The regular meeting of the Incline Village General Improvement District will be held starting at 6 p.m. on Tuesday, September 26, 2017 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

A Meet and Greet reception will be held prior to the Board meeting at 5:30 p.m. – all members of the public are invited to attend.

A. PLEDGE OF ALLEGIANCE*

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

C. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.

Public Comment Advisory Statement – A public body has a legitimate interest in conducting orderly meetings. IVGID may adopt and enforce reasonable restrictions on public comment to ensure the orderly conduct of a public meeting and orderly behavior on the part of persons attending the meeting. Public comment, as required by the Nevada Open Meeting Law, is an opportunity for people to publicly speak to the assembled Board of Trustees. Generally, it can be on any topic, whether or not it is included on the meeting agenda. In other cases, it may be limited to the topic at hand before the Board of Trustees. Public comment cannot be limited by point of view. That is, the public has the right to make negative comments as well as positive ones. However, public comment can be limited in duration and place of presentation. While content generally cannot be a limitation, all parties are asked to be polite and respectful in their comments and refrain from personal attacks. Willful disruption of the meeting is not allowed. Equally important is the understanding that this is the time for the public to express their respective views, and is not necessarily a question and answer period. This generally is not a time where the Board of Trustees responds or directs Staff to respond. If the Chair feels there is a question that needs to be responded to, the Chair may direct the General Manager to coordinate any such response at a subsequent time. Finally, please remember that just because something is stated in public comment that does not make the statement accurate, valid, or even appropriate. The law mitigates toward allowing comments, thus even nonsensical and outrageous statements can be made. However, the Chairperson and/or General Counsel may cut off public comment deemed in their judgment to be slanderous, offensive, inflammatory and/or willfully disruptive. Counsel has advised the Staff and the Board of Trustees not to respond to even the most ridiculous statements. Their non-response should not be seen as acquiescence or agreement just professional behavior on their part. IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open.
D. APPROVAL OF AGENDA *(for possible action)*

The Board of Trustees may make a motion for a flexible agenda which is defined as taking items on the agenda out of order; combining agenda items with other agenda items; removing items from the agenda; moving agenda items to an agenda of another meeting, or voting on items in a block.

*OR*

The Board of Trustees may make a motion to accept and follow the agenda as submitted/posted.

E. DISTRICT STAFF UPDATES*

1. Solid Waste Services Verbal Update (Presenting Staff Member: Director of Public Works Joe Pomroy)

2. Golf Season to Date Verbal Update (Presenting Staff Member: Director of Golf Michael McCloskey)

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**ETHICS LAW ANNOUNCEMENT (to be read by District General Counsel)**

Trustees are reminded that, if with respect to any matter or any person coming before the Board today:

1. You have received a gift or loan,
2. You have a pecuniary interest,
3. You have a commitment in a private capacity such as a family, employment, business or similar relationship, or
4. You provided representation or counseling that is reasonably related to the matter being considered to a person or entity for compensation before another agency within the immediately preceding year,

You must disclose that gift, loan, interest, commitment, or prior representation at the time the matter is being considered. And you must furthermore abstain from deliberation or voting on the matter if it is clear that the gift, loan, interest, commitment or prior representation would materially affect the independence of judgment of a reasonable person.

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F. GENERAL BUSINESS *(for possible action)*

1. Receive, review and discuss second legal opinion from Megan Fogarty of Holland and Hart LLC regarding modification to the lease between Parasol Tahoe Community Foundation and IVGID, responses to Board of Trustees questions related thereto, as well as related covenants, conditions, restrictions and encumbrances of record relating to the leased property and the proposed lease modification. (Requesting Trustee: Chairwoman Kendra Wong) – pages 5 - 9
2. Review, discuss and possibly vote on each of the following questions regarding the Parasol Tahoe Community Foundation request for modification to their 30-year ground lease: (Requesting Trustee: Chairwoman Kendra Wong) – page 10

   A. Is there a justifiable need for additional recreation space? Is there a justifiable need for different administration space?
   B. Are there other spaces in IV/CB, either for rent or purchase, that meet the needs of IVGID?
   C. Would it be advantageous for IVGID to design and build space that meets our specific needs?
   D. Is the Parasol proposal an economically viable option?
   E. Are the terms and conditions of the Parasol proposal the most advantageous for IVGID?

3. Review and discuss public records request fulfillment, policies, and include potential witnesses (Requesting Trustee: Treasurer Matthew Dent) – pages 11 - 22

4. Review, discuss and possibly approve hiring Best Best & Krieger LLP to conduct an investigation of District operations regarding the retention of emails and other public records, with a not-to-exceed amount of $20,000 (Requesting Trustee: Treasurer Matthew Dent) – pages 23 - 33

5. Review, discuss, and possibly approve the Board reverting back the Public Participation to include a comment section prior to each agenda item that was in place in August 2015; the time limit shall be three (3) minutes for each person per comment period (Requesting Trustee: Treasurer Matthew Dent) – page 34

6. Review, discuss, and possibly approve or reject Trustee Dent’s proposed requests for two (2) agenda items for the Board to consider the character, alleged misconduct, and professional competence, of IVGID General Manager and District General Counsel at a future Board of Trustees meeting (Requesting Trustee: Chairwoman Wong) – pages 35 - 40

7. Review process for selection of professional services provider for Security Services covering the period October 1, 2017 to September 30, 2019, and authorize the General Manager to execute an agreement for these services with High Sierra Patrol, Inc., for the first year cost of $65,610, and including a three year extension in 2019 at discretion of the General Manager, and two additional extensions in 2022 and 2025 at the discretion of the Board of Trustees (Requesting Staff Member: Director of Finance Gerry Eick) – pages 41 - 56

G. DISTRICT STAFF UPDATE

   1. General Manager Steve Pinkerton
      - Financial Transparency
      - Capital Improvement Projects update
      - Golf Courses at Incline Village
H. APPROVAL OF MINUTES (for possible action)
   1. Special Meeting of August 2, 2017 – pages 57 - 74

I. REPORTS TO THE IVGID BOARD OF TRUSTEES*
   1. District General Counsel Jason Guinasso

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

K. CORRESPONDENCE RECEIVED BY THE DISTRICT* – pages 75 - 89

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.

M. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (for possible action) – pages 90 - 92

N. ADJOURNMENT (for possible action)

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Thursday, September 21, 2017 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of September 26, 2017) was delivered to the post office addressed to the people who have requested to receive copies of IVGID’s agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

1. IVGID Anne Vorderbruggen Building (Administrative Offices)
2. Incline Village Post Office
3. Crystal Bay Post Office
4. Raley’s Shopping Center
5. Incline Village Branch of Washoe County Library
6. IVGID’s Recreation Center
7. The Chateau at Incline Village

/s/ Susan A. Herron, CMC
Susan A. Herron, CMC
District Clerk (e-mail: sah@ivgid.org/phone # 775-832-1207)

Board of Trustees: Kendra Wong, Chairwoman, Tim Callicrate, Peter Morris, Phil Horan, and Matthew Dent.

Notes: Items on the agenda may be taken out of order; combined with other items; removed from the agenda; moved to the agenda of another meeting; moved to or from the Consent Calendar section; or may be voted on in a block. Items with a specific time designation will not be heard prior to the stated time, but may be heard later. Those items followed by an asterisk (*) are items on the agenda upon which the Board of Trustees will take no action. Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to call IVGID at 832-1100 at least 24 hours prior to the meeting. Copies of the packets containing background information on agenda items are available for public inspection at the Incline Village Library.

IVGID’S agenda packets are now available at IVGID’s web site, www.yourtahoeplacel.com; go to “Board Meetings and Agendas”. A hard copy of the complete agenda packet is also available at IVGID’s Administrative Offices located at 893 Southwood Boulevard, Incline Village, Nevada, 89451.

*NRS 241.020(2) and (10): 2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting ...10. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to: (a) Disasters caused by fire, flood, earthquake or other natural causes; or (b) Any impairment of the health and safety of the public.
September 12, 2017

VIA ELECTRONIC MAIL
Incline Village General Improvement District
c/o Jason Guinasso
Reese Kintz Guinasso
936 Southwood Blvd., Suite 301
Incline Village, NV 89451
JGuinasso@rklawyers.com

Re: Legal Representation of Incline Village General Improvement District “IVGID”

Dear Board of Trustees and General Manager Pinkerton:

Thank you very much for asking Holland & Hart LLP to represent Legal Representation of Incline Village General Improvement District “IVGID” (collectively, the “Company”) in the matter described below. We look forward to working with you. This letter confirms our discussion, summarizes our understanding of our representation of the Company and addresses certain aspects of how we will undertake this representation. References to “you” and “your” in this letter refer to the Company, rather than to its employees, officers, directors, managers, stockholders, or members in their individual capacities, nor will it refer to any of the Company’s affiliated entities. During the course of this representation, our client will be the Company and not the aforementioned individuals or entities other than the Company, unless otherwise agreed to in writing by us. Our goal is to provide you with the legal services you need, when you need them and for a reasonable charge. Holland & Hart has consistently worked hard to be flexible and cost-conscious, and to include our clients whenever possible in the frequent decisions which must be made about where and when to devote Holland & Hart’s time and resources. We encourage and welcome your thoughts, questions and directions at any time on all aspects of our work including staffing decisions, time commitments and billing procedures.

My understanding of our representation is as follows: legal review of existing Ground Lease, as amended, and related covenants, conditions, restrictions and encumbrances of record relating to the leased property (with the anticipation that the recorded encumbrances will contain approximately 3 to 5 encumbrance documents requiring detailed review). If the above is not a correct summary of what you have asked us to undertake, please let me know immediately.

While this letter is intended to deal with the specific legal services described above, these terms and conditions will also apply to any additional legal services that the Company requests and we may agree to provide that are outside the initial scope of our representation.
Our fees will be based primarily on the amount of time spent by attorneys and paralegals on your matter provided, however, that in no event will you be charged less than $5,000.00 for any matter involving a written legal opinion rendered by this firm (for example, at a transaction closing).

My current hourly rate is $350. It is likely that other attorneys and service providers may be called upon to work on your behalf. In general, these are our ranges of current hourly rates: Partners, $300 - $800; other attorneys, $195 - $670; and other service providers, $60 - $645. Our rates generally change each year on January 1st and we will notify you of those changes in the first billing statement that includes the charges for any adjusted rate.

As we have discussed, we agreed to perform the contemplated work on a ‘not to exceed’ $7,500.00 basis. If there is a material change in the scope of work contemplated by this engagement, we will want to discuss the impact of such change on our work and we may request adjustment to the agreed upon fee. An amended or new engagement letter may be required depending on the circumstances.

Our firm normally requires a deposit to be applied to fees and costs in a new transaction matter; however we are waiving this requirement as a courtesy to you. We may revisit the need for a deposit later, depending on how the matter develops.

Our customary practice, which I will follow with respect to this engagement, is to bill for our services and expenses monthly. We expect payment of our statements upon your receipt of them. The attached billing procedure statement (“How We Charge for Our Services and Expenses”) contains a more complete description of how we charge and bill for our services and expenses. I welcome any questions you may now have about our billing procedure or may have in the future about any statement we send to you as the work progresses.

We will maintain records related to this engagement in formats and organization that we, in our sole professional judgment, determine are efficient and appropriate for the conduct of this engagement. After the engagement ends, meaning the date of our last bill for services in this matter, we will maintain or destroy these records in accordance with our then-existing record retention policy. If the firm determines that the records should be destroyed, and fewer than 15 years have elapsed from the conclusion of the engagement, we will first give you written notice of our intention to destroy the records at your last address known to us. The notice will inform you that the records will be destroyed 60 days after the date of the notice unless you notify the firm in writing that you want the records to be sent to you at your expense. If the notice is returned to us as undeliverable, we will destroy the records, as the lack of a correct forwarding address will indicate that you have abandoned them. If at any time you request transfer of the records to which you are entitled, we reserve the right to transfer them in the paper and/or electronic formats and organization in which we maintained them. In that event or if you request
destruction of the records, we reserve the right to retain (at our expense) a copy of any part of the records for any reason, such as to comply with legal or ethical obligations.

I believe that the foregoing covers the essential elements of our engagement. If for any reason this letter does not accurately reflect your understanding of the terms of our engagement, please contact me immediately. Otherwise, please indicate your acceptance of these terms by signing a copy of this engagement letter and returning it to me as soon as possible. In any event, unless we hear from you to the contrary, we will proceed with our representation of you on the terms described in this letter.

Sincerely yours,

Megan W. Fogarty
Megan Moschetti Fogarty
for Holland & Hart LLP

: dna
Enclosure

The foregoing letter correctly sets forth the understandings between the undersigned and Holland & Hart LLP.

Date: Sept. 13, 2017

By: [Signature]

Name: [Signature]

Its: General Manager
HOW WE CHARGE FOR OUR SERVICES AND EXPENSES

We at Holland & Hart LLP ("H&H") want each client relationship to be productive and satisfying for both parties. We believe one way to accomplish that goal is to explain at the outset how we charge for our services and expenses.

Our usual practice is to send a statement for services and expenses monthly. Our statement describes in summary fashion the services we have performed on your behalf in order that you have a current understanding of any charges and expenses. If we have a written agreement for some other arrangement, we will proceed accordingly.

Our responsibility is to ensure that you receive an accurate and fair statement. In return, we expect prompt payment of our statements. We encourage you to raise any questions or comments regarding any statement. If you fail to keep your account current, we reserve the right to terminate our representation in accordance with applicable ethical rules. We also reserve the right to assess a late payment charge at the rate of 1% per month on any unpaid balance beginning on the 30th day after the date of the statement.

FEES FOR SERVICES

A specific attorney is responsible for each matter we undertake for you. In addition to serving as your primary contact and either performing or overseeing all services provided for you, this attorney will review and approve each statement you receive from us.

Our engagement letter sets forth the terms on which we will charge you for our services. If we are providing services on an hourly basis, our engagement letter discloses the current hourly billing rate of the attorneys and other service providers who will work on matters for you. From time to time other attorneys and service providers may be involved in your work. Their names and hourly rates will be reflected in our statements. Please note that we review and adjust our billing rates annually, and our adjusted billing rates typically take effect on January 1. You will be advised of changes in billing rates in the first statement that includes charges for services at any such adjusted rate.

EXPENSES

You will be invoiced for certain direct expenses incurred in the course of providing legal services to you. We charge expenses to your bill with no mark-up for handling and no surcharge for the cost of carrying the charge until you make payment. Thus, filing fees, incorporation fees, charges from court reporters and similar expenses will appear on your bill at the amount actually disbursed by us on your behalf. Notwithstanding the previous sentence, unless we otherwise agree, we expect you to pay directly (or prepay through the use of a retainer) any expenses over $1,000 invoiced by persons or companies outside our firm for your account.

Several categories of expenses involving a service provided, in whole or in part, using our equipment or staffed with our personnel are billed to you in the manner described below:

1. **Photocopying.** We charge $.10 per page for photocopying. This represents our calculated actual average cost of photocopies. We commonly send large copy projects to outside copy facilities when timing and confidentiality concerns permit. We are always happy, upon your request and where appropriate, to send materials for copying to you or to outside vendors who will bill you directly.

2. **Messengers.** We charge the same amount for messenger services as outside providers charge for the same service.

3. **Computerized Legal Research.** We have fixed-price, discounted contracts with our providers that include many, but not all, of their services. We compute and charge for the cost of searches performed on your behalf by allocating our actual contract cost over all searches performed for clients. We must necessarily make certain estimates to arrive at this allocation, but the objective is to recover only the firm’s actual cost
for legal research services performed for our clients. For research services not covered by our fixed-price contracts, we charge the actual cost of the searches billed to the firm.

4. Overnite Couriers. We use United Parcel Service ("UPS") and other recognized couriers for the bulk of our overnight courier services. We pass through the UPS or other courier's scheduled charge to us.

LITIGATION SUPPORT AND TRIAL PREPARATION

H&H provides a variety of litigation support and trial preparation services and products. These services and products include trial consulting, witness preparation, jury selection, preparation of multimedia trial exhibits, trial setup and document imaging. The charges for these services and products will be established by agreement between the H&H responsible attorney and the client at the inception of the engagement, or in the alternative, when the need for such services arises.

REPORTABLE TRANSACTIONS

Certain transactions become "reportable transactions" under the Internal Revenue Code and the associated regulations if an advisor, including a lawyer, requires them to be kept confidential. H&H does not require such confidentiality. Accordingly, H&H agrees that you (and your employees, representatives or other agents) may disclose to any and all persons, without limitation of any kind, (i) the Federal income tax treatment and the facts relevant to understanding the Federal income tax treatment of our representation of you and any transaction with which we may assist, and (ii) all materials of any kind (including opinions or other tax analyses) that are provided to you by H&H relating to such tax treatment and such facts. In addition, H&H does not claim that any tax information (as opposed to tax legal advice) provided by it is proprietary or exclusive.
MEMORANDUM

To: Board of Trustees
From: Steven J. Pinkerton, General Manager
Subject: Second Legal Opinion from Holland and Hart LLP, regarding Ground Lease with Parasol Tahoe Community Foundation
Date: September 25, 2017

At the August 22, 2017 Board Meeting, the Trustees authorized the District General Manager to enter into an agreement with the law firm of Holland and Hart LLP to seek a second legal opinion on the requested lease modification by Parasol Tahoe Community Foundation to the Incline Village General Improvement District at a cost not to exceed $7,500. and for the following service only - legal review of existing Ground Lease, as amended, and related covenants, conditions, restrictions and encumbrances of record relating to the leased property (with the anticipation that the recorded encumbrances will contain approximately 3 to 5 encumbrance documents requiring detailed review); see attached memorandum (Attachment 1) dated August 16, 2017; III. PROPOSAL, 1.

Attachment 2 is the work product that is a result of the above Board direction. The work product includes an overview of the existing lease and whether Parasol is in default of its obligations under the lease, discussion regarding the ownership of the building and an analysis of the CC&R’s that were modified in conjunction with the lease.

Consistent with the Board direction, the work product did not include a review of the draft lease modification or any financial terms proposed in connection with the proposed modification.
MEMORANDUM

TO: Board of Trustees
FROM: Kendra Wong
Board of Trustees Chair

SUBJECT: Review, discuss and possibly approve obtaining a second legal opinion, regarding modification to the lease between Parasol Tahoe Community Foundation and IVGID, from Holland and Hart LLP at a not to exceed cost of $15,000

DATE: August 16, 2017

I. RECOMMENDATION

That the Board of Trustees makes a motion to authorize the District General Manager to enter into an agreement with the law firm of Holland and Hart LLP to seek a second legal opinion on the requested lease modification by Parasol Tahoe Community Foundation to the Incline Village General Improvement District at a cost not to exceed $15,000.

II. BACKGROUND

In accordance with the Board's request, District General Counsel Jason Guinasso solicited a proposal to obtain a second legal opinion concerning the lease modification requested by the Parasol Tahoe Community Foundation. In this regard, District General Counsel selected Megan Fogarty, Esq., from the law firm of Holland and Hart, LLP.

Ms. Fogarty provides legal counsel in the area of real estate law, with an emphasis on commercial real estate transactions, development, federal equity receiverships, and financing. She has extensive experience in negotiating and preparing complex lease documentation, representing both landlords and tenants in ground, retail, office, industrial, data center, and build-to-suit leases. Her real estate practice includes complex purchase and sale transactions, as well as common interest community law as it relates to mixed use, commercial, and residential projects. Ms. Fogarty represents a number of developers of shopping center, office, residential, and other mixed-use projects, as well as acting as transactional real estate counsel to federal equity receivers in identifying, preserving, managing, and liquidation of large multi-family, commercial, agricultural, and residential portfolios.
III. PROPOSAL

Based on her initial review of the proposed deal terms between IVGID and PTCF relating to the Ground Lease amendment and building transfer, her rough estimate of her legal fees for the initial document review and preparation of proposed lease amendment revisions, bill of sale and financing documents is as follows:

1. Legal review of existing Ground Lease, as amended, and related covenants, conditions, restrictions and encumbrances of record relating to the leased property (with the anticipation that the recorded encumbrances will contain approximately 3 to 5 encumbrance documents requiring detailed review) = $7,500.
2. Analysis, review and preparation of proposed revisions to Ground Lease amendment, effectuating the building transfer and revised lease terms = $3,500.
3. Preparation of bill of sale for building improvements, promissory note and deed of trust for carryback financing = $4,000.

This estimate is based on the documents made available for review on the IVGID Parasol Modification Request web page and is only an estimate, not a cap or agreed upon fee for our services. Any additional negotiations, discussions, meetings, revised deal terms or unanticipated recorded encumbrances beyond the standard stated above are not included in the anticipated fee estimate and would be charged at the applicable service provider's hourly rate. Ms. Fogarty's current hourly rate is $350, but other attorneys, paralegals and staff in her firm may work on this matter as necessary to ensure that they provide cost-effective service for each component of work performed.

IV. FINANCIAL IMPACT

This is an unbudgeted item that is within the District General Manager's spending authority however all expenses related to this project are to be approved by the Board of Trustees at their request.

V. COMMENTS

This is a follow up to a request that this item be brought back to the Board of Trustees for action at this meeting.
MEMORANDUM

September 22, 2017

TO: Incline Village General Improvement District Board of Trustees

CC: General Manager Pinkerton; Jason Guinasso

FROM: Megan M. Fogarty

RE: IVGID-Parasol Foundation of Incline Village Lease

I. Introduction.

This Memorandum provides legal analysis of the status of: (i) the existing lease agreement between the Incline Village General Improvement District ("IVGID") and The Parasol Tahoe Community Foundation, Inc. (previously known as, The Parasol Foundation, Inc., a Nevada Corporation d.b.a. The Parasol Foundation of Incline Village) ("Parasol") relating to a portion of the property owned by IVGID known as Assessor’s Parcel Number 127-030-15, as more particularly described in the lease (the "Property"), (ii) ownership of the building located on the Property that was constructed by Parasol (the "Building"), and (iii) covenants, conditions, restrictions and encumbrances of record relating to the Property. The following analysis is based solely on information provided by the legal representative of the Parasol Board of Directors for this leasing matter, Mr. Ron Alling, and General Manager Pinkerton, and review of (a) the IVGID-Parasol Foundation of Incline Village Lease, dated January 12, 2000 ("Original Lease"), including the original Parasol Foundation of Incline Village Business Plan – 2001 ("2001 Business Plan"), (b) the Amendment to IVGID-Parasol Foundation of Incline Village Lease, dated January 24, 2002 ("First Amendment" and collectively with the Original Lease, the "Lease"), (c) the 2009 Business Plan for the Donald W. Reynolds Community Non-Profit Center ("2009 Business Plan"), (d) the April 29, 2009 report to the Board of Trustees by Parasol ("2009 Parasol Report"), (e) the April 29, 2009 IVGID Board of Trustees meeting agenda ("2009 Agenda"), (f) item G.4.a. of the Minutes of the April 29, 2009 Meeting of the IVGID Board of Trustees, relating to the 2009 Parasol Report ("2009 Meeting Minutes"), (g) February 17, 2009 correspondence from Parasol to IVGID, presenting the 2009 Business Plan to Trustee Bea Epstein for IVGID review ("Parasol Letter"), (h) the Deed transferring the Property from Boise Cascade Home and Land Corporation ("Boise Cascade") to IVGID, recorded on December 13, 1977 in Book 1168, Page 174, as Document No. 503002, in the official records of the office of the Washoe County Recorder, Washoe County, Nevada ("Official Records"), which Deed contains certain covenants, conditions and restrictions (the "Original CC&Rs"), and (i) the Amendment to Covenants, Conditions and Restrictions executed by Gardena Service Company,
a California corporation ("Gardena"), successor by merger to Boise Cascade, recorded on November 30, 1999 as Document No. 2402584 in the Official Records ("CC&R Amendment", and collectively with the Original CC&Rs, the "CC&Rs"). A complete title report of all encumbrances recorded against the Property is in the process of being prepared, so this Memorandum will be supplemented, as necessary, in the event the title report reflects any additional encumbrances of record that apply to the legal analysis contained herein.

II. Lease Analysis.

The Lease analysis herein focuses on the specific question posed by the Board, as to whether Parasol is in default of its obligations under the terms of the Lease. There are a number of affirmative obligations of Parasol in the Lease, including its payment and performance obligations, but after discussions with General Manager Pinkerton and Mr. Alling regarding the status of such obligations, it appears that there is only one potential default by Parasol, relating to its operation of the Building. Section XIII.A.3 of the Lease specifically states that it shall be a default under the Lease if Parasol fails to operate the Building to Lessor’s satisfaction, with default being triggered in the event there is a significant reduction in use from what is contemplated in Parasol’s long-term business plan, which was, at the time of entering the Lease, the 2001 Business Plan attached thereto as Exhibit C. There is not a clear legal answer as to whether Parasol is in default of this provision, as there is no bright line test on what constitutes a significant reduction in use in the context of Parasol’s business plan.

The 2001 Business Plan sets forth Parasol’s mission and goals, including specific references to the contemplated use of the Building, which is intended to provide:

“office space for a number of the non-profits in [Incline Village/Crystal Bay/Kings Beach] and a setting for the essential collaboration process that will accomplish the formation of a community of social entrepreneurs. In addition, the [Building] will enable the non-profits to share resources, improve communication, coordinate activities, and share training and provide a focal point for contributors and clients. Parasol will teach and encourage its ‘partners’ to think and act as social entrepreneurs by offering important services to them. These support services include management training, finance, accounting and board/staff development.”

The 2001 Business Plan also discusses the use of the Building by both Resident Collaborators, who will be provided with dedicated office space in the Building, and Community Collaborators, who will not reside in the Building, but who will have access to shared office, storage and building services. Goal #2 of the 2001 Business Plan goes on to state that the Building will become a home for approximately twenty resident organizations and a resource center for approximately eighty community organizations, providing centralized services, communication channels, critical meeting and storage space. Based on the provisions in the 2001 Business Plan, some may view the contemplated use of the Building by Parasol in the more global sense of providing office, storage and meeting space and educational opportunities for the purpose of supporting collaboration and efficiency among local non-profits; however, some may take a more detailed view, honing in on the number of organizations that were originally anticipated to
make use of the Building. There is not a ‘correct’ legal answer as to whether the contemplated use should be viewed from either the global or more detailed perspective, but to hone in on one of the specific components of the contemplated use, whether it be the number of Resident Collaborators or the exact area space allocations by square footage, likely does not constitute the entirety of the contemplated use.

Another factor must be considered when analyzing whether Parasol has significantly reduced its contemplated use of the Building in the context of its long-term business plan, and that is the fact that long-term business plans change over time, as contemplated in Section 2.C.3 of the First Amendment, which acknowledges that Parasol’s business plan may be amended from time to time. In 2009, Parasol updated its long-term business plan with the 2009 Business Plan. The 2009 Business Plan does not call for a specific number of Resident Collaborators, but appears to subscribe to the same global mission in providing office and meeting space to foster collaboration among both Resident and Community Collaborators. Pursuant to the First Amendment, “any material modification to [Parasol’s] purposes and the Business Plan, which would affect [Parasol’s] actions under [the] Lease, may be made only with Lessor’s consent.” This raises two questions: first, are the changes in the 2009 Business Plan “material modifications” requiring consent of IVGID, and, second, if such changes are considered material, did IVGID provide consent to the 2009 Business Plan?

The 2001 Business Plan anticipates usage of meeting rooms and Building space by Community Collaborators, and also anticipates use of the Building by approximately twenty Resident Collaborators. Arguably, the removal of a set number of anticipated Resident Collaborators, and an increase in usage by Community Collaborators could be considered a material change in the intended use of the Building; however, it does not necessarily constitute a material modification to Parasol’s purposes that would affect Parasol’s actions under the Lease, as Parasol is still obligated to comply with its payment and performance obligations in the same fashion as originally contemplated under the Lease. With that said, if the Board takes a more conservative approach in determining that the modifications were material, then it needs to be determined whether IVGID granted consent to the 2009 Business Plan.

Pursuant to the Parasol Letter, delivered to IVGID Trustee, Bea Epstein, on February 17, 2009, Parasol delivered the 2009 Business Plan to IVGID for review prior to the 2009 Parasol Report to the Board of Trustees at their April 29, 2009 meeting (“April 2009 Meeting”). To date, no written consent of the 2009 Business Plan by IVGID has been provided; however, neither the First Amendment nor Section XXIII.A.2 of the Original Lease (regarding consent of the parties) requires written consent. There is evidence of implied IVGID consent to both the 2009 Business Plan and the reduced usage by Resident Collaborators in the 2009 Agenda, 2009 Parasol Report and 2009 Minutes. At page 103 of the 2009 Agenda, the 2009 Parasol Report confirmed that the Building then housed only seven non-profit organizations, plus the Parasol Tahoe Community Foundation and Parasol Community Collaboration, for a total usage of the Building by Parasol and eight Resident Collaborators. Additionally, at page 107 of the 2009 Agenda, the 2009 Parasol Report provided notice of the updated business plan, including a statement that the updated plan made no material changes to mission or use. After receipt of the 2009 Business Plan and the reference in the 2009 Parasol Report, the lack of comment by the IVGID Board on the 2009 Parasol Report, as evidenced in the 2009 Meeting Minutes, could arguably be seen as
providing implied consent to the 2009 Business Plan. It also implies that, with only eight Resident Collaborators, Parasol was not considered to be in default of the Lease provision relating to a reduction in use of the Building from the context of their long-term business plan. At this time, there appear to be twelve Resident Collaborators in the Building, which is actually an increase over the number of Resident Collaborators that were present in 2009, which could present a challenge to a claimed Lease default due to a significant reduction in use from what is contemplated in Parasol’s current long-term business plan. With that said, the default provision in Section XII.A.3 is fairly broad in its application, as it recognized a default by Parasol if Parasol fails to operate the facility to IVGID’s satisfaction. If IVGID were to claim a default by Parasol under the Lease, it is important to explore the potential remedies of IVGID.

In the event of a default by Parasol, the Lease calls for specific notice and cure periods before remedial action can be taken. There are various notice and cure periods for defaults in payment or performance by Parasol, but Section XIII.B.8 of the Lease addresses potential default due to a reduction in use, as discussed above (“Reduced Use Default”). If Parasol fails to cure a Reduced Use Default within thirty days after written notice of default from IVGID, Parasol would be subject to remedial action by the IVGID Board of Trustees, which action may include, but not be limited to, termination of the Lease and “assumption of full ownership and use of the leased realty, including all improvements and fixtures.” This contractual remedy seems to contemplate IVGID’s ability to take full ownership of the Building upon such a default, however, there are additional considerations in how such termination, eviction and taking of possession would occur.

Section XX of the Lease requires that disputes respecting the enforcement, interpretation or performance under the Lease must be resolved through binding arbitration. It is important to note that Nevada Revised Statute (“NRS”) 597.995 specifically requires that any agreement (other than a collective bargaining agreement, which does not apply in this case) including a provision that requires parties to submit to arbitration must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision. The language requiring ‘specific authorization’ implies that something more than mere signature of the agreement is required, such as initialing the relevant arbitration provision. The statute goes on to state that any agreement that fails to include the specific authorization will render such arbitration provision void and unenforceable. Although this may present a defense by either party against enforcement of the Lease arbitration provision, it is important to note that NRS 597.995 was not enacted until the 2013 legislative session. In general, the legal system does not favor retroactivity\(^1\), and thus, without specific statutory language permitting retroactive enforcement, NRS 597.995 will likely not apply to the Lease arbitration provision. For arguments sake, if either party seeks to invalidate the arbitration provision, or if IVGID elects to proceed with statutory remedies and Parasol does not enforce the binding arbitration provision, then, pursuant to Nevada law, a Reduced Use Default would be governed by NRS 40.2516, which states that a tenant is guilty of unlawful detainer, and subject to eviction, if the tenant continues in possession after a failure to perform any condition or covenant of its lease (other than certain specified defaults that are covered by other statutory provisions, which do not apply in this case) after five days written notice of such default. As stated above, the Lease expands that notice period to thirty days in the event of a Reduced Use Default. If Parasol disputes the default and fails to surrender the

Property to IVGID after written notice of a Reduced Use Default, NRS Chapter 40 does not provide the remedy of summary eviction to landlords of commercial premises\(^2\), thus requiring IVGID to file a lawsuit to evict Parasol. There may be challenges to IVGID's ability to evict and obtain possession of the Building prior to expiration of the initial 30-year term. Those challenges relate to the ownership of the Building and the intent of the parties at the time the Lease was executed.

### III. Ownership of the Building.

There is a general rule in American common law that all buildings become a part of the real property as soon as they are placed on the land\(^3\); however, there are many exceptions and qualifications to this general rule, with great leniency in its application to landlords and tenants,\(^4\) as it is generally the intent of the contracting parties as to such ownership that will control.\(^5\) Section V.B.5. of the Lease confirms that all improvements made to the Property that are affixed and not movable shall belong to IVGID upon termination of the Lease, including all options to extend. Additionally, Section XXI.A. of the Lease states that, where not inconsistent with any other terms and conditions of the Lease, upon the expiration of the term 'or sooner termination of [the] Lease', Parasol shall surrender the Premises and all improvements and alterations that become a part thereof under the terms of the Lease. These provisions seem to indicate that the parties intended for the Building improvements to immediately become a part of the Property, requiring surrender to IVGID, even upon early termination of the Lease. However, Section XI.F. of the Lease (relating to disbursement of condemnation awards in the event of a taking of the Property by eminent domain) confirms that Parasol shall be 'justly compensated for the value of its structure'\(^6\) in the event of a condemnation of the Property and early termination of the Lease, which gives an indication that the parties intended that the Building remain the property of Parasol during the term of the Lease. While the Lease does not expressly state that the Building improvements are the property of Parasol during the term of the Lease, it is common practice in ground leases for the tenant to own all significant improvements constructed by tenant during the term of the lease, allowing them to receive the benefit of the investment made, such as taking depreciation on the improvements. General Manager Pinkerton and Mr. Alling both confirmed that Parasol has been taking the depreciation on the Building during the Lease term, supporting the idea that Parasol holds ownership of the Building during the term of the Lease. While the current ownership of the Building may be unclear from the terms of the Lease, the true question is whether IVGID has the right to take possession and title to the Building upon early termination of the Lease due to a default by Parasol.

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\(^2\) NRS 40.2516 overs defaults in failure to perform conditions of a lease in the context of tenants of residential, mobile home, recreation vehicles or "real property", which includes commercial premises. NRS 40.2516(2) states that, if a tenant is guilty of unlawful detainer pursuant to NRS 40.2516, the landlord may seek to recover possession pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive. NRS 40.254 specifically limits the remedy of summary eviction to tenants of dwelling units, part of a low-rent housing program, a mobile home or a recreational vehicle, specifically excluding the catch-all "real property" reference and any reference to commercial premises. Thus the remedy of summary eviction, without an eviction proceeding is not currently granted to commercial landlords under NRS Chapter 40.

\(^3\) *Kutter v. Smith*, 69 U.S. (2 Wall.) 491 (1864).

\(^4\) *Waldauer v. Parks et al.*, 141 Miss. 617 (1926).

In general, when a landlord seeks eviction and termination of a lease based on a non-monetary breach, enforcement of a termination generally requires that such non-monetary default result in landlord suffering actual damages and/or that such termination will not result in an unconscionable or inequitable result.⁶ In Fowler v. Resash Corp.,⁷ tenants under a 99-year ground lease made certain improvements to the premises without the requisite landlord consent, resulting in a non-monetary breach of the lease at a time when there was 50 years left on the lease term. The court found that the landlord suffered no actual damages as a result of the breach, and actually received a benefit of increased rental value from the improvements installed by tenant at the premises. The court found that to uphold the lease termination would result in the landlord becoming inequitably and unjustly enriched at the expense of the tenant, and thus the court set aside the forfeiture. While the facts and claimed default with respect to Parasol may be different, the same test will likely be applied in determining whether IVGID has suffered actual damages or would be unjustly enriched by taking possession of the Building in the 17th year of a 30-year lease term. In analyzing a potential unjust enrichment claim, it is important to note that the theory of unjust enrichment focuses on the unjust gain to the defendant, not the cost to the plaintiff or market value of the benefit received.⁸ A determination of the potential value of the Building to IVGID will likely be difficult to assess, as there are a number of factors at play, including IVGID’s potential need for additional space for its operations, the cost of operating and maintaining the Building, and the restrictions on the use of the Property set forth in the CC&Rs.

III. CC&R Analysis.

The Original CC&Rs were included in the Deed transferring title to the Property from Boise Cascade to IVGID in 1977. The restrictions in the Original CC&Rs specifically state that the Property shall be used only for park and recreational and related purposes and for no other purposes. The restrictions run with the land for a period of fifty years from the recording date of December 13, 1977, expiring in approximately ten years, on December 12, 2027. In 1999, Gardena, stated to be the successor by merger to Boise Cascade, executed the CC&R Amendment, amending the restrictive covenant to also allow for construction of a building for the use of Parasol, its collaborators and legal successors. The question has been posed as to whether Gardena had authority to execute the CC&R Amendment, as it is believed Gardena had been dissolved prior to execution of the CC&R Amendment. Pursuant to a very rudimentary search of the California Secretary of State’s online corporate records, it does appear that Gardena filed its election to dissolve in January of 1990; however, it is important to note that such online records do not provide a complete or certified record of any entity. Whether Gardena had authority to execute the CC&R Amendment is largely a question of fact dependent on Gardena’s corporate records and the particulars of its winding up process; however, there are legal principals regarding authority for certain parties to wind up the affairs of a dissolved entity that warrant consideration. Pursuant to California Corporations Code Section 2001, which has not been amended since 1976, the directors and officers of a dissolved corporation have the power and the duty to wind up the affairs of the corporation, including settling debts and claims for or

⁷ Id.
against the corporation, disposing of assets, and executing contracts and conveyance documents in the name of the corporation. Thus, there is authority for a party to act on behalf of a corporation after dissolution.

Based on the language in Section XV of the Lease, IVGID and Parasol were fully aware of the CC&Rs and the potential impact of the CC&R Amendment on their ability to enter into the Lease. It stands to reason that the Boards at the time and their respective counsel would have vetted the authority of Gardena to execute the CC&R Amendment and confirmed that the party executing on behalf of Gardena had the requisite authority to execute the CC&R Amendment as part of the winding up of the corporation. However, it is possible that the executing party may not have had the requisite authority to grant the CC&R Amendment, either because it was beyond the powers granted to those winding up the affairs of the corporation or because that individual was not the director or officer holding such authority. Again, those are questions of fact that would require an investigation into the corporate records of Gardena, which is beyond the scope of this Memorandum; however, the legal analysis of the effect of the CC&R Amendment’s proposed invalidity can be assessed.

The restrictions specifically state that Boise Cascade and its successors and assigns shall have the right to prevent and stop a violation of the CC&Rs, giving the indication that the right of enforcement was personal to Boise Cascade; however, the Original CC&Rs also state that the covenant shall run with the land, indicating the restriction was appurtenant, intending to benefit adjacent land owned by Boise Cascade at the time the Original CC&Rs were recorded. It is unclear whether Boise Cascade actually owned any adjacent land at the time the Original CC&Rs were recorded, so at this time, Gardena, as the successor by merger to Boise Cascade, is the only known party with standing to bring a claim of violation of the restrictive covenant.

If Gardena is, in fact, the only successor with standing to bring a claim for violation of the Original CC&Rs, it likely would be barred under the theory of estoppel from bringing such a claim if the party that signed the CC&R Amendment held himself out as having, and was reasonably believed to have had, authority to sign on behalf of Gardena as part of its winding up process. If a successor or assign of Boise Cascade were to make a claim that the CC&R Amendment is invalid and that the Lease is in violation of the Original CC&Rs, Section XV of the Lease says that Parasol will bear the risk of such a claim and shall indemnify and defend IVGID against such claims. If such a claim is made, calling for the termination of the Lease, it is likely that the same concepts of unjust enrichment discussed in Section III will be considered in the court’s determination of the outcome of an early termination of the Lease on such grounds.

IV. Conclusions.

Based on the facts in hand: (i) it does not appear that Parasol is currently in default of its Lease obligations; (ii) the Lease is not clear as to whether Parasol currently owns the Building, but the equitable theory of unjust enrichment would likely prevent IVGID from taking possession of the Building through termination and eviction without compensating Parasol for the benefit derived by IVGID; (iii) it is not clear whether the party signing the CC&R Amendment on behalf of Gardena actually had authority to grant the expansion to the Original CC&Rs’ restrictive covenant, but there are principals in corporate law that indicate it may have been an authorized
power of the director or officer of Gardena as part of the winding up process of the entity; and (iv) even if the CC&R Amendment were found to be invalid, resulting in a termination of the Lease, IVGID will likely face the same theory of unjust enrichment as discussed above.

The options in front of IVGID appear to be to maintain the status quo under the terms of the Lease or to negotiate the formal acquisition of the Building from Parasol at whatever value is deemed reasonable when considering the numerous factors in play, including IVGID’s ability to use or rent the Building, and the effect the CC&Rs will have on such use or rental opportunities in the future.
QUESTIONS FOR THE BOARD

1. Is there a justifiable need for additional recreation space? Is there a justifiable need for different administration space?

2. Are there other spaces in IV/CB, either for rent or purchase, that meet the needs of IVGID?

3. Would it be advantageous for IVGID to design and build space that meets our specific needs?

4. Is the Parasol proposal an economically viable option?

5. Are the terms and conditions of the Parasol proposal the most advantageous for IVGID?
MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review and discuss public records request fulfillment, policies, and include potential witnesses.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review and discuss public records request fulfillment, policies, and include potential witnesses.

II. BACKGROUND

NRS 239.0107 Requests for inspection or copying of public books or records: Actions by governmental entities.

1. Not later than the end of the fifth business day after the date on which the person who has legal custody or control of a public book or record of a governmental entity receives a written or oral request from a person to inspect, copy or receive a copy of the public book or record, a governmental entity shall do one of the following, as applicable:

   (a) Except as otherwise provided in subsection 2, allow the person to inspect or copy the public book or record or, if the request is for the person to receive a copy of the public book or record, provide such a copy to the person.

   (b) If the governmental entity does not have legal custody or control of the public book or record, provide to the person, in writing:

      (1) Notice of that fact; and

      (2) The name and address of the governmental entity that has legal custody or control of the public book or record, if known.
(c) Except as otherwise provided in paragraph (d), if the governmental entity is unable to make the public book or record available by the end of the fifth business day after the date on which the person who has legal custody or control of the public book or record received the request, provide to the person, in writing:

(1) Notice of that fact; and

(2) A date and time after which the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person. If the public book or record or the copy of the public book or record is not available to the person by that date and time, the person may inquire regarding the status of the request.

(d) If the governmental entity must deny the person’s request because the public book or record, or a part thereof, is confidential, provide to the person, in writing:

(1) Notice of that fact; and

(2) A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

2. If a public book or record of a governmental entity is readily available for inspection or copying, the person who has legal custody or control of the public book or record shall allow a person who has submitted a request to inspect, copy or receive a copy of a public book or record.

(Added to NRS by 2007, 2061; A 2013, 321)

VIII. BUSINESS IMPACT

Include one of the five following statements: ("Rule" means an ordinance, regulation, resolution or other type of instrument by the adoption of which the governing body of a local government (IVGID Board of Trustees) exercises legislative powers. This does not include items which are authorized pursuant to Chapters 271 (local improvements districts) or Chapters 278, 278A or 278B (zoning and planning) of the Nevada Revised Statutes.)

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

or

This item is a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, but it does not impose a direct and significant economic burden on a business, or directly restrict the formation, operation or expansion of a business, and therefore does not require a Business Impact Statement.
This item is a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, but IVGID does not have the authority under federal or state law or a contract into which it has entered, to consider less stringent measures.

This item is a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, but emergency action is necessary to protect the public health and safety (requires unanimous vote of the Board and cannot be in effect more than six months).

This item is a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and a Business Impact Statement is attached. (Note: A business impact statement must be prepared and made available to any interested person before a hearing is held to adopt the rule.)
IVGID’s efforts to conceal public records gets bizarre

Staff blandly admits felony-level destruction of email records

BY STEVEN MILLER
© 2017, NEVADA JOURNAL | WEDNESDAY, AUGUST 23, 2017 | 2 COMMENTS

Has Indcline Village’s often-criticized local government — the Incline Village General Improvement District, or “IVGID” — finally gone off the deep end?

According to district staff, members of the public can no longer review any history of top administrators’ email communications on matters of public controversy, or anything else, older than 30 days.

The reason, District Clerk Susan Herron told records-requester Mark E. Smith, is that, for emails, the district suddenly has a new 30-day “retention policy.”

Such a policy would directly contradict state law, which makes it a C class felony to destroy or conceal emails and other public records.

Herron, who also has the titles Executive Assistant and Public Records Officer, answers to IVGID General Manager Steven Pinkerton, who, along with IVGID Public Works Director Joseph Pomeroy, was the subject of Smith’s requests under the Nevada Public Records Act.

Smith is a longtime activist on north Lake Taho’s problem with roving bears and the unsecured garbage and waste containers that attract them.

“I was pretty active in getting the trash ordinance updated” in 2016, he told Nevada Journal. His June 4 public-records request, he says, had been triggered by learning “that the [IVGID] board of trustees was going to have a review of the new franchise agreement with the trash disposal company, Waste Management.”

Also coming up was a board review of Pinkerton’s performance. In April, the members had extended his contract for three years. Then in June he’d requested a reputed $64,000 raise.

Smith wanted to see how vocal Incline Village and Crystal Bay residents had been with complaints about the new franchise agreement. It had increased IVGID’s financial subsidy of Waste Management local operations, he said, but service, nevertheless, had continued to decline.

“They” — IVGID and the trash company — “had a huge problem meeting their obligations this spring,” he said. Under the new franchise agreement, Waste Management committed to pick up “green waste” — mainly pine needles, pine cones and tree debris — every week.

However to service Smith’s neighborhood this spring, he said, it took the company five weeks. And, he learned, talking to other people, as well as IVGID insiders, that throughout the district...
19th Century orphan-care fight still hobbles Nevada education

Part 2: Why did the State of Nevada decide to help fund a Catholic-run orphanage and school in Virginia City?

CCSD spent over $13,000 discussing controversial sex-ed program

The Clark County School District spent over $13,000 this year to discuss the child sex-education advocacy program that made headlines when it was reported that the district was considering teaching masturbation to Kindergartners.

19th Century orphan-care fight still hobbles Nevada education

Part 3: How the 1882 Nevada Supreme Court came to endorse state-based religious discrimination

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Waste Management had not provided anything like the weekly service it had promised and for which property owners had paid.

“So yes, over the whole neighborhood, big piles all over the place for a month and a half,” said Smith.

“The period runs late May to late July: a two-month period when they’re supposed to pick up green waste. And for five weeks out of the eight weeks they didn’t pick up green waste in a lot of the community.”

There were also chronic problems with Waste Management’s servicing of damaged commercial dumpsters.

“it was taking them, in some cases, a month to service dysfunctional dumpsters,” he said. “But part of their agreement with the district was they would also upgrade trash service in terms of their responsiveness. But that got markedly less responsive.” And it was the same thing with residential service.

So, on June 4, Smith — seeking a multi-year picture of the issue — submitted his records request, writing IVGID:

Also, by way of this letter, I am making a Public Records Act request for each and every complaint that IVGID has received about any aspect of:

a) Waste Management’s service for the period of 1 January 2010 to the present date,

b) The performance or lack thereof of IVGID’s trash enforcement program for the period of the first engagement of George Valentic to the present,

c) Mr. Pinkerton’s performance related in any way to trash collection or trash enforcement, for the period of his first day of employment for the District to the current date; and

d) Mr. Joe Pomroy’s performance related in any way to trash collection or trash enforcement for the same period as noted in (c), above.

Further, I request each and every email sent or received by Mr. Pinkerton or Mr. Pomroy to or from any person representing Waste Management or any Waste Management subcontractor, supplier or vendor, in any regards for the period from Mr. Pinkerton’s first day of engagement with the District until the present date.

Finally, I also request each and every document related to all corrective action the District has taken in attempts to resolve the failure of Waste Management to abide by the Franchise Agreement.

Five weeks later, IVGID Clerk Herron emailed Smith a peculiar response:

I just wanted to give you a status on your document request of June 4, 2017. Staff has advised that for Items 1. through 3. Waste Management has responded/taken care of those requests. For a), b), c) and d) I have no public records responsive to your requests. I continue to work on the balance and will update you again at the end of this month if not before.

In fact, says Smith, Waste Management had not “responded/taken care of” the requests he’d made to IVGID.

Moreover, it is IVGID, as a local government, that is subject to the Nevada Public Records Act, not the trash company.

On August 1, 58 days after the initial request, IVGID finally turned over a handful of emails. Although Smith’s request had covered multiple years, with special attention to 2016, the district had released only a dozen recent emails. And the earliest was dated a couple of weeks after his June 4th request.

“So the two problems,” Smith told Nevada Journal, “are, one, they didn’t [provide] anywhere near [the records requested], but, two is, they received my email on June 4th, and after they received my request, they deleted emails.”

Wrote Herron:
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In response to your request for e-mails between our District General Manager and Director of Public Works and Waste Management, I have a thumb drive available for your pick up at our 893 Southwood offices. *You will see thirty days of e-mails as that is our retention policy.* (Emphasis added.)

This appears to be the first time that anyone at Lake Tahoe or anywhere else had ever heard of a “30-day email retention policy.”

Smith had also submitted a records request to review any email communications between IVGID’s Pinkerton and Pomroy on one side and representatives of the Parasol Foundation, on the other. The nonprofit has been seeking to interest IVGID’s board in changing the terms of Parasol’s long-term lease of IVGID land, on which Parasol’s building sits. The proposal has elicited skepticism and controversy.

Only a few of those requested email records were provided Smith. The rest — under the 30 day “policy,” were either withheld or deleted.

If any of these requested emails still exist in some form of digital backup, IVGID would have illegally concealed them, a category C felony under Nevada law, specifically NRS 239.320. If the emails were destroyed, that, also, is a C felony under the same statute:

*NRS 239.320* Injury to, concealment or falsification of records or papers by public officer. An officer who mutilates, destroys, conceals, erases, obliterates or falsifies any record or paper appertaining to his or her office, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Under *NRS 193.130,* at least one year in jail is mandatory:

A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than $10,000, unless a greater fine is authorized or required by statute.*

IVGID Clerk Susan Herron had apparently been convinced by her IVGID bosses that their sudden new “policy” of destroying emails after a mere 30 days was legal because of three interlocking arguments:

1. The general manager, Pinkerton, legally the real controller of the records, had told her to do it.
2. Under a policy statement adopted by a 2011 IVGID board of trustees, the general manager was allegedly given “the discretion to interpret and to modify” board policy “on a case by case basis, as deemed necessary and appropriate under the circumstances.” It is unknown if such discretion was ever reviewed by the state archivist.
3. Twenty-three years ago, in 1994 — well before the planet-wide explosion of email — the Nevada State Archives Administrator, under the law then in place, had approved IVGID’s then “proposed schedule(s) for the retention and/or disposition of records,” which, of course, did not mention emails.

What Herron never acknowledged was that Nevada records-retention law frequently changes, and did so many times in the next 20 years. An appendix to the Nevada Local Government Retention Manual, issued by the state, reveals hundreds of such changes, just over the last nine years. One such important change is that email records have long been explicitly protected at the same level as hard-copy records. Thus, emails to and from the IVGID executive — that is, the general manager — must be permanently retained, and all complaints must be retained for at least three years, as this page from the Nevada Local Government Retention Schedule indicates.

Nevada Administrative Code 239.155 now also requires that any change in retention schedules that would dispose of records — such as IVGID’s alleged “policy” of destroying all emails after 30 days — must first be reviewed and approved by the State Library’s Archives and Public Records Administrator. NRS 239.125 also requires that records-retention policies must be adopted by the governing board of a local government, not merely by its hired executive or a lawyer who reports to him.

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Given the sudden, apparently ad hoc, obstacles thrown up against Smith's attempt to see General Manager Pinkerton's e-mail communications over the last couple of years, Nevada Journal asked Smith if he thought the new "policy" might just be a way to not honor his records request.

"I think that's exactly right," he said. "This is the most blatant time when they've done something that seems so obviously intentional. In the past, you chalk it up to ineptitude, or lack of time, bureaucratic fumbles with no malicious intent. Here, I have a hard time finding a non-malicious reason for this."

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Incline Village government commits felony-level crimes to conceal public records

By Michael Schaus

Wednesday, August 23, 2017

In a stunning admission reported earlier today exclusively by the Nevada Journal, staff at the Incline Village General Improvement District (IVGID) openly confessed to destroying or concealing public records as a matter of policy — a felony-level crime under Nevada state law.

After area resident Mark Smith submitted a public records request for, among other things, copies of all email correspondence between IVGID general manager Steve Pinkerton and the district’s trash company, Waste Management, IVGID staff responded by only providing copies of emails from the past 30 days, citing a “retention policy” whereby any emails older than 30 days were either destroyed or withheld from production.

Yet, NAC 239.155 expressly requires that local governments permanently retain the email correspondence of executives like IVGID general manager Steve Pinkerton. The only exception to this mandate is if a local government adopted their own written records retention schedule, which had received the approval of the State Library, Archives and Public Records Administrator. Yet, by IVGID’s own admission, their 30 day retention policy received no such approval.

As Nevada Journal managing editor and NPRI senior vice president Steven Miller reported:

If any of the requested emails still exist in some form of digital backup, IVGID would have illegally concealed them, a category C felony under Nevada law, specifically NRS 239.320. If the emails were destroyed, that, also, is a C felony under the same statute.

In addition to the District’s policy violating the letter of the law, it also eviscerates the spirit and intent of the state’s public records law, as this exact case demonstrates:

On August 1, 58 days after the initial request, IVGID finally turned over a handful of emails. Although Smith’s request had covered multiple years, with special attention to 2016, the district had released only a dozen recent emails. And the earliest was dated a couple of weeks after his June 4th request.

“So the two problems,” Smith told Nevada Journal, “are, one, they didn’t [provide] anywhere near [the records requested], but, two is, they received my email on June 4th, and after they received my request, they deleted emails.”
In responses to the allegations of criminality at IVGID, NPRI communications director Michael Schaus released the following statement:

It is imperative that local governments be transparent and are held accountable to the people they serve. In order to keep taxpayers in the dark, IVGID has chosen to blatantly and flagrantly defy state law. The State must immediately investigate IVGID’s unlawful actions and take any means necessary to bring them into compliance with the state’s public records law.

Be sure to visit NevadaJournal.com or click here to read the story, *IVGID’s efforts to conceal public records gets bizarre*, in its entirety.

You can find this online at: http://www.npri.org/issues/publication/incline-village-government-commits-felony-level-crimes-to-conceal-public-records

**CONTACT NPRI**

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IVGID officials caught in false testimony

State's top authority refutes district's compliance claims

BY STEVEN MILLER
© 2017, NEVADA JOURNAL | TUESDAY, AUGUST 29, 2017 | 2 COMMENTS

Functionaries of Incline Village's local government repeatedly insisted last week that their sudden scheme to destroy all emails to and from top executives after 30 days had the State of Nevada's stamp of approval.

The very next day, however, the state's top authority on the matter explicitly denied their assertions.

"As Administrator I have not approved the Incline Village General Improvement District's current records retention policy whereby all emails older than 30 days are deleted," reported Jeffrey Kintop, administrator for the Nevada State Library, Archives and Public Records.

Kintop had been copied on the original email that first revealed IVGID administrators had promulgated a new "retention policy," allowing them to destroy — or at the very least withhold — all public-record emails.

IVGID Clerk Susan Herron, executive assistant to General Manager Steven Pinkerton as well as his appointed public-records officer, had sent that original email to Tahoe resident Mark E. Smith, explaining why IVGID was denying him virtually all of the email records he'd requested.

Smith — active in the effort to reform North Shore trash administration and thus protect trash-diving Tahoe wildlife — had requested all emails between Pinkerton or his public works director and IVGID contractor Waste Management, as well as all complaints made by area residents to IVGID about the district's stumbling trash-collection service.

After 58 days, Herron responded with only a handful of the requested records, explaining the wholesale denial by referencing the alleged new 30-day policy.

Smith and others have speculated that the 58 days had largely been devoted — by Herron's boss Pinkerton and IVGID General Counsel Jason Guinasco — to looking for legal-sounding rationales for keeping Pinkerton's email communications with Waste Management secret from the public.

However, the email letter of State Public Records Administrator Kintop — sent in response to an inquiry from NPRI's transparency research director, Robert Feliner — implied that any such rationale fails, since under the Nevada Public Records Act, NRS 239.125, local governments' minimum periods of records retention must be formally approved by the Administrator.

The same statute also indicates that any such new record-retention policies "must be approved by the governing body" of the local government. However, Tuesday's discussion of IVGID
employers, union over what he calls "textbook" racism.

19th Century orphan-care fight still hobbles Nevada education

Part 2: Why did the State of Nevada decide to help fund a Catholic-run orphanage and school in Virginia City?

CSESD spent over $13,000 discussing controversial sex-ed program

The Clark County School District spent over $13,000 this year to discuss the child sex-ed education advocacy program that made headlines when it was reported that the district was considering teaching masturbation to Kindergartners.

19th Century orphan-care fight still hobbles Nevada education

Part 3: How the 1882 Nevada Supreme Court came to endorse state-based religious discrimination

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IVGID officials caught in false testimony / Nevada Journal

trustees revealed that Pinkerton and Guinasso had never brought their sudden truncation of email life before that board for approval.

Nevertheless, IVGID Clerk Susan Herron, IVGID General Counsel Jason Guinasso and IVGID Chair Kendra Wong had all, at the August 22 meeting, assured the four remaining board trustees and the attending public that the district was in full compliance with state law.

The threesome, however, never addressed key provisions of the record-retention directives that the State of Nevada sets out for local governments. One such key directive — cited by Records Administrator Kintop in his response to NPRI — is that, "E-mail is managed by its content, not its format."

In itself that statement would appear to demolish Herron's basic argument — which Guinasso repeatedly allowed her to make and which she repeatedly attributed to the Administrator's office — that all email, regardless of content, are "transitory records," and thus can legally be destroyed after 30 days.

To the contrary, wrote Public Records Administrator Kintop to NPRI, citing page 9 of the official administrative schedules online here, "E-mail messages are public records when they are created or received in the transaction of public business. They must be retained as evidence of official policies, actions, decisions, or transactions."

The retention time period for executive communications, such as Pinkerton's emails, say the directives, is permanent. For complaints from the public, the retention period is a minimum of three years.

While Clerk Herron and Chair Wong could conceivably have remained ignorant regarding the relevant contents of the record-retention manual Nevada provides local governments, full knowledge and candid reporting to the board of those regulations would seem to be a core, ethical responsibility of IVGID General Counsel Guinasso.

The above link goes to a key page of the 2016 Nevada Local Government Retention Schedule. The complete 455-page document is online here. The entire August 22 IVGID board meeting can be livestreamed from these two links: First part and Second part.

Nevada Journal's initial story on IVGID's effort to not comply with state public record law was published August 23. It can be accessed here.

Steven Miller is managing editor of Nevada Journal and senior vice president at the Nevada Policy Research Institute

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For the last 20 years, Nevada Journal has been published by the Nevada Policy Research Institute, a nonpartisan public-policy think tank.

NPRI files public records complaint with AG's office

Monday, August 28, 2017

In response to last week’s Nevada Journal report — which found that the Incline Village General Improvement District’s records retention policy violates state law — the Nevada Policy Research Institute has chosen to file a formal complaint with the Attorney General’s office.

NPRI president John Tsarpalas issued the following statement:

“Nevadans deserve maximum transparency from their government, which is something the state’s public records law is supposed to provide. But this law means nothing if governments are free to defy it without consequence. The Attorney General must ensure all governments provide their citizens with the maximum transparency they deserve, and that the law demands.”

Click here to read more about the Incline Village General Improvement District’s efforts to conceal their records from the public.

For more information, please contact NPRI transparency director Robert Fellner at 702.222.0642 or rf@npri.org.

You can find this online at: http://www.npri.org/issues/publication/npri-files-public-records-complaint-with-ag’s-office

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MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review, discuss and possibly approve hiring Best Best & Krieger LLP to conduct an investigation of District operations regarding the retention of emails and other public records, with a not-to-exceed amount of $20,000.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review, discuss and possibly approve hiring Best Best & Krieger LLP to conduct an investigation of District operations regarding the retention of emails and other public records, with a not-to-exceed amount of $20,000.
September 12, 2017

VIA E-MAIL

Matthew Dent
Board of Trustees
Incline Village General Improvement District

Re: Public Records Investigation

Dear Mr. Dent:

Best Best & Krieger LLP is pleased to present this proposal to conduct an investigation into the public records practices and related governance practices of the Incline Village General Improvement District (IVGID). The team that could assist IVGID in this matter is Gary Schons and myself. Mr. Schons’s resume is enclosed. However, he has substantial experience in good governance practices and related investigations. Prior to joining BB&K, Mr. Schons served as a deputy district attorney and senior advisor for Law & Policy in the San Diego County District Attorney’s Office. He also served for a number of years in the California Attorney General’s Office. At BB&K, Mr. Schons heads our Government Policy & Public Integrity practice. He is not licensed in Nevada and would be working with me on the investigation.

I am licensed in both California and Nevada. The vast majority of my practice is devoted to representing local agencies as both general and special counsel. Locally, I act as General Counsel to the Alpine Springs CWD, North Tahoe PUD and the Tahoe RCD. I have also advised IVGID on special counsel matters.

We estimate that the investigation would cost approximately $20,000. We would charge our discounted public agency rates. Mr. Schons’s hourly rate is $340. My hourly rate is $255.

Please let me know if we can provide any additional information or a draft engagement letter. Thank you.

Sincerely,

Joshua Nelson
of BEST BEST & KRIEBER LLP

cc: Gary Schons, Esq.
Gary W. Schons
Of Counsel

GARY SCHONS@BBKLAW.COM
Tel: (619) 525-1340

655 West Broadway,
15th Floor
San Diego, CA 92101
Office (619) 525-1300
Fax (619) 233-6118

At a Glance
Gary heads the Government Policy & Public Integrity practice.

He served as trial counsel for the Commission on Judicial Performance.

Gary is an active member of the California District Attorneys Association, lecturing and authoring articles for the association.

Profile
As head of Best Best & Krieger’s Government Policy & Public Integrity practice, Gary W. Schons counsels public agencies, officials and private businesses who wish to promote public confidence in their decision-making processes by ensuring that official conduct is above reproach. The group’s goals are to:

- Provide comprehensive and strategic compliance solutions to public officials, individuals and corporations seeking to conform their conduct to standards, best practices, laws and regulations
- Advise and represent clients on public integrity issues involving governmental and political practices
- Inform clients of relevant federal, state and local legislation, including those relating to the Political Reform Act and the Public Records Act

Prior to joining BB&K, Gary served as deputy district attorney and senior advisor for Law & Policy in the San Diego County District Attorney’s Office. In this role, he advised the District Attorney and her executive staff on legal, public integrity, legislative and policy issues and provided legal assistance to all 300 deputy district attorneys in the office.

Areas of Focus
Practices
- Government Policy & Public Integrity
- Municipal Law
- Public Agency Litigation
- Public Safety
- Special Districts

Industries
- Municipal
- Special Districts
From 2010-2016, Gary served as trial counsel for the Commission on Judicial Performance. He was responsible for conducting all formal proceedings initiated by the Commission to impose discipline on judges and other judicial officers in California.

From 1976-2011, Gary was a member of the Criminal Division of the California Attorney General’s Office in San Diego. During his career there, he served as deputy attorney general in the Appeals, Writs & Trial Section, in the Special Prosecutions Unit and as head of the Asset Forfeiture and Money Laundering Unit, which he established. Gary was cross-designated as a special assistant United States Attorney in the Central and Southern districts of California. In 1991, the Attorney General promoted Gary to senior assistant attorney general and head of the Criminal Division in San Diego. In that role, he supervised 75 deputy attorneys general who handled felony appeals and habeas corpus and trial matters, including numerous public integrity-related prosecutions. The office handled some 1,500 cases annually and was responsible for more than 200 death penalty appeals.

Gary is an active member of the California District Attorneys Association, lecturing and authoring articles for the association. He is also active in the San Diego County Bar Association, where he served on the Judicial Elections Evaluation and Legal Ethics committees. Gary is a long time member of the University of San Diego School of Law Board of Visitors and past president of the Law Alumni Association. He is admitted to practice law in the State of California.

Gary is married to Judy Hagar Schons, a San Diego native. They live in the Talmadge neighborhood of the City. Gary was raised in West Covina where he attended Bishop Amat High School, before moving to San Diego for college. Gary is an avid cook and diner and contributes a column to the local newspaper on dining. He also enjoys golf and sailing.

Education

• University of San Diego School of Law, J.D.

Memberships

• California District Attorneys Association
• San Diego County Bar Association
• University of San Diego School of Law Board of Visitors
• Law Alumni Association, past president
Awards

- The Best Lawyers in America®, Ethics and Professional Responsibility Law, 2017-2018
- San Diego Magazine Top Lawyer, 2015
- Martindale-Hubbell® AV Preeminent™ Rated
- California District Attorney’s Association, William E. James Award
- San Diego Chief of Police, commanding Officer’s Citation
- University of San Diego School of Law, Distinguished Alumni Award & Honorary Order of the Coif
- National College of District Attorney’s, Lecturer of Merit

Authorships

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E-Communications on Private Accounts May Be Subject to Disclosure Under the California Public Records Act
State Supreme Court Opinion Impacts Public Agencies

LEGAL ALERTS | DEC 29, 2016
Legal Invoices to Public Agencies in California May Be Exempt from Disclosure
The California Supreme Court Tackles Public Records vs. Attorney-Client Privilege

AUTHORED ARTICLES & PUBLICATIONS | DEC 22, 2016
Professionalism Manual
California District Attorneys Association

LEGAL ALERTS | DEC 9, 2016
Are Private E-mails & Text Messages “Public Records?”
Decision Expected Soon from California Supreme Court

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Public Agency Not Subject to 60-Day Limit
California Appellate Court Finds Contract Void Under Government Code Section 1090

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Appellate Court “SLAPP”s Residents in Culver City Upset Over Parking Restriction Changes
City Did Not Violate Brown Act

LEGAL ALERTS | AUG 10, 2016
California Supreme Court Curbs Responses to Anti-SLAPP Motions
Elected Officials' Free Speech Rights Analyzed

LEGAL ALERTS | JUL 21, 2016
California Appellate Court Holds Police Video of Arrest Not Protected Under “Pitchess”
Only a Record Generated as Part of an Internal Investigation is Protected by Pitchess
Public Safety Technologies: Big Brother and the Fourth Amendment

BB&K Attorney Gary Schons Examines the Intersection of Technology, Law and Public Safety for Municipal Lawyer Magazine

High Court Clarifies "Official Act" in Former Gov. Bob McDonnell Decision

BB&K Attorney Gary Schons Discusses Decision's Implications for Public Officials in PublicCEO

California Supreme Court Clarifies Who is Liable for Prosecution for Misuse of Public Funds

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City's Loss Illustrates Risks of Litigating Open Meeting Law Violation Claims

Body-Worn Cameras, the Prosecutor, and the Question of Public Access

BB&K Attorney Gary Schons Examines Police Body Cameras From a Variety of Angles for the California District Attorneys Association's Prosecutor's Brief

U.S. Supreme Court Holds States and Localities May Continue to Draw Voting Districts Based on Total Population

Total Population, However, May Not Be the Only Standard Upon Which Voting Areas Can Be Based
California Court Interprets Stockton’s Term Limit Non-Cumulatively to Allow Repeat Runners
Case Illustrates Why How a Measure is Worded Matters

City Ordinance Banning New Outdoor Billboards, but Authorizing Relocated Ones, Upheld by California Court
Authorizing Relocated Ones Upheld by Court; Constitutional Challenges Rejected; Injunction Order to Remove Billboard Affirmed

New California Law Enforcement Reporting Requirements for Officer-Involved Shootings and Use of Force, Attorney General Hopes Data Will Promote Transparency

California Appellate Court Holds Unruh Act Does Not Apply to Legislative Action
Decision Comes in Short-Term Rental Ordinance Litigation

California Appellate Court Clarifies Proper Amount of Evidence Required to Support Restitution Order
Question Considered in Graffiti Abatement Case

Federal Appeals Court Questions State Senator’s Order to Remove a Dissident from the Senate Building
Removal Order Could Have Violated the First Amendment

Attorney-Privileged Documents Mistakenly Released Under PRA Still Exempt
California Appellate Court Rules in Case Likely to be Decided by State Supreme Court
Anti-Discrimination Housing Laws Tackled by U.S. Supreme Court
Public Agencies May Face Litigation, but Court-Imposed Safeguards to Limit Liability

California Supreme Court Holds Prosecutors Must File Pitchess Motions to Examine Police Personnel Records
Law Enforcement Agencies Should Seek Guidance When Prosecutors Ask to Review Officer-Witness Files

Hotels Need Not Provide Guest Registry to Law Enforcement
U.S. Supreme Court Strikes Down Los Angeles City Ordinance Requiring Hotel Operators to Provide Guest Register Records to Police Officers on Demand

Closed Session Final Decision and Vote Details Must Be Publicly Reporter at the Same Public Meeting
BB&K Attorneys Gary Schons and Tori Hester Explore Open Meeting Laws in California Special District Magazine

Water District Case Clarifies California Public Records Act Exemption for Utility Customers
"Customer" Includes a Business or Corporation, Judge Rules

Attorney Billing Invoices Privileged From Disclosure Under PRA
California Court of Appeal Rules Attorney-Client Privilege Exemption Covers Billing Invoices

Ninth Circuit to Rehear Second Amendment Case
Case Challenges San Diego County Sheriff's Policy on Issuance of
Concealed Carry Permits

LEGAL ALERTS | MAR 23, 2015
Ninth Circuit Draws Clear Distinction Between California’s Meeting Disruption Statutes
Skid Row Demonstration Disrupts a Neighborhood “Walk,” But Police Make an Arrest for the Wrong Violation

LEGAL ALERTS | MAR 16, 2015
California Supreme Court to Hear PRA Case on Inadvertent or Accidental Disclosure of Privileged Records
Case Involves Attorney-Client Privileged Documents Released During Litigation

LEGAL ALERTS | DEC 12, 2014
Accidental Disclosure Waives Privilege Under Public Records Act
Court of Appeal Says Privilege Removed Under PRA By Inadvertent Disclosure of Privileged Documents

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It Is Now a Crime to Help a Public Official Make a Contract that Holds Personal Financial Interest
California Legislature Expands Government Code Section 1090 Liability to Those Who Aid and Abet

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New Groundwater Legislation Update: Comments Recommended Regarding Groundwater Basin Prioritization
Public Agencies Wishing to Dispute Basin Prioritization or Boundaries Should Submit Comments As Soon As Possible

LEGAL ALERTS | OCT 28, 2014
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Getting "Schooled" by the FPPC
AB 1234 Ethics Training Can Safeguard School Officials from FPPC Reporting Violations

State Controller Rolls Out an Open Data Website on Local Government Finances
New Website Promotes Government Transparency

- "Special Responsibilities of a Prosecutor (Rule 3.8)," Daily Journal, April 25, 2017
- "Body-Worn Cameras, the Prosecutor, and the Question of Public Access," California District Attorneys Association's Prosecutor's Brief, April 2016
- "Even Pre-Litigation Is Not a Contact Sport," San Diego County Bar Association's For the Record, July 17, 2015
- "Conflict Law Doesn't Apply to UC Faculty," Daily Journal, Sept. 8, 2014
MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review, discuss, and possibly approve the Board reverting back to the August 2015 Board Policy regarding Public Participation to include a comment section prior to each agenda item. The time limit shall be three (3) minutes for each person per comment period.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review, discuss, and possibly approve the Board reverting back to the August 2015 Board Policy regarding Public Participation to include a comment section prior to each agenda item. The time limit shall be three (3) minutes for each person per comment period.
MEMORANDUM

TO: Board of Trustees

FROM: Kendra Wong
Chairwoman

SUBJECT: Review, discuss, and possibly approve or reject Trustee Dent's proposed requests for two (2) agenda items for the Board to consider the character, alleged misconduct, and professional competence, of IVGID General Manager and District General Counsel at a future Board of Trustees meeting

DATE: September 18, 2017

I. RECOMMENDATION

That the Board vote as to approve or reject Trustee Dent's proposed requests for two (2) agenda items for the Board to consider the character, alleged misconduct, and professional competence, of IVGID General Manager and District General Counsel at a future Board of Trustees meeting. Appropriate notices are required to the individuals involved.

II. BACKGROUND

On September 5, Trustee Dent sent me an email requesting five items be placed on the agenda for the September 13 meeting. The submission deadline for items for the September 13 meeting was September 4 at 8:00 am. Three (3) of Trustee Dent's requests are on this agenda. As provided, Trustee Dent's other two (2) requests were written as follows:

Review, discuss and possible action of placing the General Manager on administrative leave with pay pending the outcome of the investigation and appoint an acting General Manager; and

Review, discuss, possible action to include suspending the Attorney pending the outcome of the investigation and appoint an acting Attorney.

The memos that Trustee Dent prepared to support these items are attached.
After our Open Meeting Law training with the State of Nevada Senior Deputy Attorney General, which specifically advised that “if a public body intends to take administrative action regarding a person...the name of that person must appear on the agenda” and that special notice must be given to the individual in which the agenda item refers, both of the above agenda items would violate the Open Meeting Law and notice requirements. As such, the Board must vote as to whether these two items need to be considered and appropriate notice provided.

III. RELEVANT LAW

Nevada Revised Statutes (NRS) 241.033 prohibits a public body from holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person unless it provided written notice to the person of the time and place of the meeting and received proof of service of the notice. See NRS 241.033(1)(a) and (b). This applies whether the meeting will be open or closed.

NRS 241.033(2)(c) requires a properly drafted notice to include a list of the general topics concerning the person who will be considered by the public body during the closed meeting; and a statement of the provisions of subsection 4, if applicable. Subsection 4 states:

That the person being considered by the public body must be permitted to attend the closed meeting;

That the person being considered may have an attorney or other representative of his/her choosing present during the closed meeting; and

That the person being considered may present written evidence, provide testimony, and present witnesses relating to his character, alleged misconduct, professional competence, or physical or mental health to the public body during the closed meeting.

NRS 241.033(2)(b) states that a public body may include an informational statement in the notice that administrative action may be taken against the person after the public body considers his/her character, alleged misconduct, professional competence, or physical or mental health. If the notice pursuant to NRS 241.033 includes this informational statement, no further notice is required pursuant to NRS 241.034.
The notice must be delivered either personally to that person at least five (5) working days before the meeting or must be sent by certified mail to the last known address of that person at least twenty one (21) working days before the meeting. A similar notice is required by NRS 241.034 to persons against whom administrative action will be taken or whose real property will be acquired by eminent domain unless the public body includes an informational statement that administrative action may be taken against the person in the notice under NRS 241.033. See discussion above.

The public body must receive proof of service of the notice before the meeting may be held.

IV. OTHER ISSUES OF CONCERN

The retainer agreement with District General Counsel does not give IVGID the right to suspend legal services. Section 10 of the contract provides in pertinent part as follows:

10. GENERAL.

10.1. This Retainer Agreement shall be governed by and construed in accordance with the laws of the State of Nevada. In the event of any dispute arising out of or relating to this Retainer Agreement, the parties agree to waive trial by jury and agree that venue shall lie in Washoe County, Nevada. In the case of litigation of such disputes, the prevailing party shall be entitled to recover attorney fees and costs from the other party. This Retainer Agreement may be amended only by a written agreement entered into by the parties.

10.2. IVGID General Manager will evaluate the performance of the legal services of the Firm on at least an annual basis and shall review such evaluation with the Firm. The evaluation shall include input from each member of the Board of Trustees, Senior Staff and the General Manager, and shall be completed by June 30 of each year. More frequent and informal performance evaluations and feedback may be undertaken by IVGID at any time.

10.3. This Retainer Agreement or the appointment of Firm as IVGID Attorney to IVGID may be terminated with or without cause by IVGID Board or upon the hiring of a full-time attorney directly employed by IVGID.
as IVGID Attorney or by Firm at any time upon one hundred and eighty (180) days written notice.

10.3.1. In the event that IVGID desires to terminate Firm's services with notice of a lesser period, IVGID will provide Firm with a severance payment, equal to the agreed upon monthly retainer, for each month of said specified one hundred and eighty (180) day notice period for which notice is shortened and is not given.

10.3.2. Additionally, even if IVGID does elect to seek and obtain either IVGID Attorney Legal Services or Additional IVGID Attorney Legal Services, or both, from an attorney or firm other than Firm, this contract may stay in force and effect so that the Firm is available to provide to IVGID, on an as needed and agreed to basis, supplemental legal services as provided for herein.

10.3.3. In the event of termination, the Firm shall assume responsibility for completion of and shall be compensated for all representation requested prior to the notice of termination and through any prompt transition to termination agreed upon by the parties at the hourly rates agreed upon for Additional IVGID Attorney Legal Services for any remaining IVGID Attorney Legal Services or Additional IVGID Attorney Legal Services and at the rates agreed upon for Special Counsel Legal Services for those services. Provided however, IVGID may terminate this Retainer Agreement for breach by the Firm with such notice as may be reasonable under the circumstances.

10.3.4. In the event of termination, with or without cause, the Firm shall be compensated in accordance herewith for approved time and expenses expended prior to the date of termination. This Retainer Agreement may be executed in multiple counterparts.
MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review, discuss and possible action of placing the General Manager on administrative leave with pay pending the outcome of the investigation and appoint an acting General Manager.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review, discuss and possible action of placing the General Manager on administrative leave with pay pending the outcome of the investigation and appoint an acting General Manager.
MEMORANDUM

TO: Board of Trustees

THROUGH:

FROM: Trustee Matthew Dent

SUBJECT: Review, discuss, and possible action to include suspending the Attorney pending the outcome of the investigation and appoint an acting Attorney.

STRATEGIC PLAN REFERENCE(S):

DATE: 9/5/17

I. RECOMMENDATION

Review, discuss, and possible action to include suspending the Attorney pending the outcome of the investigation and appoint an acting Attorney.
MEMORANDUM

TO: Board of Trustees

THROUGH: Steven J. Pinkerton
          General Manager

FROM: Gerald W. Eick CPA CGMA
       Director of Finance

SUBJECT: Review process for selection of professional services provider for Security Services covering the period October 1, 2017 to September 30, 2019, and authorize the General Manager to execute an agreement for these services with High Sierra Patrol, Inc., for the first year cost of $65,610, and including a three year extension in 2019 at discretion of the General Manager, and two additional extensions in 2022 and 2025 at the discretion of the Board of Trustees

STRATEGIC PLAN: Long Range Principle #4 – Service “Provide well defined customer centric services levels…”

       Long Range Principle #5 – Assets & Infrastructure “Maintain … District assets to ensure safe and accessible operations for the public and the District’s workforce”

DATE: September 13, 2017

I. RECOMMENDATION

That the Board of Trustee makes a motion to:

1. Approve Security Services Agreement to September 30, 2019 with High Sierra Patrol, Inc., for the first year cost of $65,610, and including a three year extension in 2019, at discretion of the General Manager, and two additional extensions in 2022 and 2025 at the discretion of the Board of Trustees.

2. Authorize the General Manager to execute all Agreements upon review by Staff and General Counsel.
II. DISTRICT STRATEGIC PLAN

The District’s Security Service Agreement, provides a scope of work that creates a secure environment for our facilities, our staff and customers over the course of the year. Many of the objectives are directed at providing a safe and compliant environment for delivery of service. Other objectives are directed towards the physical safety and control over facilities and equipment. The scope of services fluctuates with each season or venues, as needed.

III. BACKGROUND

In 2002, the District hired High Sierra Patrol through a bid process. The agreement allowed for a series of extensions. In 2011, the Board of Trustees authorized a three year extension agreement that allowed for an additional three years at the discretion of the General Manager. Over the years, the scope of services has focused on patrol functions for a uniform presence at venues, and overnight observance of conditions at venues. In addition to patrol, individual details included a special foot patrol for the July 4th activities and occasional alarm response. There have been other instances of special services over the past 15 years. As staff analyzed the next steps to address the 2017 expiration of the agreement, it stood out that to reasonably change a provider, a different contract period would be necessary. Staff arrived at September 30. Staff also realized that changing operating conditions over these 15 years, indicated a greater emphasis on daytime patrol and less need for some overnight services. Therefore, a new daytime patrol scope was established for May 1, 2017 running to September 30, to allow for a proof of concept, and to realign the contract start to avoid specifically changing so close the July holiday, if we decided on a new provider.

Staff began identifying potential providers in 2016. Since the Security Services being requested require State certifications, these are considered professional services. A process of Request For Information (RFI) was used, inviting four companies to respond to set of questions and an outline their charges to provide requested services. Those chosen for interview met with staff. Of the four area organizations invited, two made responses and both were interviewed. Both were well qualified. Both are prepared to begin service October 1. One is established in the area being a long time provider in the Basin and the other is well established over several states, with a much lesser immediate presence in the Tahoe Basin.
Review process for selection of professional services provider for Security Services covering the period October 1, 2017 to September 30, 2019, and authorize the General Manager to execute an agreement for these services with High Sierra Patrol, Inc., for the first year cost of $65,610, and including a three year extension in 2019 at discretion of the General Manager, and two additional extensions in 2022 and 2025 at the discretion of the Board of Trustees.

Staff has considered the capabilities and operating characteristics of each candidate. Staff recommends High Sierra Patrol, Inc. as the best fit for the District’s needs and approach to the patrol services. We have framed the agreement to be for two years to validate the revised scope of service, followed by potentially three three-year renewals.

IV. **BID RESULTS**

This item is not subject to competitive bidding within the meaning of Nevada Revised Statute as they qualify under (NRS) 332.115 as described in subsection (b) Professional Services.

V. **FINANCIAL IMPACT AND BUDGET**

The District budget for Security Services for 2017-18 is $75,408. The change in scope was determined after the budget process was mostly decided. The agreement to be executed includes a cost increase based on the Bureau of Labor Statistics CPI-W Index for the month of June, with a maximum annual increase of 4%. A similar clause has been in place since 2002 and High Sierra Patrol has not always sought increases even when the index allowed them.

VI. **ALTERNATIVES**

Security Services is a critical component to successful operations at IVGID. The current agreement expires September 30, 2017, if this action is not taken, something will have to be arranged until a more permanent agreement can be made. The Agreement Appendix has been attach to give an indication of the scope of services requested.

VII. **COMMENTS**

High Sierra Patrol took it upon themselves to have their staff take the District’s Customer Service Training in order to better understand both our service levels and the manner in which we seek to deliver those standards to our Customer. They developed their own bicycle patrol as a means to avoid traffic, but also to be more customer friendly at the Beach and Parks venues. Both of these are seen as examples of why High Sierra Patrol’s familiarity and concern is important to their ability to serve the District. Staff appreciates their willingness to communicate and adapt.
Review process for selection of professional services provider for Security Services covering the period October 1, 2017 to September 30, 2019, and authorize the General Manager to execute an agreement for these services with High Sierra Patrol, Inc., for the first year cost of $65,610, and including a three year extension in 2019 at discretion of the General Manager, and two additional extensions in 2022 and 2025 at the discretion of the Board of Trustees.

VIII. BUSINESS IMPACT

This item is not a “rule” within the meaning of NRS, Chapter 237, and does not require a Business Impact Statement.
SECURITY SERVICES AGREEMENT

Effective for the Year Starting October 1, 2017

Prepared By:
Incline Village General Improvement District
893 Southwood Boulevard
Incline Village, Nevada 89451
SECURITY SERVICES AGREEMENT
Effective for the Year Starting October 1, 2017
Page 2 of 10

THIS AGREEMENT made and entered into this ___ day of September, 2017, by and between INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, hereafter referred to as "District" and High Sierra Patrol, Inc. hereafter referred to as "Contractor."

WITNESSETH

WHEREAS, District is a general improvement district organized under and existing pursuant to the laws of the State of Nevada; and,

WHEREAS, Contractor is licensed under NRS Chapter 648 to provide private security services;

NOW, THEREFORE, in consideration of the premises and mutual promises hereinafter set forth, it is hereby agreed by and between the parties hereto as follows:

I. GENERAL

1. Contractor shall perform the security services for the District as set forth in Section V. hereto and made a part of, together with such additional services, duties, and responsibilities as are set forth herein. District may modify level of services provided for under Sections V / VI / VII upon notice to the Contractor.

2. In consideration of the performance of this Agreement by Contractor, District agrees to pay to Contractor monthly, following service period month during which Preventative Patrol, Alarm Responses, Security Guard and Daytime Patrol were performed. Contractor must provide a complete invoice for services rendered. When District requires Contractor to provide services over and above the service levels identified in Sections V/VI/VII, Contractor may bill District when the special services/events are performed as scheduled in Section VII.

Contractor shall submit an itemized statement of charges in accordance with the fee schedules outlined in Exhibit A-1, which will be updated every year prior to October 1st if services under this contract are extended for additional years. District shall not pay premium (time and a half) rates for services.

3. This contract shall commence on the 1st day of October 2017 and continue through the 30th day of September 2019, subject to an option for an additional three years, from October 1, 2019 through September 30, 2022 upon the mutual agreement of the parties. Two additional extensions can be considered with the approval of the Board of Trustees prior to September 2022 and September 2025. If any such extension occurs, it shall be on the same terms as set forth in this Agreement, except as may be revised as mutually agreed upon by the parties.

4. It is recognized that proper and adequate security is important to the District and that such security is dependent on the competency of the employees of the Contractor. Accordingly, it is agreed that in the event there is a breach of this Agreement by the Contractor, or in the judgment of the District, services provided for herein are not being adequately provided, the District shall give Contractor five (5) days written notice of such determination. If at the end of the five day notice period, there continues to be a breach, then the District shall be entitled to forthwith terminate this Agreement. In such an event, Contractor shall be paid for all services performed to date of termination. This Agreement shall automatically terminate upon Contractor’s loss of license under NRS Chapter 648, or any license, insurance coverage, or
SECURITY SERVICES AGREEMENT
Effective for the Year Starting October 1, 2017
Page 3 of 10

certification required for Contractor to properly provide the services required under this agreement.

5. If any of Contractor's agents or employees is charged by any law enforcement agency with the commission of any felony or a misdemeanor involving moral turpitude, Contractor shall immediately suspend or terminate such agents or employees from service to District. If the Contractor is charged by any law enforcement agency with the commission of any felony or misdemeanor, which involves moral turpitude, the District may immediately suspend or terminate the Agreement at District's discretion. Contractor shall immediately notify District of any action by any official, agency, court, or panel to suspend, investigate, censure, revoke a license, call to testify, or other undertaking in relation to the professional conduct of Contractor or any of Contractor's past or present agents or employees.

6. Contractor shall perform this Agreement as an independent contractor and nothing herein shall be construed to be inconsistent with this relationship or status, nor shall anything in this Agreement be in any way construed to constitute Contractor or any of Contractor's employees or agents as the agent, employee, or representative of District.

7. Contractor shall employ and furnish trained and qualified personnel to carry out the work to be performed by the Contractor under this Agreement. Contractor shall observe screening, training, and monitoring and control procedures for its employees and agents as described in Section VIII, Quality Control. Contractor shall unconditionally responsible for the payment of wages and salaries to all employees of the Contractor. Contractor shall exonerate, indemnify, and hold harmless District from any and all liability for any damages or injury District may suffer due to Contractor's work under this Agreement. Contractor shall assume full responsibility for payment of all Federal, State and local taxes or contributions imposed or required under unemployment insurance, social security, and income tax laws, or similar obligations, with respect to Contractor's employees engaged in the performance of this Agreement.

8. Contractor and Contractor's employees and agents shall at all times while on duty be courteous to the public, clean and neat in appearance, free from the influence of any drug or alcohol, and professional in conduct. Contractor and Contractor's employees and agents shall treat all persons respectfully, equally, and fairly, and shall not use profanity or racial slurs in public. District shall have the right to insist upon removal from service to District any employee or agent of Contractor who fails to consistently meet these standards.

9. Contractor shall maintain a capability for communications to security requests and alarm response during the times and seasons designated in Exhibit A-1. All of Contractors employees and agents shall be accessible by telephone to both the Contractor's dispatch operations and to District's employees during the designated times as outlined in Exhibit A-1. When responding to requests for security response or alarm call-outs, Contractor shall use its best efforts to respond in a timely fashion.

10. Contractor and Contractor's employees and agents shall use its best efforts to avoid the use of force in providing security services under this Agreement. Violations of this paragraph will result in immediate review of the incident with the Contractor, after which the District may terminate this Agreement at its sole discretion.

11. The parties acknowledge that as a provider of security services the Contractor has available to it internal information about the security, personnel, procedures, Policies and Practices of the District. Contractor agrees to keep confidential all information received in Contractor's
SECURITY SERVICES AGREEMENT
Effective for the Year Starting October 1, 2017
Page 4 of 10

capacity as security provider and to disseminate same only to District's authorized /
designated employees unless otherwise authorized in writing by the District. Nothing in this
paragraph shall constrain the Contractor from reporting unlawful activities to the appropriate
law enforcement officials or coordinating Contractor's responsibilities under this Agreement
with public safety agencies.

12. District shall identify its representative for providing general coordination and guidance under
this Agreement. Contractor shall only perform additional services beyond that noted in
Section V. upon express authorization of the District’s Director of Finance, unless it is for
over $10,000 increased costs, which then requires the additional authorization of the District
General Manager.

13. Contractor shall keep a log of each security incident that occurs, such as unlocked doors,
alarm responses, keys left in vehicles, etc, in a form mutually acceptable to the District and
Contractor; which includes the date, time, location, and nature of each incident. A copy of
each entry in the log shall be furnished to the District by the end of the next business day.
The Contractor shall meet with the District on a periodic basis to discuss overall security
problems and incident patterns and to assist District in developing strategies to improve
District's security.

14. Contractor shall furnish at Contractor's expense, all materials, equipment, vehicles, radios,
and other items necessary to perform this Agreement. District shall not be responsible for or
be liable for any damage to persons or property consequent upon the use, misuse, or failure
of any equipment or materials used by the Contractor or its employees or agents. If
equipment or materials are furnished, rented, or loaned to the Contractor or its employees or
agents by the District, Contractor accepts full responsibility for damages resulting from the
use, misuse, or failure of such equipment. However, should said equipment becomes
unserviceable due to ordinary wear and tear or mechanical obsolescence, and then District
agrees to replace it. Nothing herein will relieve Contractor from the duty to replace any
damage to any equipment or material caused by the Contractor's own negligence.

15. Contractor agrees to promptly observe, comply with, and execute all present and future laws,
ordinances, rules and regulations of the United States of America, the State of Nevada,
Washoe County, and Incline Village General Improvement District. If compliance with the
laws, rules and regulations involve expenses not otherwise realized at the inception of this
Agreement, any costs will be at the Contractor's expense.

16. Any and all provisions of this Agreement by which Contractor agrees to indemnify and hold
harmless the District shall be construed to apply under all working conditions and to all
locations where works is to be performed regardless of the hazard or danger, whether known
or unknown, disclosed or undisclosed.

17. In the performance of the work herein contemplated, Contractor is regarded as an
independent contractor with the authority to control and direct the performance of the details
of the work, District being interested only in the results obtained. However, District reserves
the right to review Contractor's practices and require mutually agreeable modifications in
practices where they affect or could affect the quality of security service. It is agreed that
District has the right to segregate security services outlined in Exhibit A-1 when it is
determined that such service(s) does not meet District's cost and/or performance
requirements.
18. The work and services provided for herein shall be performed by the Contractor. No other person or firm other than the regular associates or employees of the Contractor shall be engaged upon work or services except upon the written approval of the District. This provision shall not apply to secretarial, clerical, routine mechanical and similar incidental services needed by the Contractor to assist in the performance of this Agreement. If the Contractor ceases direct day-to-day control and management of the Contractor’s business, the District, at its option, may terminate this Agreement. The Contractor shall not assign or subcontract this Agreement, or any portion thereof, without the written consent of the District.

19. Contractor shall not hire District’s employees or agents to perform any portion of the work or services provided for herein including secretarial, clerical, routine mechanical and similar incidental services except upon written approval of the District during the term of this Agreement. Further no Trustee or spouse or economic dependent of such Trustee shall be employed or retained in any capacity by the Contractor, or shall have any direct or indirect financial interest in this Agreement during the term of the Agreement.

20. This Agreement shall be binding on, and inure to, the benefit of the heirs, executors, administrators and assigns of the respective parties hereto. Provided, however, that should the District sell or lease any facility to which security services are provided under this Agreement, the Agreement as it pertains to those facilities shall become null and void at the discretion of the District.

21. This Agreement may be amended by mutual agreement of the parties in writing and may include the addition of new facilities.

22. Addresses for giving notice(s) are as follows:

Incline Village General Improvement District  High Sierra Patrol, Inc
893 Southwood Blvd.  359 Fairview Drive
Incline Village, Nevada 89451  Carson City, NV 89701

II. LITIGATION

1. This Agreement shall be interpreted under the laws of the State of Nevada and venue for any litigation relating to the Agreement will be in Washoe County, Nevada

2. If either party institutes litigation relating to any matters pertaining to this Agreement, the prevailing party in such litigation shall recover its attorney’s fees and costs from the non-prevailing party.

III. INSURANCE

1. Contractor agrees to indemnify and hold harmless District, its officers, employees and agents from and against any and all claims, demands, losses, costs, damages, and/or liability of any kind or nature, which District may sustain or incur or which may be imposed upon them for physical or emotional injury to or death of persons, or damage to property as a result of, arising out of, or connected with Contractor’s performance under the terms of this Agreement, excepting only liability arising out of the sole negligence of District.

2. With respect to the performance of work under this Agreement, Contractor shall maintain insurance as described below:
a. Commercial general liability insurance with a combined single limit of not less than $1,000,000 per occurrence. Such insurance shall include personal injury liability, broad form property damage coverage, false arrest, false imprisonment, libel, and slander. Such insurance shall (1.) name District as an additional insured; (2.) be primary with respect to any insurance or self-insurance programs maintained by District; and, (3.) contain standard cross-liability provisions.

b. Commercial automobile liability insurance with a combined single limit of not less than $1,000,000 per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.

c. Workers' compensation insurance for Nevada employers will comply with Nevada Revised Statutes and Department of Insurance rules and regulations.

d. Contractor shall furnish properly executed certificates of insurance to District prior to commencement of work under this Agreement. Such certificates shall: (1.) clearly evidence all coverage required above, including specific evidence of a separate endorsement naming District as an additional insured, as well as all exclusions to the policies; (2.) indicate whether coverage provided is on a claims-made or occurrence basis; (3.) provide that such insurance shall not be materially changed, terminated or allow to expire except on 30 days prior written notice to District; and (4.) be forwarded to:

Incline Village General Improvement District
893 Southwood Blvd.
Incline Village, NV. 89451

3. If Contractor, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. District, at its sole option, may terminate this Agreement and obtain damages from the Contractor resulting from said breach. Alternatively, District may purchase such required insurance coverage and without further notice to Contractor, District may deduct from sums due to Contractor any premium costs advanced by District for such insurance.

IV. FEE/RATE SCHEDULE

1. The fee/rate schedule for security services shall commence on the 1st day of October 2017 as shown in Exhibit A-1 of this Agreement.

2. Each consecutive year hereof, the fee/rate schedule may increase by an amount equal to that amount indicated by the percentage change in the US City Average Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W All Items) for the year ending in June, immediately preceding the period for which the increase in fee/rate schedule is proposed.

3. Any fee increase, if mutually agreed upon between the parties, including periods post 2022 with approval of the District Board of Trustees, may be above index, but in no event may an annual increase be greater than 4%.

4. Contractor will submit a proposed fee to the District for budget purposes no later than August 31st, the date prior to the annual October 1st fee adjustment date. The proposal should include the rationale for any proposed increase.
V. PREVENTATIVE PATROLS (may be authorized individually or in combination to obtain the desired coverage of Preventative Patrol by the District General Manager or Designee)

Security Check Defined - Walk the premise perimeter to observe all windows are secure; all exterior doors are latched; no alarms are activated. Look for keys in IVGID vehicles; if found, confiscate keys and return to District at a designated location. Issue "No Parking" notices to unauthorized vehicles found on District premises. Check for any suspicious circumstances on premises, including evidence of entry, vandalism or property damage, suspicious persons, unusual hazards, etc., and notify District and, as required, the Washoe County Sheriff's Department.

1. Chateau/Championship Golf Course – Patrol should security check the Chateau (upper level) and Championship Golf Administration (lower level), Cart Barn, Golf Maintenance Building, and parking lot, driving range, putting green, and chipping green.

2. Mountain Golf Course – Patrol should security check Clubhouse and Maintenance Building (upper level) and Cart Storage (lower level), parking lot, and putting green.

3. Beaches (Ski Beach / Hermit Beach / Incline Beach / Burnt Cedar Beach) – Patrol should security check all buildings and gatehouses, parking lots, and grounds to also include the swimming pool at Burnt Cedar Beach.

4. Aspen Grove Community Center – Patrol should security check the building and park grounds inside the fenced area, parking lot and Village Green restroom and storage facility.

5. Diamond Peak Ski Resort – Patrol should security check the Main Ski Lodge (all levels), the Skier Services Administration Building, and the entrance gates, parking lots, and immediate grounds adjacent to buildings.

6. Main IVGID Administration/Offices – Patrol should security check the building and parking lot.

7. Recreation Center – Patrol should security check the building and parking lot.

8. Tennis Complex – Patrol should security check the building complex, tennis courts, and parking lot.

9. Burnt Cedar Intake and Ozone Plant – Patrol should security check the buildings and insure auxiliary gate is locked.

10. Preston Field – Patrol should security check the bleachers and building, parking lot, and park and insure restrooms are locked.

11. Incline Park (three ball fields), Skate Park & Parks Maintenance Storage Building - Patrol should security check the ball field #3 building to include restrooms are locked, and security check the grounds and bleachers. Security check the grounds for the Skate Park. (Note: The parking lot belongs to the Middle School.) Patrol should also security check the Parks Maintenance Storage Building and equipment yard (including that the yard gate is locked).
SECURITY SERVICES AGREEMENT
Effective for the Year Starting October 1, 2017
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12. Sweetwater Public Works Administration Complex – Patrol should security check all buildings, equipment yard, and vehicles. The gate to be locked, unless on call employees are present.

13. Sweetwater Treatment Plant – Patrol should security check all buildings, parking lot, and vehicles. The gate to be locked, unless on call employees are present.

VI. DAYTIME PATROLS (during date range and hours identified)

Daytime Patrol - At the beginning of each shift, the security patroller will contact the Parks Supervisor at the Parks Maintenance Storage Facility to obtain any special, daytime instructions and/or park’s/ball field’s schedules.

1. Beaches – Services performed on all portions of premises at Burnt Cedar Beach and Incline Beach and Ski Beach (including Boat Ramp) and Hermit Beach (including non-motorized storage areas). Provide primary traffic control, disorderly person control, crowd control, alcohol and drug control, and animal control at these sites (no pets on beaches except Ski Beach and only during posted dates and times). Assist staff with checking identification, bathrooms, and parking, as required. If safety hazards are noted, report them to District. Enforce IVGID rules and regulations and make citizen arrests as necessary, within the constraints of the law and IVGID regulations, including without the use of force. Assist and obtain assistance from public safety officials and services (sheriff, fire, ambulance, animal control, towing services, etc.), as required. Report all parking violations, and security incidents to District. Nightly lockup or false lock (as directed) all entrance gates and bathrooms.

2. Parks & Ball / Soccer Fields – During the Parks patrol, check all fields (Preston field, Incline Park [3] fields, Skate Park, and Village Green [2] soccer fields) to insure only authorized, organized sporting events are utilizing the fields. No pets are authorized on Village Green (except on a leash) during organized play to include practice. Check all parks (Preston Park, Skate Park) to insure parks are being used properly and in compliance with posted rules and regulations. Be present in the Recreation Center parking lot at closing time.

VII. SPECIAL SERVICES/EVENTS

1. Alarm Response - Respond to any security alarm activation or citizen’s report of a security problem on District premises during stated time frame. Check to determine premises are secure and alert responsible party for activated alarm. Respond to a request for a “Responsible” by the Sheriff’s Department and provide assistance to the Sheriff’s Department in investigating any suspicious circumstances on District’s premises. When required to gain access to a District’s facility where access has been limited, call-out District’s “Responsible” person for the facility.

2. Security Guards - When attendance is required at District functions or functions sponsored by others at District facilities, the Contractor will provide, when requested, disorderly person control, crowd control, and alcohol & drug control. The Contractor will periodically patrol inside and outside buildings and parking lots, as necessary, and assist with parking lot control, traffic control and control of admissions to the event function. The Contractor will enforce District rules and regulations, make citizen arrests as necessary, within the constraints of the law and District’s regulations, including without the use of force. The Contractor will assist and/or obtain assistance, as required, from public safety officials and services (i.e. sheriff, fire, paramedics, ambulance, animal control, towing services, etc.).
SECURITY SERVICES AGREEMENT
Effective for the Year Starting October 1, 2017
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Contractor will report all accidents, parking violations, and security incidents to the District by the end of the next business day. Additional responsibilities may be addressed, depending upon the nature of the junction and the facilities, at dates, times, and locations requested by the District, on a case-by-case basis.

3. Independence Day/Holiday Weekend – Provide additional patrol as required by the Recreation Department for the three beaches and Village Green. Refer to Exhibit A-1 Page 2 for number of patrollers, dates and hours of service. Patrol may include traffic and crowd control. Enforce IVGID rules and regulations and make citizen arrests as necessary, within the constraints of the law and IVGID regulations, including without the use of force. Assist and obtain assistance from public safety officials and services (sheriff, fire, ambulance, animal control, towing services, etc.), as required. Report all accidents, parking violations, and security incidents to District by the end of the next business day.

The Security Guard patrol shift shall be at a minimum of hours per day but normally will not exceed eight hours per day. District may adjust the dates and times for patrolling events, the beaches and parks and during the July 4th holiday period at its sole discretion. If District adjusts levels above those provided in Exhibit A-1 Page 2, District will make advanced arrangement for any fee adjustments. District also reserves the right to reduce the service level described in Exhibit A-1 Page 2 to include hours of service, days of service, and number of personnel.

VIII. QUALITY CONTROL

1. Employee Screening and Selection - Any person providing any services under this Agreement must maintain a registration as a private patrolman from the State of Nevada's Private Investigator’s Licensing Board, under the provisions of NRS Chapter 648. Each person shall also maintain an employment certificate as a private police and security officer from the Washoe County Sheriff’s Department under the provisions of Washoe County Code Chapter 25.

2. Employee Training - Any person providing any services under this Agreement shall satisfactorily complete and pass a course in exercising the power to arrest, general rights of citizens, and limits of authority as establish in NRS 648 and NAC 648. Any such person shall also satisfactorily complete on-site training, including patrol procedures, back-up and assistance procedures, radio procedures, reporting procedures, and an orientation to all District facilities operations, and security services, administered by Contractor.

In addition, personnel assigned to special patrol at the beaches during seasonal operations will be required to attend District staff personnel equivalent orientations for Parks & Recreation.

3. Employee Monitoring, Discipline, and Control - The Contractor shall maintain, administer, and enforce personnel policies establishing guidelines pertaining to the following subject: substance abuse, verbal and physical abuse, solicitation, dress and grooming code, vehicle operation, radio communication, reporting procedures, and patrol procedures. The District reserves the unconditional right to direct the removal of a Contractor’s employee from performing District’s security services.
IX. TERMINATION OF THIS AGREEMENT

This Agreement may be terminated by either party upon thirty (30) days written notice to the other party of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and date of the year set forth above;

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

By: ____________________________
    Steven J. Pinkerton
    General Manager

HIGH SIERRA PATROL, INC.

By: ____________________________
    President

Reviewed and approved as to form:

By: ____________________________
    Jason Guinasso
    District General Counsel
<table>
<thead>
<tr>
<th>Preventative Patrol Services</th>
<th>Fee for Service Per Month:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed Year-Round (Standard Nightly Patrol - 1 perimeter inspection between 8 p.m. to 4:30 a.m.)</td>
<td>$350</td>
</tr>
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</table>

**955 Fairway Blvd**
- Chateau
- Cart Barn
- Maintenance Building and Yard
- Championship Golf Course

**690 Wilson Way**
- Mountain Golf Course Clubhouse
- Maintenance Building
- Mountain Golf Course Parking Area

**960 Lakeshore**
- Aspen Grove Community Center
- Village Green Restroom & Storage

**980 Incline Way**
- Recreation Center
  - Request presence at Rec Center Parking lot for 15 minutes at closing time (M-F at 9, Weekends at 8)

**Tennis Center**
- Recreation Center

**948 B Incline Way**

**893 Southwood Blvd**
- Administration Building

**1210 Ski Way**
- Skier Services Building
- Ski Lodge

**1210 Sweetwater Road**
- Bldg. A - Public Works Admin. Complex
- Bldg. B - Buildings Maintenance and Shop
- Bldg. C - Cold Storage Building

**1220 Sweetwater Road**
- Sewer Treatment Plant

**Highways 431 & 28**
- Preston Field Ballpark, Bleachers Complex

**Tahoe Blvd & Southwood East**
- Skateboard Park & Incline Ball Park
Daily Patrol Uniform Presence (foot, bike or vehicle)
May 15 to September 15

Focus of Patrol Area:
- Beaches - Burnt Cedar, Incline, Hermit & Ski
- Hwy 431 & 28 - Preston Field Ballpark, Bleachers Complex
- Skateboard Park & Incline Ball Fields
- Village Green

Scheduled - 1230 to 2230
Fee for Service
$25/hour

On call for daytime security issues

Lock all 3 Beach bathrooms at 9+ p.m. and All 3 Beach gates at 10 p.m.

To include physical walk through of Creek areas in Disc Golf Course

Daily check-in at Park Bldgs. for special instructions or notices

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

SECURITY SERVICES FEE SCHEDULE

<table>
<thead>
<tr>
<th>Special Services / Events (as required)</th>
<th>Requested Hr. Minimum</th>
<th>Fee for Service</th>
</tr>
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<tbody>
<tr>
<td>Alarm responses; 8 p.m. to 4:30 a.m.</td>
<td>per response</td>
<td></td>
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<tr>
<td>Security Guards - Uniform Presence</td>
<td>Advance notice:</td>
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<td></td>
<td>21 days</td>
<td>Per Hour:</td>
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<td></td>
<td>15 to 21 days</td>
<td>$ 25.00</td>
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<td>1 to 4 days</td>
<td>$ 45.00</td>
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<td></td>
<td>Legal Holidays</td>
<td>$ 37.50</td>
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Patrol Uniform Presence

Independence Day Events

Hrs. per Day  Rate Per Hour  Per Officer
One Extra Patroller (over and above Daily) 8  $ 25.00
One Patroller - Incline & Ski Beach 10 pm to 6 am 8  $ 37.50
8 Patrollers (Staggered shifts after 10 am) Holiday 11  $ 65.00
2 Patrollers 6 a.m. to 2 p.m. Holiday 8  $ 65.00
MINUTES
SPECIAL MEETING OF AUGUST 2, 2017
Incline Village General Improvement District

The special meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairwoman Kendra Wong on Wednesday, August 2, 2017 at 3:00 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 IVGID BOARD OF TRUSTEES*

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

Also present were District Staff Members Director of Finance Gerry Eick, Communications Coordinator Misty Moga, Director of Human Resources Dee Carey, Director of Public Works Joe Pomroy, and Parks and Recreation Director Indra Winquest.

Members of the public present were Margaret Martini, Ilojsa Dobler, Cliff Dobler, Steve Dolan, Susan Pennacchio, Mike Pennacchio, Frank Wright, Pete Todoroff, Judith Miller, Linda Newman, Mr. and Mrs. Weisand, and others.

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

C. PUBLIC COMMENTS*

Mr. Justice said that he is wondering how many other options/properties have been considered before settling on the Parasol property and if no decision has been made then he is asking why the Board is ruling out other properties. He understands what the General Manager has told him and that there will be other opportunities for the public, as homeowners, to vote on this decision that you will be making and asked or will it be a unilateral decision made by the Board.

Steve Dolan read from a prepared written statement which was submitted and is attached hereto.
Minutes
Meeting of August 2, 2017
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Cliff Dobler said that he has a request to be included in the next Board packet – on May 17, he made a public records request and that it was a simple request to the District Clerk and that he has attached a copy of the e-mail. On May 26, he asked again and the District Clerk was out of the office until June 5. On June 9, he asked again, and received nothing. On June 23, he asked for a response and sent that request to the General Manager. On July 5 he asked again and copied the Board seeking help and got no answers. On July 8, via e-mail, he received a response that said follow up was conducted with the General Manager and that they determined that a response was provided. On July 8, he responded that the response must be in writing. As of August 2, which is 93 days later, there has been no response. He has not talked to the General Manager for two years nor no other person and to have the District Clerk carry the water is not right; by this public comment, he expects an answer to his request.

Frank Wright said that irrelevant means doesn’t matter and this Board doesn’t matter. He predicted that you had no concept about the Open Meeting Law complaints and you validated that when asked how many were there. You asked the District General Counsel, he responded, and let you know how it works. Wow. You are doing nothing to respond yet you have to give your input in the process. If you don’t know what was filed against you then you have no understanding about what you are doing wrong. He has another recommendation and that is that every one of you should get an attorney that understands the Open Meeting Law because you have violated State statutes which means you have violated the law because you have moved forward with litigation without doing the approval in the public. The Board has to meet publicly and let the public know how their money is being spent. He has a sneaking suspicion about the litigation against Mr. Lyons and that is that you didn’t know about and it is costing a lot of money. The Katz litigation is going forward and it is chilling and anti-slap. This District is trying to pound the snot of a citizen who is asking legitimate questions. You can’t clean up the dog crap at Village Green and you don’t care so you are totally irrelevant. If you can’t clean up the dog stuff how are you going to get out of the mess that the District General Counsel has gotten you in to.

Margaret Martini – read from a submitted statement which is attached hereto.

Linda Newman – read from a submitted statement which is attached hereto.

Judith Miller said that this workshop was quite a revelation to her as she didn’t know that the General Manager had committees. She has always encouraged Board committees and not to have hidden meetings. Board committees would have minutes, be noticed, and thus the public would have more confidence in you.
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There should be no intention to keep things quiet. The community showed trust
and likability so take this to heart and start making some decisions and stand up
as people with your own minds and want to listen to the public. The actions of the
recent years give the public the impression you don’t want to listen. She had no
idea about the governance committee about being a city or a town which is not in
the purview of the GID to determine as it is not her idea of recreation nor public
utility. This needs to be made by a group formed outside the GID. On the core
beautification, one needs to form a special assessment committee and then have
a fee. It is business owners that typically benefit the most. Washoe County has the
responsibility to maintain roads, curbs, and gutters, and this has been turned over
for many years to Washoe County. We are under served by Washoe County and
people don’t realize they are responsible.

Pete Todoroff said that his comment was on the dog park and that he feels that it
is not the responsibility of the government to furnish the dog park and that his
suggestion is to have Pet Network, who has plenty of money, maybe they could
buy a piece of property and leave this piece of property alone without the
government having to do it. Next, why are we spending more money on another
lawyer’s opinion when he knows of only one person who wants this and that is Mr.
Brockman so why are we spending more money when we don’t want this and
haven’t from the beginning. On Senior Services money, it doesn’t come up to
IVGID it goes to Washoe County and then Washoe County decides how to spend
it.

Dave Delbridge shared with the Board a snipper from the Tahoe Area newsletter
which was about zoning regulations and while he doesn’t know about the ruckus
that the Tahoe Area Sierra Club was talking about, because there has been very
little discussion about this, he does notice that Washoe County is noticeable
absent from it. He has learned a couple of things in fifteen years. He started a
crusade against vacation rentals as he had one that moved in next to them and his
crusade went on for four years with no results. One thing he did learn is that maybe
this situation doesn’t affect everyone. This is a very large house with virtually no
parking and he didn’t get a lot of support which he understands now as few were
affected by it. The local hotels and agencies want the rentals taxed and ideally
vacation rentals would require a license which allows for adequate parking.

D. APPROVAL OF AGENDA (for possible action)

Chairwoman Wong asked for any changes to the agenda as submitted; no
changes were offered therefore Chairwoman Wong said the agenda was approved
as submitted.
E. GENERAL BUSINESS (for possible action)

E.1. Board Work Session – The IVGID Board of Trustees shall review, discuss, and possibly take action on the progress to date of their Board Work Plan which shall include review, discuss, and possibly take action on the fact finding cited in the attached reports from the General Manager’s Subcommittees on (a) Ordinance 7; (b) Master Plan/Capital Plan; (c) Communication; and (d) Financial Reporting aka Popular Reporting

Chairwoman Wong said that she would like to take the subcommittees in order, have the Trustees on the subcommittees report back, and then the Board can make decisions and direct Staff.

Ordinance 7 – Trustees Callicrate and Horan. Trustee Horan gave an overview report. Chairwoman Wong summarized that the subcommittee did fact finding on beach specific issues related to Ordinance 7, usage of punch cards and passes in 2017, and discussed separating our beach access into a separate ordinance. The Board then had a broad discussion with the following guidance, to Staff, being given:

1. Research the implications of splitting Ordinance 7 into two parts – recreation and beaches.
2. Research having a public input process that is clear, concise, well defined, and specific.
3. Do fact finding on specific alternatives and bring those back to the Board with a wide range of options.
4. Do fact finding on a way to provide crystal clear communication about Ordinance 7, who is getting in, etc. and better clarify who is able to get beach access and what that looks like and where are the outliers.
5. Ensure that data published is done with some degree of confidence.
6. Do fact finding on specific alternatives for utilization on access and it should involve punch cards, value of punch cards, numbers that can be recommended, etc.

Master Plan/Capital Plan – Trustees Callicrate and Morris. Trustee Morris gave an overview report and made a statement/response on how these
subcommittees came about and that this allows the Board to work simultaneously on all of these items.

The Board then had a broad discussion with the following guidance, to Staff, being given:

1. Don't want us getting involved with the pedestrian paths and want to make sure that Washoe County understands the implications as the lead agency however pathways could potentially be in the wheelhouse of a Parks and Recreation District, as a part of their Master Plan, as it would be about connections to our amenities while Washoe County is working in the right of way – need to research the overlaps and/or what we could potentially do.

2. Need to fact find on having Washoe County delegating funds for street scape improvements with revenue sources being other than IVGID and any other possibilities and/or opportunities.

3. Focus on our master plan, policies, and funding policies and look at partnering with Washoe County being secondary to our own processes.

4. Washoe County was the lead agency on the Mill Creek area disaster thus it might have been good to have IVGID involved so fact find on what has Washoe County done for us and have those conversations.

Trustee Morris said that he appreciates the observations and suggestions and that these items are a bigger deal than what the subcommittee set out to do so he will take it back to them for discussion.

**Communication** — Trustees Horan and Wong. Chairwoman Wong gave an overview report.

The Board then had a broad discussion with the following guidance, to Staff, being given:

1. Consider having a frequently asked question section as part of our website and fact find on what other agencies do on their websites.

2. Fact find on what other agencies do regarding correspondence received from members of their community; how they handle, how it is responded to; etc.

3. Fact find on does the public know the best way to communicate with us.
Trustee Dent departed the meeting at 4:15 p.m.


The Board then had a broad discussion with the following guidance, to Staff, being given:

1. Bring examples of the reports to the Board, get feedback, go back, revise and repeat the cycle until the Board agrees on a specific format/report.

**F. 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.**

None at this time.

**G. ADJOURNMENT (for possible action)**

The meeting was adjourned at 4:30 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 Steve Dolan (1 page): IVGID: Information and questions for the record regarding TRPA laws; Washoe County Health Department, and State laws regarding “Waters of the State”

Submitted by Clifford F. Dobler (6 pages): Failure to answer a public records request
Minutes
Meeting of August 2, 2017
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Submitted by Margaret Martini (1 page): 8-2-2017, Please add to the minutes 8-2-2017 Meeting

Submitted by Linda Newman (2 pages): Public Comments at IVGID 8-2-2017 BOT Meeting

Submitted by Judith Miller (2 pages): Incline Village/Crystal Bay News*, Volume 1, Issue 1 Sunday, July 30, 2017
Please enter these statements and questions into the record.
Steve Dolan August 2, 2017
IVGID: Information and questions for the record regarding TRPA laws; Washoe County Health Department, and State laws regarding “Waters of the State”

1. Since learning about dog feces carrying E.coli, Giardia, and Cryptosporidium have you done anything to lessen the interface between Incline residents and these pathogens at Village Green Multi-Use Temporary Dog Park?

2. Since learning about these pathogens and the recommendation by the Tahoe Resource Conservation District have you ordered Mr. Johnson (who claims the waters are tested) to test the waters after significant summer rains and during fall and spring runoff at both the streams and Incline Swimming beach for the microbes E.coli, Giardia, and Cryptosporidium?

3. Since learning about these pathogens have you done anything to inform the public of the potential for Vector-Born disease at the multi-use Temporary Dog park and or the Incline Beach and Ski Beach?

4. Are you aware that Washoe County Epidemiology department (section 010.324) concerned with Vector-Born Diseases considers Dog Waste a pathogen with the potential of causing:
5. Incapacitating illness
6. Hazard to human health
7. Categorizes it as Hazardous Waste

8. I informed you about the 1992 TRPA law that state, like WCH Department (section 010.324) and the State of Nevada, and define dogs as Domestic Animals and thus their waste is not allowed in SEZ or any place that runs off into State Waters including Streams and Lakes. (Section 010.788)

9. That merely the Odor from VG is cause for action: “mitigating the odor must be done a minimal of every 7 days and may be deemed necessary more often.”

10. (040.023) Drainage from VG, which enters into low-flow channels and reach Waters of the State. This is illegal.

11. Village Green violates Washoe County Health Department “Standards regarding Vector-Born disease prevention”: Village Green does not drain into storm drains. (In the past I have provided photos proving this) Village Green contains SEZ that are drainage and Dog Waste receptors as defined by IVGID as a 17-year Temporary Dog Park.
August 2, 2017 - Comments at Board of Trustee Meeting.

To: IVGID Board of Trustees

From: Clifford F. Dobler

Re: Failure to answer a public records request

To be included in next board packet

1) On May 11, 2017, I made a public Records request via Email to Susan Herron asking a simple question for information regarding what budget compliance was considered in writing a paragraph regarding Capital Improvement Projects for the year ending June 30, 2016. I attached a copy of the paragraph to the Email

2) On May 26, 2017 via Email, I asked again since I had not received a response to my request.

3) On the same day Susan Herron via Email indicated she was out of the office until June 5, 2017

4) On June 9, 2017 via Email I asked again for a response to my request

5) On June 23, 2017 via a telephone call with Susan Herron I again asked for a response to my request. She said she had sent the request to Steve Pinkerton

6) On July 5, 2017 via Email I asked again for a response to my request and copied the Board seeking some help in obtaining a response

7) On July 8, 2017 via Email, I received a response from Susan Herron that she followed up with GM Pinkerton and "he has determined that he and others have already responded to your request for information."
8) On July 8, 2017 via Email to Susan Herron, I stated my request had still not been responded to and any request I make must be answered in writing and I would not accept a verbal response.

Here we are on August 2, 2017 93 days later without a response

What is truly disturbing is I have not talked with Mr. Pinkerton for almost two years and no other person has talked to me about this subject. Having Susan carry water for him is quite bad.

**UTTER NONSENSE -** 6 requests and no answer. By this public comment I expect an answer to my May 11, 2017 request.

Attachments 4 pages of E mails
From: cfdobler <cfdobler@aol.com>
To: sah <sah@ivgid.org>
Sent: Thu, May 11, 2017 2:06 pm
Subject: Request for information

The report entitled Capital Improvement Expenditures for fiscal year ended June 30, 2016 under the heading Going Forward on page 7 has in the second paragraph with references to to compliance. However, it provides no information on compliance with WHAT. For example it might be compliance with a Nevada Revised Statute, an accounting pronouncement from the Government Accounting Standards Board or even the IVGID board policies. In order to understand the paragraph it is necessary to know what IVGID is complying with in order to understand the mythology of what is being communicated in the paragraph.
Maybe Gerry Eick will know or who ever may have written it.
I attach a copy of the 7th page. The report was only numbered on the first two pages.
Thanks in advance.

From: cfdobler <cfdobler@aol.com>
To: sah <sah@ivgid.org>
Bcc: linda <linda@marknewman.net>
Subject: Fwd: Request for Information
Date: Fri, May 26, 2017 5:12 am

Attachments: Attachment to S Herron e-mial dated 5-11-2017 re compliance.pdf (315K)

Dear Susan

Today is the 26th of May. As seen below I sent a request for information on May 11th and have not received either an acknowledgement that you received the request or a response for the information I requested. It has been over two weeks.
Could you please provide the information requested and when I might receive it.
Thanks
Clifford F. Dobler

From: Herron, Susan <Susan_Herron@ivgid.org> To: cfdobler <cfdobler@aol.com>
Sent: Fri, May 26, 2017 5:12 am Subject: Automatic reply: Request for information

Thank you for your e-mail. I am out of the office until mid-day Monday, June 5, 2017. If this is a public records request, I will look into it upon my return. If this is an emergency, please call 775-832-1100. Thanks, Susan
Incline Village General Improvement District
Management Discussion and Analysis
Capital Improvement Projects Expenditures
For the Year ending June 30, 2016

Going Forward
District staff continues to look at our processes and methods for reporting. We will work on ways to introduce the effects of early opening projects to minimize the appearance of variances that are strictly timing differences. We are working even harder to eliminate early opening projects. Staff is also looking at ways we can be more effective in the process of estimating carryovers and evaluate the real possibility of completions in the period between budget proposal and adoption and the fiscal year end. We will also look at ways to identify multi-year projects, that by their nature cross fiscal years, and inherently cause a carryover.

The District’s budget compliance is based on total expended in a fiscal year. Therefore, we will budget to err on the side of enough resources to cover all possible expenditures. Early opening projects can jeopardize compliance. Generally completing projects ahead of a carryover will not be a problem, but still must be monitored. What is important is that the budget distinguish between new project funding and when previously accumulated resources are being transferred to cover carryover projects. Beginning with the 2016-2017 budget, the transfers reported in State Form 4404LGF have distinguished between those Community Services and Beach projects sourced from the current fees from those that are from carryovers. This has been done to present what are new resources, and which are previously funded. Most planning situations are simply dealing with timing issues.

Communicating the capital project expenditures is an important part of demonstrating the District use of public resources. However, the volume and complexity of project types makes a single report format difficult. Staff has added this analysis to further explain some of the situations. Further questions can be addressed to the District’s Public Information Officer.
Cliff,

I did follow up with General Manager Pinkerton and he has determined that he and others have already responded to your request for information. If you wish to speak directly with the General Manager his telephone number is 832-1206.

Have a great Saturday!

Susan

Susan A. Herron, CMC
Executive Assistant/District Clerk/Public Records Officer
Incline Village General Improvement District
893 Southwood Boulevard, Incline Village, NV 89451
P: 775-832-1207
F: 775-832-1122
M: 775-846-6158
sah@ivgid.org
http://ivgid.org

Re: Automatic reply: Request for Information
July 8, 2017

cf Dobler to Susan Herron + more show details

My request has not been responded to. Any request I make must be answered in writing and I will not accept any verbal response so talking with him has is not a legitimate response to my request. Whether Mr. Pinkerton "determined that he and others have already responded to my request for information" then have him produce it.

Enough with the runaround

Thanks

Cliff
Good Afternoon,

I would like to address the new slate of closed door General Manager Committee meetings that have become the IVGID process for making important policy decisions.

Specifically, I would like to question why the General Manager Chairs these committees rather than individual Trustees. Secondly, I would like to know why qualified community members are not invited to join these Committees. Many residents here bring a wealth of knowledge and expertise that would greatly benefit our Board, General Manager, IVGID Staff, and even legal Counsel in conducting informed discussions on important matters affecting every member of our community. Thirdly, I would like to know why these Committee Meetings are not noticed and open to the public. Clearly, Staff and Trustee discussions on Ordinance 7, Master Planning, Communication and Financial Reporting are of vital interest to the community. Noticing these meetings and encouraging active public participation would greatly enhance our Board’s ability to understand our Community’s objectives and concerns. These objectives and concerns are vital for each Trustee to consider in order to reach informed decisions on government actions and policies. These are timely questions that require thoughtful answers as there is a great deal at stake.

Having said that, I would like to point out that these closed door meetings send the message that the General Manager rather that the Board are in charge, that Trustees are uncomfortable discussing important issues with Staff publicly and that the Public is unwelcome—not as participants or observers. These messages splinter the District’s partnership with its Citizens and express the opposite of its stated goals of increasing government accountability, transparency and accurate and timely communication.

If this doesn't move you to make some changes, consider the historical track record of the really inaccurate and bad decisions that have resulted from these GM Committees and their failure to utilize our vast community resources and experts to draw on for qualified opinions.

The most recent example is the GM’s TRASH COMMITTEE. The recommendations of this Committee which Trustee Horan as a member, approved and promoted, has resulted in a huge debacle. Community backlash and anger is rampant along with new health and safety concerns from the District’s changes in the Trash Ordinance and the spectacular failure of the New Franchise Agreement. There were 11 years of input at meetings from community members and obviously most of those years of input was not addressed. Had the Board opened these meetings to community view and public participation throughout the process—the outcome COULD HAVE BEEN A SUCCESS INSTEAD OF A DISMAL FAILURE!

The Bottom line is simple: EXCLUDING THE COMMUNITY FROM PARTICIPATING IN ITS GOVERNANCE IS JUST THE OPPOSITE OF GOOD GOVERNANCE AND THE FOUNDATION OF ACCOUNTABILITY AND TRANSPARENCY IT MUST STAND UPON. AVOIDING AN OPEN AND HONEST DIALOGUE WITH THE CITIZENS YOU ARE ELECTED OR HIRED TO SERVE JUST DOESN'T WORK. THE OUTCOME OF THE DECISIONS MADE AFTER REPORTS FROM THESE SECRETEIVE COMMITTEES ARE THE PROOF.

Margaret Martini
Incline Village

Please add to minutes 8-2-2017 meeting
Public Comment at IVGID 8-2-17 BOT Meeting
By: Linda Newman – To be included with the Minutes of the Meeting

Our District is indeed a Special District. It places a premium on secrecy to the
detriment of the Public’s Right to Know. Rather than embracing open and honest
discussions in public meetings most of the deliberations are taken behind closed
doors. In some, but not all cases, Actions are taken publicly. In others, like
matters of litigation and the budgeting for these legal matters which involve the
considerable expenditure of public funds –these always occur in closed sessions
with District’s Legal Counsel and are never fully disclosed to the public. This not
only violates State law, it betrays the public trust.

The institution of General Manager Committees which excludes public
participation and observation is a continuance of this trend. Policies that address
matters of great public importance should not be developed without public
participation and consent. Yet, that is exactly what these Committees are designed
to do. That is unacceptable.

We have recently learned that the District has received approximately one Open
Meeting Law Violation Complaint a month since February. And not only, wasn’t
the public made aware of these allegations, but District Counsel also left Trustees
in the dark. So, when exactly, did District Counsel receive the authority to
determine what Trustees should or shouldn’t be told and when, if ever, they should
be told anything.

The District’s policy on providing Public Records –or Not providing Public
Records –continues the District’s opposition to full and complete disclosure.
Records that are considered to be Public Records by the State, County and other
Special Districts are not considered “Public Records” by our District and as a
consequence they are withheld. This clearly is not in the public’s best interest.
Another disturbing trend is Legal Counsel’s involvement in determining what is or
isn’t made available to the public. And RKG’s reach even extends to what is
considered “correspondence” received by the District and whether it will be
included in the Board packet.

The District’s financial accounting and reporting is my gravest concern. Rather
than providing accountability and transparency, it is an elaborate exercise in
obfuscation of the District’s actual revenues and expenditures. Although there may
be a narrative on the District’s policies and practices and compliance with Nevada
Law –a close reading always reveals that the District neither follows its own
policies and practices nor does it comply with the letter of the law. This exceeds concealment and deception and in my view flirts with fraud.

I am asking you, Our Elected Officials, to take corrective action now to remedy all violations of the law and demonstrate that accountability, responsibility and transparency are not devoid of meaning. And in so doing, restore the integrity of our governance and earn the Public Trust.
BIGGER LOCAL GOVERNMENT?

IVGID PROPOSES STUDY OF CITY/TOWN FORMATION

Just when you think you have heard it all regarding IVGID's penchant for expansion of government, look at the latest IVGID Board Packet for its "Board workshop" on August 2. The Board will entertain giving the go-ahead for GM Pinkerton to form a "Governance Committee", one of his advisory committees, consisting of staff and 2 Board members, to study whether we should become a city or a town. Is that within IVGID'S purview? Why should IVGID staff take time away from their real responsibilities of public recreation and certain utilities? If the citizens of this community want to form a city or town, they don't need IVGID's "guidance". No wonder staff doesn't have time to make any progress on issues identified years ago like the beach overcrowding and Ordinance 7. No wonder they don't address urgent problems like the failing culvert at Diamond Peak in a timely manner.

And if that's not enough, on page 8 there is a proposal for IVGID to head up a commercial core beautification project involving placing utilities underground, funding lighting, and landscaping under the guise of providing a multi-use path. This is really a stretch of the "recreation" power granted in NRS Chapter 318 - as if the already identified over $25 million of projects in the 5 year CIP aren't enough that will depend on the Rec/Beach Fee for support. This report suggests IVGID (the Rec fee) will pay for matching funds (with some form of grant). Washoe County, Nevada DOT and/or the benefitting commercial properties, not IVGID, should fund these types of improvements.

Many residents/owners don't realize that a GID only has those powers expressly granted by the County. For IVGID, they include recreation and some, not all, utilities. Most other local government functions are the responsibility of Washoe County. It has long been a complaint that the residents of this community are "under-served" by the County. It appears that some attention is finally being given, but far less than what is warranted.

What can citizens do?

Get involved in local government. Come to the IVGID Board Meetings. The next one is scheduled for August 17. Prepare a comment not to exceed 3 minutes. If you cannot attend send email to each Board member. Attend the Washoe County Board of County Commissioners meetings (see schedule on washoecounty.us) or send your comments.

Why we need this “paper”.

Over the past few years the Tahoe Bonanza has succumbed to the pressures of having to compete with social media. To pay the bills it has had to reduce reporting of local news and cater more to its advertisers. The Incline Village/Crystal Bay News is an effort to fill that void.

If you haven't discovered "Our Village Voice" on facebook, join this polite, but honest, conversation about local topics.
IVGID/PARASOL DEAL

Paying Parasol millions for use of a 31,500-square-foot building is about as ridiculous as buying an outfit that’s a couple of sizes too big and hoping that you’ll grow into it.

Here are some FAQ’s you won’t find on IVGID’s website:

Who really owns the Parasol building? The County lists Incline Village General Improvement District as the owner, and at the Feb. 22, 2011 hearing before the Washoe County Board of Equalization, Parasol admitted IVGID owned the building.

How much office space will be available for IVGID’s use? The initial proposal only gives IVGID limited use of the building. Parasol and nonprofits will have exclusive use of 3,900 square feet of office space for the next six years. Parasol will only pay $1 a year for 1,700 square feet including utilities and the nonprofits will occupy the other 2,200 square feet at well below market rates. After that, Parasol will retain use of 1,700 square feet for 14 more years for $1 a year, in addition to part time use of shared restrooms, large kitchen, and various meeting rooms. But the building was designed with roughly 7900 square feet of office space for the nonprofits so for the first 6 years that leaves just 5700 square feet for IVGID unless changes are made. A local architect has commented that moving walls will likely require expensive structural modifications, making this proposal even more costly.

Why haven’t IVGID notified Parasol that it is in breach of its lease? Parasol has already breached the lease agreement because it has drastically reduced the number of nonprofits housed as well as the square footage provided to them. Under the current lease this is one of the grounds that, if not remedied by Parasol, can result in a takeover of the facility by IVGID.

In recent years, several long-term tenants were told to leave. Trustee Tim Callicrate commented that there is currently a waiting list of nonprofits who would gladly fill the space.

Why isn’t a new office building on the district’s 5 year capital improvement plan? Although a replacement was investigated a few years ago, this project was not on the list presented to and voted upon by IVGID boards as a priority.

How can the District ignore the land use restrictions? The land-use restrictions preclude IVGID from using the building for anything other than recreation and park related purposes. IVGID’s administration serves the water, sewer and trash functions, not just recreational needs.

Washoe County Incline Village Crystal Bay Citizens Advisory Board July 24, 2017 meeting highlights.

The most notable discussion involved the problems created by the water quality improvement projects in the area around Incline Village Middle School and several other neighborhoods. One resident used the term “moat” to describe the deep ditches designed to direct storm water into filtering basins and prevent harmful sediment from reaching the lake. County engineer Kris Klein said staff was working on plans to address the new hazards to both pedestrians and drivers created by the ditches along many central Incline Village streets. With school about to start, this is a critical issue.

County Planner, Eva Krause reported that the Tahoe Area Plan Update is on schedule for a fall introduction of the draft plan.

IVGID/PARASOL DEAL CONTINUED

How can maintenance of a 15 year old 31,500 square foot building be about the same as maintaining the 12,500 square foot admin building? Even if Parasol gives IVGID the building for free, the maintenance and alteration costs combined with land use restrictions and Parasol’s 30 years of free rent and utilities make this a bad deal for IVGID.

Is Parasol in violation of the deed restrictions? The document amending the land use restrictions to allow the Parasol non-profit center was signed by a person who represented that he was president of Gardena Service Company, Boise Cascade’s successor. But according to the California Secretary of State, Gardena was dissolved years earlier. This means the land use restriction amendment is void.

If IVGID really needs more facilities, it should buy/build something "tailored" for its needs, not a hand-me-down requiring extensive and expensive alterations.

*News you likely won’t find in the local paper or local government websites/social media
Please include this response in the next packet. Thank you. Matthew

Hi Joe,

Thank you for your email and for exposing the fact someone at IVGID is digging into personal and business transactions of Trustees. Do you realize, these dead-end efforts are only being brought up after IVGID was exposed for concealment of public records? This should be troubling to everyone in the community. My independent judgement is not affected by any outside relationships. I appreciate your concern on this issue. Thank you. Matthew

On Thu, Aug 31, 2017 at 8:16 AM Joseph Wolfe <jgwtahoe@gmail.com> wrote:
To all listed in the To: and CC: of this email,

Please note that a Deed of Trust was executed between Matthew Dent and Tara Madden, husband and wife and Clifford F. Dobler and Iijosa A. Dobler Trustees of the Dobler Family Trust. It is Washoe County Recorder Document # 4371589 and signed on August 2, 2017.

Mrs. Krolick I was not spreading rumors as you implied to all of the other people addressed in this email.

Perhaps this is enough information to let the IVGID Board of Trustees ask that the District Attorney or the Attorney General of Nevada to investigate this transaction as it certainly raises questions.
Why would an IVGID Trustee enter into a business transaction with a citizen that has displayed
his intentions of destroying the very entity upon which Board he sits?

Thank you.
Joe Wolfe

On Aug 30, 2017, at 2:53 PM, Gail L. Krolick <sellingtahoe@sbcglobal.net> wrote:

Good afternoon,

Please note on this email that I have copied all current IVGID Trustees, General Manager Pinkerton, Executive Assistant/Clerk to the Board of Trustees, Ms. Susan Herron, former Trustee Joe Wolfe and community member Cliff Dobler.

As you all are aware I am a past Trustee and Former Chair of IVGID and have not been involved with IVGID other than with issues that are personally concerning to me and I have voiced my concerns through the proper channels. However, this is one issue that is personally upsetting me to the point that I am emailing all of you. Below is a summary of a conversation I had while attending a luncheon on Friday, August 25th with community member and former IVGID Trustee Joe Wolfe.

Joe and I were exchanging pleasantries prior to the start of the luncheon when I ask Joe, "Joe, what are we going to do with IVGID and all the controversy surrounding it." Joe smiled and said "more importantly, did you know that Cliff Dobler gave Dent $400,000 to purchase his home and as far as he was concerned Dent sold his soul."

As a local Realtor and co-owner of our Brokerage, I knew that Dent had purchased a country club mall unit as I review the Multiple Listing Service (MLS) several times a day. I also knew that Dent was closing escrow on a country club mall unit as my husband and I had conversation with Dent about his
purchase all of which I shared with Joe. I asked Joe "where did he here this information?" He told me "IVGID." Shocked, I asked Joe "who told him this information at IVGID." His response was, "I'd rather not say." I told Joe "I will then find out." He asked me "how" and I simply replied, "I will ask them both." People who have known me for a long time or are just getting to know me understand that I am a "straight shooter" and I ask the tough questions. With that being stated, this is why all of you are copied on my email. Since my conversation with Joe on August 25, 2017 I have asked both Cliff Dobler and Matthew Dent and I am satisfied with their response to me.

My concern is two fold. One, why would IVGID (presumably an IVGID employee) share a "rumor" to a former IVGID Trustee and two, why is an IVGID employee researching a current Trustee's personal affairs? As a former Chair of IVGID and a long time community member this type of "talk" must STOP! This of course, is happening all across our country and simply dividing not only our country but our local community as well.

I would ask that Chairman Wong address this issue with her Board of Trustees and discuss with General Manager Pinkerton.

Our community has not been this "ugly" in a very, very long time and I trust the Board of Trustees and General Manger Pinkerton will do everything in their power to correct.

I thank you all for your service.

With Sincere Thanks,

Gail L. Krolick
Gail L. Krolick
2017 President
Incline Village Board of Realtors

Alpine Realty International
Realtor/Property Manager
(775)741-3105 Cellular
www.AlpineRealtyTahoe.com

Joseph Wolfe
jgwtahoe@gmail.com
Herron, Susan

From: Herron, Susan
Sent: Monday, September 11, 2017 3:55 PM
To: ‘s4s@ix.netcom.com’; Kendra Wong
Cc: Tim Callicrate; Horan, Phil; Matthew Dent; Peter Morris
Subject: RE: Request to Modify the Board Packet for its 9/13/2017 Meeting to Insert Missing Materials - P.S. - Request to Remove Item From Agenda Until the Proffered Minutes are Complete and Accurate
Attachments: 09132017 - pgs 193A - 193G.pdf

All,

Mr. Katz dropped by the missing exhibits from his statement today at 3:30 p.m. and they are attached hereto. I have numbered them according to where they fit in the Board packet (the July 20, 2017 minutes) as pages 193A - 193G. I will also take the additional steps of adding them to the materials posted on our website.

Susan A. Herron, CMC  
Executive Assistant/District Clerk/Public Records Officer Incline Village General Improvement District  
893 Southwood Boulevard, Incline Village, NV 89451  
P: 775-832-1207  
F: 775-832-1122  
M: 775-846-6158  
sah@ivgid.org  
http://ivgid.org

-----Original Message-----
From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]
Sent: Monday, September 11, 2017 3:24 PM
To: Kendra Wong <Kwong.ivgid@gmail.com>
Cc: Tim Callicrate <tim_callicrate2@ivgid.org>; Horan, Phil <Horan_Trustee@ivgid.org>; Matthew Dent <dent_trustee@ivgid.org>; Peter Morris <Peter_Morris@ivgid.org>; Herron, Susan <Susan_Herron@ivgid.org>
Subject: Request to Modify the Board Packet for its 9/13/2017 Meeting to Insert Missing Materials - P.S. - Request to Remove Item From Agenda Until the Proffered Minutes are Complete and Accurate

Dear Chairperson Wong and other Honorable members of the IVGID Board -

As you can see from the below string of e-mails, Susan did not attach my complete written statement to her proposed written minutes of the Board’s July 20, 2017 meeting.

Susan claims I did not attach all of my exhibits to my written statement when it was presented to her on July 20, 2017.

Susan is wrong. And as a result, what she has attached to the proposed minutes for the July 20, 2017 meeting that she has presented for approval IS NOT ACCURATE.

Susan has asked that I provide her with duplicate "missing" exhibits and I will be doing this today. But she proposes merely attaching them to the formal minutes approved by the Board after the incomplete minutes have been approved,
but I object (hence the reason for this e-mail). The proposed minutes must accurately reflect all complete written statements submitted to the Board for inclusion in the minutes, and here they do not. So there is a problem.

This is why I asked before and am now reiterating that approval of the proposed July 20, 2017 Board minutes be removed from the Board's agenda and once Susan has presented complete and accurate proposed minutes to present to the Board for approval, they be approved at that time.

One would have thought that when Susan was assembling the packet of materials as well as my proffered written statement, she would have noticed that no exhibit "C" appeared, nor did exhibits "D" and "E" thereafter. Had she noticed the deficiency at that time, all she had to do was give me a call, share the fact that my written statement was not complete, ask me to drop by duplicate exhibits, and then she could have presented the complete document as an attachment to the proposed minutes submitted for approval. But for whatever the reasons, she didn't. And now we're here where we are.

It's a simple fix. But staff doesn't want to do what's simple. So if the Board proceeds to approve the incomplete minutes Susan has submitted for approval, over my objection, I intend to file an Open Meeting Law complaint with the A.G. We can avoid the complaint simply by having Susan do as I have requested which merely delays Board approval of the minutes for another meeting.

I am sorry this matter has escalated to the position that it has, but unfortunately, in my experience this is too common an occurrence insofar as staff is concerned. They always want to "pick a fight" rather than to do the right thing. Instead of making decisions on the side of caution, they insist on pushing matters to the limit even if it means they get undone. And that's the case here because as you should know, if there's an OML violation, whatever action the Board took at that meeting gets reversed.

To be clear, I am not accusing Susan of having done anything intentionally wrong insofar as the missing exhibits to my written statement are concerned. Susan has a lot on her mind and regularly gets written statements from a number of members of our community. So it's possible my missing exhibits were misplaced or mistakenly destroyed after I left them at the table next to Susan. Regardless, now we have the opportunity to easily make things right and that is what I am asking the Board do. Do we do what can be easily fixed, or do we dig in our heels and cause another point of dissension to take place?

Shouldn't we do the simple and ethically correct thing?

Thank you for your understanding and cooperation. Aaron Katz

-----Original Message-----
>From: "s4s@ix.netcom.com" <s4s@ix.netcom.com>
>Sent: Sep 11, 2017 1:02 PM
> To: "Herron,Susan" <Susan_Herron@ivgd.org>
> Cc: Kendra Wong <Kwong.ivgd@gmail.com>, Tim Callicrate
> <tim_callicrate2@ivgd.org>, "Horan,Phil" <Horan_Trustee@ivgd.org>,
> Matthew Dent <dent_trustee@ivgd.org>, Peter Morris
> <Peter_Morris@ivgd.org>
> Subject: RE: Request to Modify the Board Packet for its 9/13/2017 Meeting to Insert Missing Materials - P.S.
> >
> >Your statements are not true Susan. I submitted all of my exhibits.
> >
> >If I had not, you certainly could have contacted me sufficiently in advance of the meeting so we could have worked things out before you submitted proposed minutes which were not accurate.
> >
I stand by my statement you have not attached the entire written statement I submitted. And because you have not, the proposed minutes are inaccurate and should not be approved by the Board.

Only for courtesy purposes, I will provide you with the missing pages to my written statement under separate cover. Once they are received, I ask they be added to the materials I provided that you have attached to the proposed minutes, and that the ENTIRE PACKAGE then be submitted to the Board for approval at a SUBSEQUENT Board meeting.

Thank you for your cooperation. Aaron

-----Original Message-----
From: "Herron, Susan" <Susan_Herron@ivgid.org>
Sent: Sep 11, 2017 11:53 AM
To: "s4s@ix.netcom.com" <s4s@ix.netcom.com>
Cc: Kendra Wong <Kwong.ivgid@gmail.com>, Tim Callicrate
"tim_callicrate2@ivgid.org", "Horan, Phil" <Horan_Trustee@ivgid.org>,
Matthew Dent <dent_trustee@ivgid.org>, Peter Morris
Peter Morris@ivgid.org
Subject: RE: Request to Modify the Board Packet for its 9/13/2017 Meeting to Insert Missing Materials - P.S.

Aaron,

I cannot include into the packet what I do not have. I have looked at your original submittal of 10 pages which ends with the last sheet "Exhibit C"; that is all I have thus that is all that was included. I am asking you to provide to me the unsubmitted missing exhibits assuming you want to make the record whole as suggested below. Once provided, I am happy to add them to the permanent record. The minutes included in the packet are a true and accurate document as provided to the Board and members of the public on Wednesday, September 6, 2017.

Susan A. Herron, CMC
Executive Assistant/District Clerk/Public Records Officer Incline
Village General Improvement District
893 Southwood Boulevard, Incline Village, NV 89451
P: 775-832-1207
F: 775-832-1122
M: 775-846-6158
sah@ivgid.org
http://ivgid.org

-----Original Message-----
From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]
Sent: Thursday, September 07, 2017 9:41 AM
To: Herron, Susan <Susan_IHerron@ivgid.org>
Cc: Kendra Wong <Kwong.ivgid@gmail.com>; Tim Callicrate
"tim_callicrate2@ivgid.org"; Horan, Phil <Horan_Trustee@ivgid.org>
Matthew Dent <dent_trustee@ivgid.org>; Peter Morris
Peter Morris@ivgid.org
Subject: Re: Request to Modify the Board Packet for its 9/13/2017 Meeting to Insert Missing Materials - P.S.

After I sent the e-mail below to Susan, at 9:31 A.M., I received the following automatic reply:

"Thank you for your e-mail. I am out of the office until Monday, September 11, 2017. If this is a public records request, I will look into it upon my return. If this is an emergency, please call 775-832-1100. Thanks, Susan."
This means that there will insufficient time for Susan to correct her proposed minutes of the Board’s regular July 20, 2017 meeting by inserting the omitted materials prior to the upcoming September 13, 2017 meeting. For this reason I ask that the Board NOT approve the minutes of the July 20, 2017 meeting, as presented, and that formal approval be deferred to a future IVGID Board meeting after Susan has had the opportunity to properly insert the omitted materials so she can present complete proposed minutes for the Board’s approval.

Thank you for your cooperation. Aaron Katz

-----Original Message-----

From: "s4s@ix.netcom.com" <s4s@ix.netcom.com>
Sent: Sep 7, 2017 9:22 AM
To: Herron Susan <Susan_Herron@ivgid.org>
Cc: Wong Kendra Trustee <wong_trustee@ivgid.org>, Callicrate Tim Trustee <callicrate_trustee@ivgid.org>, Horan Phil <horan_trustee@ivgid.org>, Dent Matthew <dent_trustee@ivgid.org>,
Morris Peter <morris_trustee@ivgid.org>
Subject: Request to Modify the Board Packet for its 9/13/2017 Meeting
to Insert Missing Materials

Hello Susan -

I have just examined the packet of materials you prepared in anticipation of the IVGID Board's upcoming September 13, 2017 meeting. Because I have observed a glaring error, I am calling it to your attention as well as the IVGID Board's attention asking you make corrections prior to the September 13, 2017 meeting. And since the error pertains to proposed minutes of the Board's regular July 20, 2017, I ask the Board NOT approve those minutes until what has been presented for approval is corrected.

As stated above, the error pertains to the proffered minutes of the Board's regular July 20, 2017 meeting. Those proposed minutes appear at pages 128-200 of the Board packet. The error appears commencing at page 194.

Pages 184-193 represent a PORTION of the written statement I presented at the July 20, 2017 meeting and asked be included in the written minutes of that meeting. I say a PORTION because Exhibits "C" - "E" have been omitted. They were attached to my written statement, they are referenced therein, yet they have been omitted which makes the written statement I produced misleading an unintelligible.

For the record, Exhibit "C" consisted of pages 275-76 of the Board's 2016-17 5 year capital improvement project summary; Exhibit "D" consisted of page 60 from the packet of materials prepared by staff in anticipation of the Board's regular July 20, 2017 meeting; and, Exhibit "E" consisted of a spreadsheet documenting all of the $231,000 or more in costs incurred so far associated with the Diamond Peak Master Plan.

I ask that staff amend the Board packet to include these omitted materials, they be inserted in their proper order commencing after page 193 in the Board packet, these modified minutes be presented to the Board for approval, and if staff fails to do this, that the Board NOT APPROVE THE MINUTES AS PRESENTED because they are inaccurate.

Finally, I ask a copy of this e-mail be inserted into the next Board packet so there is a formal record of the deficiencies in these minutes, the corrective action staff has taken in response, and so the public can see how important matters such as these are administered by our staff.

Thank you for your anticipated cooperation. Aaron Katz
Steven J. Pinkerton
General Manager
Incline Village General Improvement District
893 Southwood Boulevard, Incline Village, NV 89451
P: 775-832-1206
F: 775-832-1122
sjp@ivgid.org
www.ivgid.org

-----Original Message-----
From: Sara Schmitz [mailto:schmitz61@gmail.com]
Sent: Monday, September 11, 2017 8:21 AM
To: Pinkerton, Steve J.
Subject: FW: Excessive trash - zero tolerance?

Mr. Pinkerton,

I have also learned that others have NOT had the HUGE 98 gallon trash cart, but I have one assigned to me. There are inconsistencies and I am simply asking for a very simple issue to be resolved in a very simple manner. Just swap my bin as I live alone and have NO need for a 98 gallon HUGE trash cart.

Could you please help?

Sara

Sara Schmitz
(925) 858-4384

-----Original Message-----
From: Sara Schmitz [mailto:schmitz61@gmail.com]
Sent: Monday, September 11, 2017 7:49 AM
To: 'Pomroy, Joe' <Joe_Pomroy@ivgid.org>; 'Public Works' <pw@ivgid.org>
Cc: 'Kendra Wong' <Kwong.ivgid@gmail.com>; 'Phil Horan'
    <pjhoran1@gmail.com>; pwmorris@hotmail.com; 'Tim Callicrate'
    <tim2tahoe@gmail.com>; 'Matthew Dent' <matthew.ivgid@gmail.com>
Subject: Excessive trash - zero tolerance?

Mr. Pomroy and the IVGID board,
First of all, I am sorry to continue to discuss this subject however my situation (the fine and forced HUGE trash container) hasn't yet been resolved.

Secondly, I am saddened to see what the IVGID taxpayers are paying for this issue. Us taxpayers spend over $7 (a certified letter and enclosed postage paid envelop) sending me a hearing letter, a letter which was emailed to me and I confirmed with Susan Herron. This seems to be a waste of $.

Third, attached is a photo of a home that has had a HUGE pile of "excessive trash" at the "curb" for weeks. My yard waste was set aside up at my fence (the trash cart was moved adjacent to the yard waste bags for the photo taken by WM). I was told that my yard waste HAD to be removed by WM per their contract which is why I was fined for "excessive trash" (which again, was NOT trash and my trash bin contained less than 1 bag of trash). This seems to be inconsistent in the implementation of the WM contract and the Zero Tolerance rules. Why wasn't my yard waste just left like at this home and others I am seeing around IV?

I have a hearing with the committee scheduled for Sept. 25th. This has left me for about 1 month of having to struggle with the HUGE very heavy and awkward trash bin for me to cope with.

All I have asked is to have my bin replaced with the smallest, easiest to handle trash cart and have a $20 fine reversed. It has cost IVGID taxpayers more than $20 to generate my hearing letter.

Again, to me this just seems so silly and something that could have been fixed weeks ago. I know I'm new here, but it seems simple things are being made very difficult.

Could I PLEASE get the smallest trash cart possible returned to my home? I live alone and DO NOT have excessive trash and have NOT done anything that has been a wildlife issue.

Please?

Sara

Sara Schmitz
(925) 858-4384

-----Original Message-----
From: Sara Schmitz [mailto:schmitz61@gmail.com]
Sent: Sunday, September 10, 2017 9:34 PM
To: Sara Schmitz <schmitz61@gmail.com>
Subject: Excessive trash
Dear IVGID General Manager (GM), Trustees, and Staff:

The purpose of this email is to request all representatives of IVGID (i.e., GM, Trustees, and Staff) to stop negotiations with the Parasol Tahoe Community Foundation (Parasol) regarding the release of Parasol from its financial obligations for the Donald W. Reynolds Community Non-Profit Center (Center). As reported and discussed at the Incline Village Community Forum, held on September 5, 2017 at Sierra Nevada College, there are many legal and business related reasons for stopping this action now, including, but not limited to:

1. The land IVGID leased to Parasol is part of land IVGID purchased from Boise Cascade in 1977. The deed contains a restrictive covenant which limits the use of the land to parks, recreational and related purposes. In 1999, IVGID represented that it had modified the land use restrictions with the Gardena Service Company (GSC), the successor to Boise Cascade, to allow construction of a building for Parasol. However, GSC ceased operations almost a decade before the modification was obtained. How could this modification be effected with GSC out of operation?

2. Parasol has breached the terms of the lease agreement and is in default:
   a. The lease requires Parasol to operate in accordance with its 2001 Business Plan and to obtain IVGID approval for any modifications to its purpose and business plan. In 2009, Parasol instituted a new business plan and did not obtain IVGID approval.
   b. 75-80% of the space reserved for resident non-profits has been vacated over the last 2 years, which is in non-compliance with the Parasol business plan and the lease agreement.
   c. IVGID cashed a $19.00 check years after the lease was signed. Non-payment of rent is another ground for default.

3. IVGIDs need for an additional 2000 square feet of administrative space is not solved by moving its administrative offices to Parasol. IVGID will only obtain 8,100 square feet at Parasol while its Southwood Blvd. offices are estimated to be 8,000 square feet.

4. The Parasol purchase will require IVGID to pay $5.5 million plus interest plus assuming all legal liabilities and financial responsibilities for operation, maintenance, and capital improvements at the Center. These
funds are better utilized to fund IVGIDs aging and neglected infrastructure (e.g., sewage plant, Diamond Peak culverts, Highway 28 effluent pipeline south of Sand Harbor).

Considering that these are but a few of the legal and business entanglements in moving forward with the Parasol purchase, IVGID would be better served by claiming Parasol in default of its lease agreement, terminating the lease, removing Parasol from the building, and obtaining full ownership and use of the facility without the expenditure of any funds.

Respectfully submitted,

Leigh Gouveia
845 Southwood Blvd., Unit 54, Incline Village, NV 89451
To the IVGID Board

From Darryl Dworkin
705 Birdie Way

Seldom am I brief; I’ll try on this, my last writing as I cannot attend the next Board meeting.

I have sent several messages and attended several meetings. In messages and comments I asked if ANYONE could refute ANY statement I made.

NOBODY refuted:

It’s the Reynolds Building; NOT the Parasol Building.

Area non-profits wrote a grant proposal resulting in the Reynolds grant which supplied over $6 Million and the area non-profits themselves had fund raisers and projects that provided the rest of the funds to build and make the “leasehold improvements” as well as the seed money for the supporting Endowment fund. NOT the Parasol Foundation!

The facts and figures do not support paying Parasol anything to relieve them of full maintenance and utilities of a 15 year old (approx.) building three times the overall size IVGID needs that will require renovation to become usable for IVGID.

The 15 year, approximate remainder of the initial $1.00/year lease term, amortized cost under consideration ($367k proposed cost for a “Lease Modification” plus approximately (per Mr. Pinkerton) $160k maintenance and utilities = ) is somewhere above $525,000 PLUS costs of renovation PLUS legal costs.

Allowing The Parasol Foundation a true “Lease Modification” without any further added costs to IVGID (therefore the community that does not support a purchase or bail out); selling the Southwood Admin building (approx. $2,000,000 stated); all existing tenants to remain as under the existing lease but requiring relocation only to the first floor; would provide:

The Parasol Foundation is freed from management, maintenance and utilities of the building, as above about $160,000 annually, allowing Parasol added funds to support their mission.

IVGID after renovation costs would have sufficient remainder funds to support the building entirely for upwards of 8 years; support the added cost of this building over the existing building for upwards of 16 years.

IN SHORT – IVGID does what residents will support, gains funds to support required projects, gains added office space to free space in the Recreation Building. Parasol “wins”; IVGID “wins”; Residents "win". Again, IF anyone can refute this please do. If not, IVGID has a fiduciary duty to stop spending money evaluating a purchase of the Reynolds Building. It is simply not financially reasonable or responsible.
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<tr>
<th>DATE</th>
<th>DAY OF THE WEEK</th>
<th>TIME</th>
<th>LOCATION</th>
<th>MEETING</th>
<th>ITEMS SLATED FOR CONSIDERATION</th>
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<tr>
<td>10/25/2017</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td><strong>OCTOBER 2017</strong></td>
<td>Meet and Greet</td>
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<td>10/25/2017</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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<td>Post Audit report (Eick) – no action</td>
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<td>CSMP Survey results presentation</td>
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<td>Chateau</td>
<td>Audit Committee Meeting</td>
<td>Topic:</td>
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<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
<td>Post Season review – Golf and Facilities</td>
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<td>12/13/2017</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
<td>Election of Board Officers for 2018</td>
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<td>Acceptance of June 30, 2017 Audit Report</td>
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</table>

**Items sitting in the parking lot (to be discussed but (a) not yet scheduled for a specific Regular Board Meeting) or (b) a future Board not on this calendar**

- RFID Picture Passes – Item for next Strategic Plan or three years from now – software not available nor is infrastructure/hardware
- TRPA EIS Contract at Diamond Peak
- WCSD Joint Agreement
- Ski Way Pre-Design Presentation
<table>
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<th>DAY OF THE WEEK</th>
<th>TIME</th>
<th>LOCATION</th>
<th>MEETING</th>
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<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>03/28</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td>Meet and Greet</td>
</tr>
<tr>
<td>03/28</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>04/11</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>04/25</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td>Meet and Greet</td>
</tr>
<tr>
<td>04/25</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>05/09</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>05/30</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td>Meet and Greet</td>
</tr>
<tr>
<td>05/30</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
<td>Special Board Meeting (Budget Approval)</td>
</tr>
<tr>
<td>06/13</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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<tr>
<td>06/27</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td>Meet and Greet</td>
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<tr>
<td>06/27</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
</tr>
<tr>
<td>DATE</td>
<td>DAY OF THE WEEK</td>
<td>TIME</td>
<td>LOCATION</td>
<td>MEETING</td>
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<tr>
<td>07/11</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>JULY 2018</td>
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<tr>
<td>07/25</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
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<td>Meet and Greet</td>
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<td>07/25</td>
<td>Wednesday</td>
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<td>Regular Board Meeting</td>
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<tr>
<td>08/08</td>
<td>Wednesday</td>
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<td>Chateau</td>
<td>AUGUST 2018</td>
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<tr>
<td>08/29</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
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<td>Meet and Greet</td>
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<tr>
<td>08/29</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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<tr>
<td>09/12</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>SEPTEMBER 2018</td>
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<tr>
<td>09/26</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
<td>Chateau</td>
<td>Meet and Greet</td>
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<tr>
<td>09/26</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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<tr>
<td>10/10</td>
<td>Wednesday</td>
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<td>OCTOBER 2018</td>
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<tr>
<td>10/31</td>
<td>Wednesday</td>
<td>5:30 to 6 p.m.</td>
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<td>Meet and Greet</td>
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<tr>
<td>10/31</td>
<td>Wednesday</td>
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<td>Regular Board Meeting</td>
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<td>11/14</td>
<td>Wednesday</td>
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<td>NOVEMBER 2018</td>
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<td>11/28</td>
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<td>Meet and Greet</td>
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<tr>
<td>11/28</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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<tr>
<td>12/12</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>DECEMBER 2018</td>
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<td>12/26</td>
<td>Wednesday</td>
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<td>Chateau</td>
<td>Meet and Greet</td>
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<tr>
<td>12/26</td>
<td>Wednesday</td>
<td>6 p.m.</td>
<td>Chateau</td>
<td>Regular Board Meeting</td>
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</tbody>
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