking at all qualified candidates which is nothing personal towards the Staff member identified whom she has always got along with. When looking at the top administrator, it needs to be an extensive process and the public should be
involved. The District General Manager who is leaving, hasn’t fulfilled his contract, and yet he is appointing someone; the public needs to be involved.

Aaron Katz said that he has a written statement regarding the approval of the minutes of June 19 and he asks that those minutes not be approved for all the reasons in his written statement. He has another written statement, regarding agenda item H.2, which is a partial and he is submitting a placeholder. There are two things he wants to talk about – the appointment of the Interim General Manager. Does he live here? Does he have a degree from a four year college? We went through this four years ago and if he doesn’t satisfy these items then he is not qualified to be District General Manager. When Mr. Horn left the District, he made a point of stating we needed someone from a city or county and that is one of the big reasons that we have the current District General Manager that we do. The identified appointee has no idea what the District is and noted that he is committed to Staff rather than the public. Regarding the agenda item for Ordinance 7, beach access is not a privilege because you can’t precondition access. IVGID is not the owner of the beaches as the true owners are the local property owners. Once IVGID no longer fulfills its fiduciary responsibilities, there will be the return of the beaches.

Steve Dolan said that he was glad to see that the Washoe County Sheriff’s Deputies aren’t here at the meeting. He has three things – he has heard really great comments about trash removal especially on the 4th of July. Individuals on the 5th of July found it in better shape than in the past. There was another group who has been lobbying to get the golf balls off the beach and out of the lake who recently saw the divers come off the beach so Staff has done a great job with those two items. The meeting he went to yesterday, regarding parking, there is a big problem which is only going to get bigger. The State of Nevada is dumping their parking problems on us and what concerned him was the comments made by Washoe County Commissioner Berkbigler who said she can unilaterally create some things. This is a lake community and for those that don’t want it have boats and trailers around then move to the desert. Mr. Dolan closed by saying that he hopes that the public is allowed to vote on anything related to boats and boat trailers.

Cliff Dobler read from a prepared statement which is attached hereto.

Linda Newman read from a prepared statement which is attached hereto.

Margaret Martini read from a prepared statement which is attached hereto.
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Pete Todoroff said that he got an e-mail today about the Lake Tahoe Summit which is being held on August 20 at Valhalla and that registration is via an RSVP, which he did today and anybody that needs that information can contact him. He knows that Mr. Dolan said it was a great thing to have boat trailers, etc. but that he lives on Country Club and everyday he sees pedestrians walking on the street to dodge boats, trailers, RVs, etc. and he finds that unacceptable. We are not a parking lot of boats, trailers, etc. Washoe County Commissioner Berkbigler danced around it and the easiest way to enforce this is to put up no parking signs. When there was a show of hands on that topic, it was almost unanimous. Mr. Todoroff concluded by asking everyone to contact our Washoe County Commissioner and tell her you support the no parking signs as he finds the current situation unacceptable.

Alec Flores said thank you on the cleanup as it is a great thing. He has two minor comments – had the great privilege to go out with the duckers and as he was dumping the ducks in the river, he had a few inquiries about flies at Village Green. The other item is that he had an interesting experience yesterday at the Visitor’s Center and noted that he is speaking on behalf of himself, but they had a guest come in who asked where were the SEZ zones so he told him that it was Village Green and at other areas. Keep up the good work and just sharing his interaction about the SEZ zones.

Peggy Meadows said that she has been hearing about the recommendations about capital improvements for bocce ball and wanting those courts at other places beside the beach. It is better to have them in a place like a park as she doesn’t think it fits in at the Tennis Center and she has been a long time tennis player. She would like to see more vehicle charging stations as she wasn’t able to plug in today and they are becoming more and more popular so putting in more stations and keeping them free is a good idea. She liked the idea about having the punch cards reimbursed as she used some for tennis. While she would like to see a higher percentage, it is nice that you do it as we do pay in to it and she would like to get a little more back. Keep up the good work and she hopes you keep an open mind and keep it efficient. Oh, one more thing, music would be nice with the fireworks but she doesn’t know if that is possible.

Andy Whyman said he would remind his Republican friends that elections do have consequences and that this last election did have consequences. Our District General Manager is going to be moving on to greener pastures thus he would like to thank him for his efforts. We didn’t always agree but his decisions were based on his experience and what was the best for this community so he always did the right thing. On Monday, we did have a well attended meeting on parking and two things came out of it that you need to look into carefully – use of the Diamond Peak
parking lot during summer time for the parking of vehicles. It took a special use permit to park in the winter so he doesn’t see why we can’t get one there for the summer and noted that it is good for the environment as it moves the pollution away from the lake. Second comment is that if a street is wider than 20 feet plus 4 feet of dirt on each side, so 28 feet in total, it is his understanding that if a street is narrower than that, it is against State law to park there and that they should have white lines on them but they don’t.

Sara Schmitz said that she does not have prepared remarks so if she misses something please forgive her. Her message is gratitude to IVGID Staff as they have been cooperative to mitigate the amount of trash that ends up in our lake. She walks the lakeside path and she picks up trash every single day. Today, when she was walking, she saw an employee inside Incline Beach with a trash picker upper who was roaming the beach and picking up trash. This effort protects that beautiful body of water. Her point was to give the appreciation to the Staff at the beaches who participate in this and to assist with the process.

Iljosa Dobler read the balance of the submitted statement written by Cliff Dobler. Ms. Dobler concluded with a comment about Chairwoman Wong – she noticed during campaigning, that the Chairwoman would allow them to finish their sentences and now she is very rude by not allowing the speaker to complete their statements.

D. APPROVAL OF AGENDA (for possible action)

Chairwoman Wong asked for changes, receiving none, she approved the agenda as submitted.

E. DISTRICT STAFF UPDATE (for possible action)

E.1. General Manager Steve Pinkerton

District General Manager Steve Pinkerton reminded everyone that the creation of the Assistant General Manager position took place during the budget and that the position of Director of Asset Management was eliminated; he then formerly announced that Director of Parks and Recreation Indra Winquest has accepted the position of Assistant General Manager.

Trustee Dent said two meetings ago the Board requested Staff to provide a report about a particular capital improvement project. District General
Manager Pinkerton said that Public Works is two engineers short and that we can discuss this during the review of the Long Range Calendar and target a date to get this done.

Chairwoman Wong thanked District General Manager Pinkerton

Wong – thank you, at the end, accomplishments for the 2018/2019 and appreciate you doing that. Pinkerton – really about Board and Staff, another very good year for IVGID fiscally and service wise.

F. REPORTS TO THE BOARD OF TRUSTEES*

F.1. Verbal Update on 4th of July 2019 – Assistant General Manager Indra Winquest

Assistant General Manager Indra Winquest gave a verbal update; highlights are as follows:

✓ Visits at all beaches were typical of a mid/late week 4th of July;
✓ Granting of access is changing/shifting; and
✓ Huge thanks to IVGID Staff and the entire community for a fantastic Independence Day celebration.

Trustee Horan said that the Washoe County Sheriff’s Department did a fabulous job on the 4th of July so kudos to them as they go all out for us on that weekend.

Trustee Callicrate said it was the first time in thirty four years that he didn’t make it down to the beach as he just got back from traveling. People are saying it was great, smooth and calm so it went very well. Thank you to you and all of the team for doing a great job.

Trustee Morris said that this is one of those times when it is good to call out all the assistance that goes in to this and that it does take a village thus absolutely demonstrating that phrase. The volume was higher than last year and probably years before and he went down there and it felt well organized and it was a tremendous week. Thank you very much.

Chairwoman Wong said it is a great example of how our community comes together as she saw lots of people volunteering and noted that it was great especially since we have a smaller beach.
G. **CONSENT CALENDAR (for possible action)**

G.1. Review, discuss, and possibly approve a Grant of Easement to NV Energy on District Property APN: 125-010-17 for the Purposes of Constructing, Operating, Adding to, Modifying, Removing, Accessing and Maintaining Above and Below Ground Communication Facilities and Electric Line Systems (Requesting Staff Member: Director of Public Works Joe Pomroy)

G.2. Review, discuss, and possibly approve a Grant of Easement to NV Energy District Property APN: 127-280-01 (Incline Beach) for the Purposes of Constructing, Operating, Adding to, Modifying, Removing, Accessing and Maintaining Above and Below Ground Communication Facilities and Electric Line Systems (Requesting Staff Member: Director of Public Works Joe Pomroy)

G.3. Review, discuss, and possibly approve the Memorandum of Understanding with North Tahoe Conservation District for Rosewood Creek (Requesting Staff Member: Director of Public Works Joe Pomroy)

Trustee Morris made a motion to accept the Consent Calendar as presented. Trustee Horan seconded the motion. Chairwoman Wong called the question and the motion was passed unanimously.

H. **GENERAL BUSINESS (for possible action)**

H.1. Review, discuss, and possibly authorize Purchase Order to CDW-G to acquire NuTanix Virtual Cluster Server Hardware and Operating System Licenses and 5 years of manufacturer support to replace current end of life systems. – 2019/2020 Capital Improvement Project; Fund: General Division: Administration; Project # 12130C01505; Vendor: CDW-G in the amount of $192,836.60 (Requesting Staff Members: Director of Finance Gerry Eick)

Director of Finance Gerry Eick gave an overview of the submitted memorandum.
Trustee Morris said that he started out his professional career in hardware and that changes happen quickly. Five years was a good life on previous equipment and he thinks that Staff laid it out pretty well. If we bring forward about sixty thousand dollars, we can get all of that equipment and avoid future costs; so this is both capital and operational. Director of Finance Eick said yes, over a three year window we would be spending a lot more and now we are spending a lot less. Staff will find the money as there may be a couple of projects in Information Technology that we may not have to replace which will go a long way to closing the gap.

Chairwoman Wong said that she appreciates what Staff is trying to do but that this project is going to be over by sixty thousand dollars so let’s be clear about that and call it what it is because the Board hasn’t approved the future budget. We are very clear that we approve one year at a time, in terms of capital expenditures, and this is sixty thousand dollars over budget. Director of Finance Eick said that Staff won’t execute the eighteen thousand dollar support agreement which will help.

Trustee Morris made a motion to authorize a Purchase Order to CDW-G in the amount of $192,836.60 to acquire and install two NuTaniX Hyper Converged Virtual Cluster Host and Host Operating System Licenses for the replacement of the current end of life server hardware and Host Operating Systems under Capital Improvement Project # 1213CO1505. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, there were none so she called the question – the motion passed unanimously.

**H.2. Review, discuss, and possibly provide input to finalize the July 24, 2019 Community Forum – Topic is Ordinance 7 “An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District” (Requesting Staff Member: Assistant General Manager Indra Winquest)**

Assistant General Manager Indra Winquest gave an overview of the submitted memorandum.

Trustee Morris said that he has had quite a number of community members asking him about the meeting and there is misunderstanding. He can’t over emphasize enough about getting out information about exactly what the purpose of the meeting is. We need to get more communication out there as
he has been surprised by the number of people who don't know much about the meeting. Assistant General Manager Winquest said that Staff does have a request from Trustee Dent so we will have some data.

Trustee Callicrate said that the community has been patiently waiting for us to start fleshing out some takeaways so he hopes that we have a more aggressive meeting next time as our community is waiting patiently. We need to start to put out some actionable items and he hopes to get when the next meeting is and when is the next one after that. If we are going to be implementing some stuff next year then we really need to get that out there. Assistant General Manager Winquest said that he is eager to get it going as it is the time to do this and do the right thing for the community.

The Board took a break at 7:07 p.m., they reconvened at 7:20 p.m.

H.3. Review, Discuss and Possibly Receive Input from the Board of Trustees on the 2019 Final Draft of the Community Services Master Plan (Requesting Staff Member: Assistant General Manager Indra Winquest)

District General Manager Pinkerton gave an overview of the submitted memorandum. Chairwoman Wong, referencing agenda packet page 81, asked if the Board was okay with the proposed language as follows:

1. Begin the process to apply for a Special Use Permit with the U.S. Forest Service to conduct community recreation, including a Dog Park on the 12-acre parcel across from Incline High School.
   
   *Okay with all Board members.*

2. Secure the services of a licensed architect and work with the Community to finalize the design for the Incline Beach House and associated circulation/access improvements.

   *Okay with all Board members.*

3. Secure the services of a licensed architect and work with the Community to finalize the concept plan for the renovation of the Incline Tennis Center, including the addition of Bocce Courts.

Assistant General Manager Winquest said that Staff is starting this process by pricing out each component and doing a survey with the Tennis Center users. District General Manager Pinkerton said that we are reinforcing what we are already doing. Trustee Dent asked if the Board will be getting small, medium, and large options. Assistant General Manager Winquest said the
Board will be getting components. Trustee Dent asked about getting a scaled down version, a medium version, and then what we already got. District General Manager Pinkerton said, for example, the ADA can’t be taken out.

Chairwoman Wong said so we are getting a list of costs by component as our estimates are a few years old so Staff is updating those costs to be realistic and then we identify the components. District General Manager Pinkerton said that Staff is working to get up to date costs based on the preliminary design. Assistant General Manager Winquest said that as we go into final design, we will get better pricing as Staff wants to do what the Board wants to evaluate the entire project. Chairwoman Wong said when evaluating the feedback, the people who use the Tennis Center may not be rating bocce very high so are we going to go to the bocce group. Assistant General Manager Winquest said yes and that the survey is about how they feel about having bocce at the Tennis Center. We did a Community Services Master Plan survey which is why we got a couple of other design options.

Trustee Morris said that if we decided to put the bocce courts someplace else, he would assume that this would be twice as costly due to having to do mobilization, etc. twice. Those making their input known should also bear that in mind because of the way we budgeted. Assistant General Manager Winquest said that Staff will provide all the costs and provide all the information to make an informed decision.

4. Within ninety days, provide a timeline to the Board of Trustees to ensure the ongoing operation of Burnt Cedar pool while initiating a Community process to review the options for the renovation and/or reconstruction of the Burnt Cedar pools.

    Okay with all Board members.

5. Immediately initiate discussions with the Incline Tahoe Foundation and Incline Ice Foundation to determine the feasibility of developing a seasonal Ice Skating Rink by leveraging the current funding held by the Incline Ice Foundation.

    Okay with all Board members.

Trustee Callicrate said that he is not seeing the Mountain Golf Course Clubhouse Renovation so where are we on that project. We have been talking about not undertaking that until the fall time period. He has expressed his concerns about renovation versus new construction. It is a high priority on the list so it is something that should take precedent. District General
Manager Pinkerton said on the next agenda there will be a contract award recommendation. Trustee Callicrate said he didn’t see that; he appreciates that information.

H.4.A. Approval of the District’s Form 4410LGF Indebtedness Report and related Debt Management Policy as of June 30, 2019 for filing with the Nevada Department of Taxation and the Washoe County Debt Commission (Requesting Staff Member: Director of Finance Gerry Eick)

H.4.B. Approval of Form 4411LGF Five Year Capital Improvement Plan, related IVGID prepared Five Year Capital Project Summary, and Carry Over Schedule, for the fiscal years starting 2019-2020, for filing with the Nevada Department of Taxation, the Washoe County Clerk and the State of Nevada Legislative Counsel Bureau (Requesting Staff Member: Director of Finance Gerry Eick)

Director of Finance Eick gave an overview of the submitted memorandum. Chairwoman Wong asked if you or a member of your team be doing a full tie out to agree with the budget. Director of Finance Eick said yes, it has been done already, and will be doing it again.

Trustee Morris made a motion to approve the District Indebtedness Report Form 4410LGF as of June 30, 2019, including our Debt Management Policy and direct staff to file the documents with the State of Nevada Department of Taxation and Washoe County Debt Commission by August 1, 2019. Trustee Horan seconded the motion. Chairwoman Wong asked for comments.

Trustee Dent said, consistent with his voting on the budget, he will be voting against this item.

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

Trustee Morris made a motion to approve Form 4411LGF Five Year Capital Improvement Plan as of July 1, 2019, the related IVGID prepared Five Year Capital Project Summary, and the Carry Over Schedule, for the fiscal years starting 2019-2020 for filing with the
Nevada Department of Taxation, the Washoe County Clerk and the State of Nevada Legislative Counsel Bureau by August 1, 2019. Trustee Horan seconded the motion. Chairwoman Wong asked for comments.

Trustee Dent said, consistent with his voting on the budget, he will be voting against this item.

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

H.5. Information Only - Summary of Recruitment Process for General Manager, 1984 to Present - (Requesting Staff Member: District General Manager Steve Pinkerton)

District General Manager Pinkerton went over submitted materials.

Chairwoman Wong thanked Staff for putting this document together.

H.6. Review, discuss and possibly approve the orderly and timely transition of responsibility from the current District General Manager Steven J. Pinkerton to the Interim General Manager by terminating his active duties as General Manager at 5:00 p.m. on August 2, 2019 and approving the use of accrued vacation leave for the balance of the 90-day notice period and review, discuss and possibly approve an Appointment of Assistant General Manager Indra Winquest to Interim General Manager effective 5:00 p.m. on August 2, 2019 (Requesting Trustee: Chairwoman Kendra Wong)

Chairwoman Wong gave an overview of the submitted memorandum.

Trustee Horan said we need to move forward, recommendation is done in a timely manner, long transitions and turnovers are not very effective, fill the void in the short term and give us time to see what we want to do.

Trustee Morris made a motion to approve the orderly and timely transition of responsibility from the current District General Manager Steven J. Pinkerton to the Interim General Manager by terminating his active duties as General Manager at 5:00 p.m. on August 2, 2019 and
approving the use of accrued vacation leave for the balance of the 90-day notice period. And further appoint Assistant General Manager Indra Winquest to Interim General Manager effective 5 p.m. August 2, 2019. Trustee Horan seconded the motion. Chairwoman Wong asked for comments.

Trustee Horan said that he thinks the turnover time period is very appropriate. Regarding the public comment made earlier about not having a quality person to fill the breach, we do have a good person to continue what we have started.

Trustee Callicrate said he echoes Trustee Horan’s comments. He has worked with the Assistant General Manager over several years and he thinks he will do better than fine and that he is looking forward to a smooth transition; he is happy to see this is going to take place.

Hearing no further comments, Chairwoman Wong called the question and the motion was unanimously passed.

Trustee Callicrate said that he wishes District General Manager Pinkerton well in his next endeavor and while they haven’t always seen eye to eye, he does wish him well on his next adventure.

Chairwoman Wong said thank you to District General Manager Pinkerton and said to have someone internally is a testament to your succession planning and how you have grown them individually and as a group.

H.7. Review, discuss, and possibly provide direction to Staff regarding a possible recruitment process for General Manager (Requesting Trustee: chairwoman Kendra Wong)

Chairwoman Wong gave an overview of the submitted memorandum.

Trustee Callicrate said he would like to keep this for the next meeting and then discuss it in depth as there is no hyper urgency to do this.

Trustee Horan said he agrees with delaying this decision to a future meeting.

Trustee Morris said that he agrees with that and that one thing to make sure we do is that we continue to use our past experiences to determine the perimeters for the next District General Manager to fit into. Before his time
on this Board, there were issues last time, so let's make sure we have the job specifications right etc.

Chairwoman Wong said that she doesn't want to consciously exclude qualified candidates so let's set a time to decide that is down the road.

Trustee Horan said he would like to come back in ninety days or possibly extend it further.

Trustee Dent said he thinks it is a good idea and that we can pick a date when we review the Long Range Calendar.

Chairwoman Wong suggested October and that the Board will talk about it during the Long Range Calendar item.

H.8. Information about the IVGID General Manager's Authority to Retain an Attorney to Defend IVGID when IVGID or a Trustee, Officer or Employee of IVGID is Sued (Requesting Trustee: Chairwoman Kendra Wong)

Chairwoman Wong gave an overview of the submitted memorandum, stated the rules for the discussion, and said if we want to change policies, she is happy to make it a future agenda item. Chairwoman Wong then turned it over to District General Guinasso who gave a brief overview.

Trustee Callicrate said, referencing agenda packet page 131, that technically after the Board is involved in litigation, the Board takes the action and then the District General Manager and the District General Counsel follow through. We have been told by the Attorney General, that we, as a Board, instigate litigation and defense and then only can we have the District General Manager and District General Counsel follow through. It doesn’t say that there rather it gives a somewhat skewed view.

District General Counsel Guinasso said that if Trustee Callicrate and the rest of the Board would like to change the policy, he is happy to draft that language as presently your policy doesn’t state that.

Trustee Callicrate said he is going by the law of the State of Nevada and if the policy doesn’t say that then let’s bring it forth at the next meeting because the Nevada law trumps whatever we have in our policies and resolutions.
District General Counsel asked Trustee Callicrate to please share the specific statute he is referring to.

Chairwoman Wong said it is her understanding of the Nevada Revised Statutes (NRS) that this Board has to initiate a lawsuit to sue someone else but that she didn’t get that interpretation in defending a lawsuit rather defense of a lawsuit falls under our policy. Maybe we do want to be more clear which is totally fine. The interpretation of these comes down to whoever happens to be reading it and she disagrees with how Trustee Callicrate is reading it.

Trustee Callicrate said that he is going by the legal statutes and that any public body involved in litigation, it has to be voted by the ruling body and it is a matter of semantics. Nevada law is clear – the Board has to vote on it and do so in a public meeting and then they can delegate it to whomever and that individual will further it. That is what the Nevada law states and what we have been told in two different workshops in this very room and that is why he has been so vehement as this is about abiding by the law whether the policy states it or not. We, as a Board, are responsible for litigious actions.

District General Counsel Guinasso said that he is always available to you or any other Board member and that he will be happy to make time for you to come to a conclusion and that he is happy to help you draft a memorandum for the Board. He doesn’t have an opinion rather he just put in to the memorandum what this Board’s current policy is and that it is relevant to litigation. He is open to meeting sometime soon.

Trustee Callicrate said that the specific NRS is 318.115 and that the power is with the Board for legal action and that the Board decides that and not anyone else. We have gotten into some issues on two items thus he would like to have all the pertinent NRS references and compare them to our resolution and policy as there is some misunderstanding.

Chairwoman Wong said NRS 318.115 is one sentence which reads “NRS 318.115: Suits, actions and proceedings. The board shall have the power to sue and be sued, and be a party to suits, actions and proceedings” and that leaves a lot to interpretation.

District General Counsel Guinasso said it gives the Board the power to sue, the ability to be sued, and allows the Board to initiate to be a part of suits.
Like elsewhere, the powers have been delegated to the District General Manager and some of these have been specifically delegated in policies and practices. If the Board wants to make a change, he can help with drafting it so that the Board retains the power. As your policies currently stand, it has been delegated to the District General Manager and the Board does have the power to do that.

Trustee Morris said, from his perspective, he is very happy to agendize this at some future meeting. Given that this agenda item was to help us understand what they are, this is an exact demonstration of why we have legal counsel because we don’t have the expertise to look at the law and look at our policies and resolutions and tell us if we are doing something wrong and to consider x, y, or z. He is pleased to get this information as we have had robust discussions in the past which helped him to understand where we are today and he is open to revisiting that. Furnish the information and meeting the District General Counsel – yes, he is open to that.

District General Counsel Guinasso said that part of the reason we went through the exercise of preparing the IVGID Code is so you have that at your fingertips. Resolution 495 was done in the 1960’s and part of what we have been going through is to see what the Board’s desire is and to see what you want. We can pull this out and use the tool of the review of the IVGID Code to make the kind of changes for this Board and for Board’s to come.

Trustee Dent said that the office of the Attorney General made it very clear, in looking at our policies when we initiated litigation against GSKI, that the only authority delegated to the District General Manager was preliminary settlement and that there was no ability to enter into litigation; the NRS was very clear. We can continue to allow our Staff to waste hundreds of thousands of dollars or we can spend that same money bettering our services.

District General Counsel Guinasso said specifically, the Attorney General’s opinion (File No. 13897-257) only deals with the issue of whether IVGID delegated the authority to initiate lawsuits. Nothing in the Attorney General’s opinion deals with delegated authority to defend lawsuits as codified in Policy 495 and related Nevada Revised Statutes.

Trustee Dent said that District General Counsel is an adversary of this Board who filed a bogus Ethics Complaint against him and that he has lost all respect for him. If there are a few people on this Board that want to listen to you that is their choice. District General Counsel was wrong on the Parasol
and wrong on GSGI. This Board should get a different attorney to look at this and that it should be someone who is not lining their own pockets and who can give us some real legal advice.

Trustee Horan said that there are differences of opinions and selective utilization of the NRS. He disagrees with the interpretation and noted that all Trustees are entitled to their own opinion and we should all respect that. District General Counsel's offer to sit down with Trustee Callicrate might be a worthwhile thing to do and to try and identify the differences but that is Trustee Callicrate's choice. He doesn't want to rehash this and the difference of opinion that needs to be resolved. Trustee Horan then said to Trustee Callicrate that he resented his opinion on the retaking of a vote as we have had some differences with zero based budgeting, etc. and we have also agreed on some things and the desire to move forward. Lastly, he takes offense that you don't think we take fiduciary responsibility.

Trustee Callicrate said he is lost as he thought we were talking about the District General Manager's authority. There are some drastic, fundamental differences and many times he is in the minority and immediately dispensed with or told we can't talk about that. He was trying to talk from five thousand miles away and was continually being asked to be quiet; it was a spirited discussion that we get through. As to the legal action, it is spelled out, that we as a Board have abrogated a lot of our authority so what do we have to left to do. We were elected by the community to make decisions. The Attorney General was specific that this didn't take place and he isn't rehashing this as he would like us to be more upfront about this matter. To Trustee Dent's point, he finds it startling that our District General Counsel would file an Ethics Complaint which turned out to be a bogus Ethics Complaint. Chairwoman Wong cautioned Trustee Callicrate that he was straying from the agenda item. Trustee Callicrate concluded by stating that just like his colleague, he would like outside legal counsel to look at this. Chairwoman Wong said if it is something that can be changed, write it up by September 1 and we can get it on the September 11 meeting agenda. Trustee Callicrate said he will pursue it.

Trustee Dent asked if any of the Trustees can tell him where they have delegated the authority. Chairwoman Wong said Policy 3.1.0. Trustee Dent said for defending or entering into; it is not in the policy and he is disagreeing because it doesn't say it anywhere in the policy rather it talks about settlement so convince him he is wrong.
District General Counsel Guinasso said two points – Ethics Complaint that was brought up against him and the issue brought up about representation – outside legal counsel has actually been retained and that was done in support of Trustee Dent’s Ethics Complaint and that if it is the Board’s desire, that can be made public.

Trustee Dent asked how much did the District spend; zero dollars so that is a bogus statement made by an adversarial District General Counsel.

Chairwoman Wong asked for any more information; receiving none, she closed this agenda item.

I. APPROVAL OF MINUTES (for possible action)

I.1. Regular Meeting of June 19, 2019

Trustee Callicrate said that it was brought forth by Mr. Katz that there was some thing that were or weren’t put in and did we include some items that were outside and that he doesn’t know what happened that has created such a stir. Do we need to take action to amend the minutes to be consistent; he is asking that question. Chairwoman Wong said that we can ask the District Clerk to append the minutes and attach whatever. Trustee Callicrate said he would like to make that request. Chairwoman Wong asked the District Clerk to do as Trustee Callicrate has requested.

J. REPORTS TO THE IVGID BOARD OF TRUSTEES*

J.1. District General Counsel Jason Guinasso

District General Counsel Guinasso said, regarding the Katz litigation, that the final appeal briefing has been concluded and responded to by our legal counsel and now the clock is ticking with the Nevada Supreme Court.

Regarding the Smith litigation, Mr. Beko participated today in a prescheduled settlement telephone conference and conveyed the tentative offer. Mr. Beko further stated that he didn’t intend to review the e-mails for the purposes of waiving the privileges until he knew if the Board was interested in the offer. This is not an agendized item but he would like to get a sense of how the Board feels about settlement.
Trustee Morris said that Smith's lawyer has proposed a settlement that provides some number of e-mails that are labeled attorney/client privileged. District General Counsel Guinasso said yes, that after having reviewed the privilege log, they want to see some items. That issue was proposed as part of a negotiated settlement. Trustee Morris asked if you know how many; District General Counsel Guinasso said he didn't know. Trustee Morris asked what he identified. District General Counsel Guinasso said he has identified topics and that we didn't want to proceed without the Board's feedback. Trustee Morris said that it was his impression that the other part of the settlement offer was that there are asking for us to settle some unknown about of his legal costs. District General Counsel Guinasso said they have asked for his entire costs and that it is his understanding that we are interested in negotiations for some lower number. Trustee Morris said that there doesn't seem to be anything to consider as we need more precision to look at it. He does remain as concerned as to how that might affect us now and in the future and that right now, it doesn't sound like a good thing to consider. District General Counsel Guinasso said thank you and that it is his ethical obligation to present it.

Trustee Horan asked if there was any idea of where we are and where the Judge is. District General Counsel Guinasso said that there was another motion filed by Mr. Smith's attorney last week regarding the privilege log items. Trustee Horan asked if there was a pattern to it. District General Counsel Guinasso said not that he could tell as they are one word identifiers so he is not sure what their thought process is and that he doesn't have it in front of him but that he can provide that motion to the Board after the meeting.

Trustee Dent asked if the Board can have Mr. Beko up here next Wednesday. Chairwoman Wong said she didn't know. Trustee Dent asked for a litigation non-meeting. Chairwoman Wong asked about posting; Staff responded that this type of meeting doesn't need to be posted. Trustee Morris agreed it would be good to have a legal non-meeting but that he can't make it next Wednesday so can we find another time. Chairwoman Wong said in order to coordinate this with Mr. Beko, let's suggest five or six dates/times.

Trustee Morris said, regarding the Katz lawsuit, all final pleadings have now been made so it is now just up to the Nevada Supreme Court to come to a decision. District General Counsel Guinasso said yes and that the only caveat is that the court may ask for oral arguments but that as of today's
Minutes
Meeting of July 17, 2019
Page 19

date the court hasn’t expressed any interest in oral arguments and thus will likely decide based on the submitted briefs.

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

Trustee Dent said that the Nevada League of Cities meeting has been postponed for past two months.

L. **PUBLIC COMMENTS** - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration; see Public Comment Advisory Statement above.

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

Andy Whyman said it is past his bedtime, he is way out of his depth, and that he won’t be the first person to sit here and not make any sense. Question about documents that are being asked for in this legal matter – what are the documents that are being asked for. When you make a trove of documents privileged, you need to look carefully to see if you don’t need to make that privilege, and that is a question. It is clear to him, and probably everyone in here, that there is no confidence in the District General Counsel so how do you solve that problem. We live in a small state and thus it would seem to him that there is some avenue to ask about this such as three or four of us want to go to the Attorney General’s office and get an opinion. We don’t have the format in government like California so maybe that is the way to satisfy if District General Counsel made a big mistake or did the gentleman on the left make a mistake. Lastly, you all agreed to put off doing anything about a new District General Manager for ninety days but where are you going to be in ninety days.

Sara Schmitz said it relates to legal fees and we are at about seventy thousand dollars, as an estimate, which equates to five dollars and seventy six cents per page so what it is that we are willing to spend. Provide the documents and let’s use the money for something that is providing stuff for the residents. Bocce is a loud sport and something to think about is that it is being played next to a sport [Tennis] that is played quietly. She has been in other communities and bocce is near other amenities. It is sad because we have a beautiful bocce court down near the beach but they haven’t been playing because it has been cold. On the job specifications for the District General Manager, this community does need to be
healed as there is distrust, animosity, etc. so take this opportunity to, as a Board, review the specifications and as things have changed. The Board should get a community group engaged and hopefully in ninety days they will make some progress. This is an opportunity for community members to rally together on something.

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

Capital Report – August 28 is the target date however Director of Public Works will coordinate with the Trustee Dent to get more specifics and confirm what is to be included.

Litigation non-meeting – Staff will coordinate the Board’s dates with that of counsel.

For the September 11 meeting, Staff was hoping to do only one meeting that month and that date is September 25 and then do one meeting again in October.

Chairwoman Wong asked Trustee Callicrate if he could get something to the District Clerk no later than September 12 which would push that item to September 25. Trustee Callicrate said that was fine.

District General Manager Pinkerton said that Staff will be adding a golf cart items to the meeting of September 25.

Trustee Dent asked that an item be added to the August 28 meeting to review the District General Manager’s job description. District General Counsel Guinasso said that this was codified into the District’s Code so we could bring that information forward as well.

Trustee Callicrate said he will be gone in November but will be available by telephone for that meeting.

N. ADJOURNMENT

The meeting was adjourned at 8:41 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 Aaron Katz (6 pages): Placeholder - Written statement requested to be included in the written minutes of this July 17, 2019 regular IVGID Board meeting – Agenda Item H(2) – Proposed agenda for July 24, 2019 workshop re: What’s wrong with Ordinance No. 71 – The real problems with Ordinance 7 which should be agendized for discussion

Submitted by Aaron Katz (3 pages): RE: July 17, 2019 IVGID Board Meeting, Agenda Item I(1), Approval of Minutes of the Board’s June 19, 2019 Meeting, Please DO NOT APPROVE Unless Proffered Minutes Modified

Submitted by Clifford F. Dobler (2 pages): Public Comment by Clifford F. Dobler, Board of Trustee Meeting on July 17, 2019 to be included in next Board of Trustee Meeting packet and Minutes of July 17

Submitted by Linda Newman (2 pages): July 17, 2019 IVGID Board of Trustees Meeting Public Comment By: Linda Newman – To be included with the Minutes of the Meeting

Submitted by Margaret Martini (2 pages): IVGID July 17, 2019 Board of Trustees Meeting – Public Comment by Margaret Martini – To be included with the minutes of the meeting

Submitted by Margaret Martini (1 page): 7-19-2019 Board of Trustee meeting – Public comment (end of meeting)
WRITTEN STATEMENT REQUESTED TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JULY 17, 2019 REGULAR IGVID BOARD MEETING – AGENDA ITEM H(2) – PROPOSED AGENDA FOR JULY 24, 2019 WORKSHOP RE: WHAT’S WRONG WITH ORDINANCE NO. 7\(^1\) – THE REAL PROBLEMS WITH ORDINANCE NO. 7 WHICH SHOULD BE AGENDIZED FOR DISCUSSION

**Introduction:** Here staff seeks the Board’s approval for the agenda it proposes creating for the July 24, 2019 workshop on proposed modifications to Ordinance No. 7 [allegedly created to address beach access and disingenuously described as “an Ordinance Establishing Rates, Rules and Regulations for Recreation (Picture) Passes (“PPHs”) and Recreation Punch Cards”]. As is so often the case, the truth is misrepresented by staff to create a discussion which diverts attention from the genesis of the real problems. The purpose of this written statement is to secure agendization of the **REAL** problems with beach access and Ordinance No. 7.

**Beach Access is NOT a “Privilege” as Staff Represent\(^2\); it’s Local Parcel Owners’ RIGHT!** This is staff’s first misrepresentation of fact which colors everything else associated with beach access. Because if you don’t buy into the fact beach access is a “privilege,” you should not buy into anything else staff represent.

*Read the Beach Deed\(^3\): specifically, page 2, line 24-page 3, line 2 which states:

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\(^2\) At page 70 of the packet of materials prepared by staff in anticipation of this July 17, 2019 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet-Regular_7-17-19.pdf (“the 7/17/2019 Board packet”)], staff tells us beach access is a “privilege” [PPHs “and cards issued according to Ordinance 7...provide bearers with (beach) access and other recreation privileges”]. Also, take a look at ¶25 of Ordinance No. 7 which describes “recreation access or special rates afforded to pass holders or card holders (as a)...Recreation Privilege.”

“It is hereby covenanted and agreed that the (beaches)...and any and all improvements now or hereafter located thereon, shall be held, maintained and used...only for the purposes of recreation by, and for the benefit of, property owners...their tenants...(and) the guests of such property owners...within the Incline Village General Improvement District as (then) constituted.”

**IVGID Holds Nothing More Than Bare Legal Title to the Beaches:** “Legal title refers to the responsibilities and duties the owner has in maintaining, using, and controlling a property...(It) is the actual ownership of the property. The documented name of the property owner, as visible through the public records...You have legal title if your name appears as the grantee on a deed.”

Given IVGID is the grantee under the beach deed, it holds legal title to the beaches.

**But We Local Property Owners With Beach Access Hold Equitable Title to the Beaches:**

“Equitable Title refers to the actual use and enjoyment of a given property without real, absolute ownership.” Given local property owners with beach access, their tenants and guests have the right to actual use and enjoyment of the beaches (for purposes of their recreation), it is we who hold equitable title to the beaches.

**What’s the Distinction Between Legal and Equitable Title to Property?** Although IVGID staff “may assume that your ownership of a property is complete with legal title...this is not the case. Another party...ha(s) equitable title, (which) restrict(s) some of the ways (IVGID) can use and enjoy the property. (Thus) while...legal title focuses on the duties of the property owner, equitable title refers to (actual)...enjoyment of the property.

(Although) equitable ownership is not ‘true ownership’ [in the sense someone with equitable title c(an)not argue that he or she (i)s the legal owner or possessor of the property in a court of law (because) true ownership requires legal title]...(it) does...grant the person more consistent control over the property. That’s right – equitable title can be more important than legal title.”

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10 In other words, not only does the beach deed transfer legal title to the beaches, but it represents a contract between the grantor and IVGID whereby we local property owners are third party beneficiaries.

11 June 4, 1968, the date of the beach deed.

12 See https://info.courthousedirect.com/blog/bid/336876/What’s-the-Difference-Between-Legal-Title-and-Equitable-Title.

13 See page 1, lines 6-10 of the beach deed.

14 See pages 1, line 28-page 2, line 4 of the beach deed.
(a) “Compel(ing) the trustee to perform his or her duties;”
(b) “Enjoin(ing) the trustee from committing the breach of trust;”
(c) “Compel(ing) the trustee to redress the breach of trust by payment of money or otherwise;”
(d) “Appoint(ing) a receiver or temporary trustee to take possession of the trust property and administer the trust;”
(e) “Remov(ing) the trustee;”
(f) “Set(ting) aside (the) acts of the trustee;”
(g) “Reduc(ing) or deny(ing) compensation of the trustee;”
(h) “Impos(ing) an equitable lien or...constructive trust on trust property;” and,
(i) “Trac(ing) trust property that has been wrongfully disposed of, and recover(ing) the property or its proceeds; and,
(j) “The provision of remedies (recited above)... does not preclude resort to any other appropriate remedy provided by statute or common law.”

So Do You Now Understand That the Number 1 Thing We Should Do to Address Our Beach Overcrowding Issues is to REMOVE IVGID as Our Beach Steward and TAKE OVER Our Beaches?

IVGID Has NEVER Been Granted the Power of “Recreation:” as staff misrepresent\(^{17}\). An inspection of County Board Ordinance No. 97 will reveal that the power IVGID was actually granted was “to furnish facilities for PUBLIC recreation. Thus if the beaches are private property, IVGID has no power to exercise ANY power with respect thereto.

The Beaches Are Private Property: Because of the beach deed’s restrictive use covenant, the opinions in three reported cases [Wright v. IVGID, 597 F.Supp.2d 1191, 1197 (2009), Wright v. IVGID, 665 F.3d 1128, 1137-1138 (9th Cir. 2011) and Kroll v. IVGID, 598 F.Supp.2d 1118, 1126-1128 (2009)] have all concluded that the beaches are private property. Moreover, IVGID agrees because for years it displayed signs at the entrances to the beaches which informed the world: “private beach!”

So Do You Now Understand That the Number 1 Thing We Should Do to Address Our Beach Overcrowding Issues is to TAKE BACK OUR BEACHES Because IVGID Has No Power to Administer Facilities for PRIVATE Recreation?

The Beach Facility Fee (“BFF”) is the Product of IVGID’s Fraud: IVGID obtained the power to acquire and improve the beaches based upon Harold Tiller’s October 25, 1965 misrepresentation to the Washoe County Board of Commissioners (“the County Board”) that: “public convenience and necessity” mandated the granting of this power, and if granted, it would be exercised “economically sound(ly) and feasib(ly)” because beach acquisition and operation would be financed with local property owners’ current and projected ad valorem taxes. But IVGID’s ad valorem taxes have never been used to pay for the beach’s acquisition or operational costs. Those costs have been paid by the

\(^{17}\) At page 68 of the 7/17/2019 Board packet staff represent that on “November 15, 1965 (the County Board)...amended...the...ordinance creating IVGID (by) adding recreation powers.”
RE: July 17, 2019 IVGID Board Meeting, Agenda Item I(1), Approval of Minutes of the Board's June 19, 2019 Meeting, Please DO NOT APPROVE Unless Proffered Minutes Modified

From: "s4s@ix.netcom.com" <s4s@ix.netcom.com>
To: "Wong, Kendra"
Cc: Tim Callicrate <tim_callicrate2@ivgid.org>, Matthew Dent <dent_trustee@ivgid.org>, Peter Morris <Peter_Morris@ivgid.org>, "Horan, Phil" <Horan_Trustee@ivgid.org>, Fagan, Susan <susanmfagan@aol.com>
Subject: RE: July 17, 2019 IVGID Board Meeting, Agenda Item I(1), Approval of Minutes of the Board's June 19, 2019 Meeting, Please DO NOT APPROVE Unless Proffered Minutes Modified
Date: Jul 16, 2019 9:05 AM

Dear Chairperson Wong and Other Honorable Members of the IVGID Board -

So this morning Ms. Herron belatedly provides me with the e-mail explanation below.

Notably, Ms. Herron has failed to tell me WHO made the determination recited below because the Board surely didn’t. Unless Ms. Herron clarifies differently, I am going to assume that person was SHE; an un-elected staff member in concert with un-elected attorney “fixer” Guinasso.

Once Chairperson Wong opened the door to allowing written statements to be attached to the minutes of Board meetings, notwithstanding they were authored by members of the public not physically present at board meetings, or if present, notwithstanding their authors did not expressly request that their statements be attached to the minutes, she lost the ability to pick and choose whose written statements get attached and whose written statements get rejected. It’s really no different than allowing public comment from some members of the public while rejecting comment from other members of the public. Once the door is opened, it’s opened to everyone.

Thus I reiterate; please modify the proffered written statement omitted from the minutes or I will file another OML complaint and use this episode as additional evidence of the OML complaint I have already filed on this subject-matter.

Is this an example of your "transparency?"

Since the Board’s latest fee agreement with attorney Guinasso is now going to pay him additional sums for having to respond to this and future OML complaints, is this really another example of his conflict of interest which directly results in his extraction of additional public funds for having to unnecessarily respond to an OML complaint he has in essence caused?

And Ms. Herron, please include your most recent e-mail below and my response in the next Board packet so the public can see what I see.

Respectfully, Aaron Katz

-----Original Message-----
From: "Herron, Susan"
Sent: Jul 16, 2019 8:32 AM
To: "s4s@ix.netcom.com", "Wong, Kendra"
Cc: Tim Callicrate, Matthew Dent, Peter Morris, "Horan, Phil", "Pinkerton, Steve J.", Jason Guinasso
Subject: RE: July 17, 2019 IVGID Board Meeting, Agenda Item I(1), Approval of Minutes of the Board’s June 19, 2019 Meeting, Please DO NOT APPROVE Unless Proffered Minutes Modified

Dear Mr. Katz,

Ms. Miller’s written statement, that was submitted by you as Ms. Miller was not present at the meeting, was not included as an attachment to the minutes in accordance with NRS 241.035(1)(d) and Attorney General’s OML Complaint Opinion 13897-263 which is available on their website.

Susan A. Herron
Executive Assistant/District Clerk/Public Records Officer
Incline Village General Improvement District
893 Southwood Boulevard

https://webmail.earthlink.net/wam/printable.jsp?msgid=10003&x=441361736
If you as a Trustee think it's all right to censor written statements from some members of the public and yet not others, then you're surely not here to represent all in our community. And I object. And you can waste more of our Rec/Beach Fees censoring the public rather than being "transparent" as staff misrepresent.

Please modify the proffered minutes.

I also ask Ms. Herron attach a copy of this e-mail to the minutes of the next Board packet so the community can understand what I understand.

Thank you for your cooperation and hopeful positive action. Aaron Katz

-----Original Message-----
From: "s4s@ix.netcom.com"
Sent: Jul 12, 2019 1:38 PM
To: "Herron,Susan"
Subject: Re: Your Board Packet is available for pick up - Follow Up - Minutes of the Board's June 19, 2019 Meeting

Hello Ms. Herron -

I've picked up the latest board packet and am reviewing the minutes of the Board's June 19, 2019 meeting and can't seem to find the one page written statement prepared by Judy that I submitted for inclusion in the minutes. And I don't see it mentioned at pages 75-76 of the Board packet.

Has it been included and if so, where?

If not included, why not?

Thank you for your cooperation. Aaron Katz

-----Original Message-----
From: "Herron, Susan"
Sent: Jul 12, 2019 9:00 AM
To: "s4s@ix.netcom.com"
Subject: Your Board Packet is available for pick up

Susan A. Herron
Executive Assistant/District Clerk/Public Records Officer
Incline Village General Improvement District
893 Southwood Boulevard
Incline Village Nevada  89451
P: 775-832-1207
F: 775-832-1122
sah@ivgid.org
http://yourtahoeplace.com
Public Comment by Clifford F. Dobler

Board of Trustee Meeting on July 17, 2019
to be included in next Board of Trustee Meeting packet and Minutes of July 17,

Tonight you will vote to approve or disapprove agenda item H4 and in particular Form 4411LGF Five Year Capital Improvement Plan on pages 108 and 109 of the Board Packet.

This report which will be distributed to several State agencies and is considerably incomplete and totally misleading. It would be inappropriate to approve the form as presented.

$69 million in capital expenditures, $14 million per year without a clue or where the money will come from. Instead of dollars there are two asterisks for Property Taxes, two upward arrows for Charges for Services, "As needed" for Fund Balances, and "Skiway Only" for Bonds. No one could ascertain the amount of money from each funding source. Are these codes for the new Facebook crypto "LIBRA" currency?

The General Fund lists $3.3 million in fiscal year 2023-2024, mostly for a new administration building and funded "As Needed" from the Fund Balance. At the end of fiscal 2019-2020, the estimated fund balance is only $2.3 million so where will the extra million come from?

The Utility Fund expenditures consists of two lines for carryover projects totaling $12.5 million yet the carryover project report on page 124 lists only $3.8 million in carryover projects.

Expenditures for the Effluent Pipeline project total $21 million, yet on February 27, 2019 the Board approved two letters to the Army Corp of Engineers stating the estimated costs would be $25.3 million for the 5 year period. A difference of over $4 million.
The Utility Fund Rate Study approved on January 23, 2019 listed $23.7 million in capital projects expenditures over the next five years, yet this report lists $33.8 million for the same time period. A difference of over $10 million.

The Unrestricted Net Position of the Utility Fund IS the funding source for the $11 million in carryover project expenditures and will NOT come from Charges for Services as indicated.

The major funding source for Community Services capital projects is the annual Facility Fee, yet Facility Fees are not listed as a funding source which is indicated separately in the approved Budget on May 22, 2019. Are we to assume the Facility Fee is now considered part of "Charges for Services" which is inconsistent with the Budget?

The Beach Fund has $1.6 million planned for capital expenditures in fiscal year 2020-2021. According to the approved Budget on May 22, 2019, the fund balance at the end of fiscal year 2019-2020 will only be $1.1 million and after setting aside $526,000 for required reserves only $600,000 will be available. Over $1 million in required funding sources have not been identified. Will the Beach Fee be raised or will there be more phony punch card transfers from the Community Service Fund?

The Community Services and the Beach Special Revenue Funds are now accounting and reporting expenditures for capital projects in direct violation of Board Resolution 1838 and GASB Statement #54 wherein capital projects were to be reported in the established Capital Projects Fund.

This is a very, very incomplete and misleading report and should not be approved.
July 17, 2019 IVGID Board of Trustees Meeting Public Comment
By: Linda Newman – To be included with the Minutes of the Meeting

Does the District’s General Manager have the authority to retain legal counsel to defend IVGID when IVGID or a Trustee, officer, or employee is sued? According to Counsel Guinasso, the answer is yes. According to Board Resolution 495 and Board Policy 3.1.0, Nevada Statutes, the Office of the Attorney General and the Nevada Supreme Court, the ANSWER is NO.

Here’s why: Although Counsel cites Indemnification Resolution 495, it does not implicitly or explicitly give the General Manager the authority to retain legal counsel when IVGID or a Trustee, officer or employee is sued. The retention of legal counsel and the appropriation of public funds for any litigation relating to this indemnification must be approved by the Board in a public meeting. This is clearly evident in NRS 318 defining the powers of the Board and NRS 241 which requires ALL decisions relating to litigation be made by the Board in a public meeting.

Counsel also cites Policy 3.1 (f) and (g). (f) relates to the General Manager’s discretionary authority under NRS 332 or 338 to enter into contracts under $50,000. Independently engaging an attorney to defend IVGID, Chair Wong and Counsel Guinasso in a lawsuit does not meet this under $50,000 monetary threshold. Unlike purchasing a $49,999 truck, litigation does not come with a definitive price tag. Because you are dealing with motions and depositions and have no control of the actual legal costs to engage in this litigation, there can be no fixed estimate for this service. Therefore, (f) does not give the GM this authority. As for (g) this relates to the GM and Legal Counsel settling claims. As Counsel is well aware, a Claim is different than a Lawsuit. Claims are nothing more than an open issue between two parties. When a claim is not resolved by the parties, a lawsuit may result. At this point, the lawsuit is considered “litigation” as it now involves the Court System. There is nothing in (g) addressing litigation. Only claims.

The Office of the Attorney General has determined that the General Manager does not have the authority to engage in litigation under this Board Policy. The NV Supreme Court further validates decades of precedent and states that all decisions involving litigation must be made by the public body in a public meeting.

Once again, the legal advice given by Counsel to this Board and our citizens is defective. Mr. Guinasso’s long track record of dishonesty and incompetent representation has irreparably damaged our District and harmed this Board and our
citizens. He has also dishonored the legal profession. It is time for this Board to take charge and fire this Attorney.
IVGID July 17, 2019 Board of Trustees Meeting
Public Comment by Margaret Martini – To be included with the minutes of the meeting

After attending last month’s toxic Board meeting, I stand here shocked and appalled at the conduct of three members of this Board, General Counsel and the General Manager. I had a front row view of government at its worst and saw first hand the fraud, waste and abuse destroying our community. In addition to the Chair silencing a Trustee from voicing his opinions, not once, but twice, she also called law enforcement to silence a citizen from voicing his protest. And, she didn’t stop there, Chair Wong also failed to recuse herself from voting on a matter on which she had a clear conflict of interest and voted to approve the additional expenditure of public funds to stop a citizen from obtaining public records. These specifics aside, Chair Wong has a long history of violating Open Meeting Laws, refusing Board agenda items from the minority Trustees, allowing the General Manager and Legal Counsel to withhold public records as well as removing correspondence from the Board packets. She has also made numerous unilateral decisions and allowed the expenditure of public funds without Board approval. This is unacceptable and it is the Board’s responsibility to nominate a new Chair.

As stewards of our District, you also have a responsibility to ensure that the Treasurer is qualified to serve in this position and on the audit committee. Mr. Morris’ personal and business bankruptcies along with the class action lawsuit against him for his failure to pay 45 of his employees their salaries is a strong indicator that he does not have the integrity or qualifications to oversee our District’s finances.

It is also time for this Board to understand that they are not agents of the General Manager and Legal Counsel. After running up tens of thousands of dollars in unnecessary legal expenses on FlashVote and now the Smith lawsuit – Mr. Guinasso has also provided this Board with erroneous legal opinions. It is time for you to hire new Counsel. It is also up to you to determine the qualifications for a new General Manager and to take charge of the search. Before his short notice, Mr. Pinkerton without Board discussion created an Assistant Manager position without defining the position and the requirements and installed Mr. Winquist. Now, he is asking the Board to appoint Mr. Winquest as interim manager. Does Mr. Winquist have the experience and knowledge to oversee $1 billion
infrastructure, utilities and recreation enterprises, and almost 1000 employees? I applaud his efforts as Director of Parks and Recreation. But is that enough?

I recommend this Board hire a professional management consultant to navigate the road ahead. At this point, this Board has not demonstrated the ability to do this on their own and clearly, judging by Mr. Pinkerton’s past performance, the absence of a Director of Asset Management and Chief Engineer and Mr. Eick’s less than accurate and transparent financial reporting, this Board needs expert, independent advice NOW!

[Signature]
7-19-2019

Board of Trustee meeting

Please add to the minutes of the meeting

Public comment (end of meeting)

Once again this board has voted to continue to discuss adding more recreation venues when over and over and OVER the community has spoken via many surveys-which incidentally we taxpayers have funded- have stated LOUD AND CLEAR that there is NO interest in adding more venues, but maintaining what we have in place in a first class manner. You all DON'T listen !!!

Mr. Horan you must be a very poor businessman due to your statement that "there is money we should look at" regarding the ice rink...HELLOOOO. It is the ice foundations money and their "I WANT IT". Let them keep their money and let them build, fund and maintain all expenses.

It is a ridiculous notion that IVGID should even consider taking on an ice rink. This should clearly be private enterprise...Mr. Horan and board members...get OUT of your TAX AND SPEND mentality. It is not wanted (review the surveys again) and certainly not appreciated by those who will have to foot the ongoing expense reality for your folly and poor business practices!!

GET REAL AND GET SOME FISCAL RESPONSIBILITY.

Mr. Horan, maybe you should form a private partnership with the ice rink people and spend your own money if you think it is such a good idea to pursue....right ???? Go for it.

Margaret Martini

Incline Village