

## MINUTES

### **REGULAR MEETING OF MAY 27, 2020 Incline Village General Improvement District**

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Wednesday, May 27, 2020 at 6:00 p.m. This meeting was conducted virtually via Zoom.

#### **A. PLEDGE OF ALLEGIANCE\***

The pledge of allegiance was recited.

#### **B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES\***

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

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

No members of the public were present in accordance with State of Nevada, Executive Directive 006, 016 and 018.

#### **C. REQUIRED PUBLIC HEARING ON THE DISTRICT'S OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS, FISCAL YEAR 2020-2021 (this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)**

Trustee Wong made a motion to open the public hearing on the District's Operating and Capital Improvement Program Budgets, Fiscal Year 2020-2021. Trustee Dent seconded the motion. Chairman Callicrate called the question – the motion passed unanimously.

Director of Finance Navazio gave an overview of the submitted materials.

Chairman Callicrate made announcements regarding location, respect, etc. and open the public comments.

Bret Hansen, District Manager of Incline Sanitation, said good evening Trustees and read the following statement:

*Before I begin, I want to thank you and the Incline Village community for your patience, as we continue to adjust to the challenges presented by the pandemic response. I wanted to give you a quick update on our COVID-19 response, what we are doing for the community, and the pine needle program. So far, we have had no Incline Village employee diagnosed with COVID-19. We have put into effect a Social Distancing Protocol for both our employees on the route as well as our employees at the transfer station. All employees are required to wear masks and nitrile gloves as well as their regularly required PPE. We have posted signs asking the public to adhere to social distancing and have limited the number of people inside the Transfer Station to ensure that the public remains safe. Waste Management is dedicated to ensuring that both our employees and the public are as safe as possible. In regard to the Incline Village community, Waste Management has suspended all late fees and finance charges. We have communicated with our commercial businesses to ensure that they had the proper service levels during this downturn of the economy. We apologize for the unavoidable delay in picking up pine needles. In an effort to accommodate customer concerns about fire risk, we have allowed residents to bring pine needles to the transfer station, free of charge, and without pine needle stickers. We have partnered with North Lake Tahoe Fire their fire abatement programs. We have received a few complaints that we were requiring customers to place pine needle bags into the transfer station rather than a dumpster. This decision was made due to the high volume of pine needles and for ease of customer use. It is much easier to pull bags down onto a transfer station floor than to lift a heavy bag into a container. To support fire fuels reduction efforts, Waste Management has accepted 562 tons – or over 1.1 million pounds of pine needles – all at our cost just since April 27th. This is a \$144,000 benefit to the community. And Incline Village residential customers still have their 96 pine needle stickers to use. This will allow many customers to dispose of more pine needles, as part of their regular service, than ever before. Collection of curbside pine needles will begin this Monday, June 1, which is earlier than our anticipated start date of mid-June. Our employees will be wearing additional PPE which consists of plastic arm sleeves and plastic aprons to help them reduce COVID-19 exposure. I am working on bringing in additional support to help collect pine needles more quickly. Allow me to take a moment to address the question of our annual price increase. Contracted rate increase, which is based on the national CPI generated by the Bureau of Labor Statistics ensures that our rates remain in line with operational costs. Waste Management understands the optics of a price increase during this time and would like to stress that despite the economic hardship to our local operations during the initial Stay at Home*

*orders, hours and wages have been maintained for all our local employees. It is still unclear what the far-reaching economic impacts of the pandemic response will be on our community and our business. With that in mind it is important to keep an eye to the future to ensure our ability to pay staff wages and maintain equipment to provide our essential service in Incline Village. The financial burden to the average Incline resident is four cents per month or an annual rate increase of just under 50 cents for the year. I am happy to provide additional information if you need it. Thank you for your time.*

Chairman Callicrate said the reason that the Board let Mr. Hansen go first is because he is in a tight time situation and that this subject is on the forefront of our community and, with that being said, please keep the comments to the budget.

Judith Miller said that she just checked on the Washoe County statistics on COVID-19 and they are still climbing, we can't even say we have reached a plateau so accordingly, she thinks our budget is very optimistic on revenues and thus it is very risky on the expense side. Ms. Miller then said that at the workshop on May 19 she asked the Board to give clear direction on the budget and that unfortunately the only direction given, by four out of the five Trustees, was that the Recreation Fee be reduced and that the Beach Fee be increased. With no other direction, Staff essentially made no cuts to the capital outlays and not much to the operating budget even after they agreed that a number of the projects could be delayed until the following year. There have been no entries for reserves nor a rainy day fund so please revise your policies for these types of events which will require Board approval to be used. The other glaring inadequacy is that excess funds are now going to be collected for future beach projects and they are not assigned to specific projects and as we have learned that is giving our Staff an open check. Funds will be used for entirely different projects or to offset operating losses. Governments are supposed to collect funds for specific needs, not a wish list and the Board should be informed when items exceed the budget. You are not out of the woods on COVID-19 and other government agencies are freezing things. We can always do a supplemental budget if our situation improves but since Staff hasn't come forward with actual cuts to protect the District in this financial uncertainty, they leave it to the Board to do the dirty work; exercise your oversight and demand a ten percent reduction to the General Fund and Community Services budgets.

Linda Newman read the following statement:

*As Management has failed to prepare the District's Budgets in compliance with Generally Accepted Accounting Principles and the relevant provisions of NRS 354 as well as its own existing Policies and Practices, I object to the*

*approval of the District's operating and capital improvement budgets. To begin with, both the Community Services and the Beaches are required by GASB Statement 34 to be accounted and reported as Enterprise Funds. Continuing to report these funds as governmental funds is in violation of Nevada law as they are not in compliance with GASB. I don't believe Management told the Department of Taxation that these funds were not being accounted for properly and as a result received guidance that did not conform to the facts. To date, no one has provided documentation provided by management to the Auditor or the Department of Taxation validating compliance with GASB statements in reporting Community Services and the Beaches as governmental funds. To remedy this, I once again request that you submit a supplemental to the Budget accounting and reporting these funds as Enterprise Funds, to ensure that when the DOT gives approval for the change, it can be done in this fiscal year and not 2022. I strongly object to the Central Services Cost Allocation transfers to the General Fund. As long as the Community Services and Beaches are reported as governmental funds, these are not permissible. The change in Policy 18.1.0 is not compliant with NRS 354.613(c) which only relates to Enterprise Funds and the citation to NRS 354.107 relates to all the regulations provided by the Committee on Local Government Finance. No regulation allowing these transfers from governmental funds are cited –because there aren't any. As for the allowable transfers from the Utility Fund, which is an Enterprise Fund, this too, should end. The Utility Fund is in perilous financial shape and should not be transferring money to the General Fund to cover the General Fund's overspending. There is substantial excess reserves in the General Fund, over and above the appropriate level of fund balance. In my view, not a single dollar from the funds that collect fees from our citizens should be transferred to the General Fund. In addition to management's lack of financial literacy, this budget continues the unlawful practice of collecting hundreds of thousands of dollars of our rec fee in Community Services Administration to transfer to the Beaches. These transfers for what is called "punch card utilization" are not disclosed and are providing fictitious revenues at our beaches. This is a blatant misappropriation of public funds and a very serious violation of Generally Accepted Accounting Principles. Any Trustee who allows these transfers has a broken moral compass, as they not only violate the law, but they are taking money out of the pockets of those who pay the rec fee to pay beach expenses for beaches they cannot legally use.*

Mike Abel said that he wanted to reaffirm Linda Newman's comment; spot on with everything she said.

Margaret Martini read the following statement:

*You don't have to be an expert in accounting, or an economist forecasting the future, or even a scientist projecting the timetable for a treatment or a vaccine to halt this pandemic, all you need is a little common sense to know that the District's 2021 budget cannot be approved. To begin with, despite the financial burden this pandemic has placed on our citizens and our local businesses, there are no real cuts in revenue projections and expenses. In fact, the District has chosen to raise its allowable additional ad valorem tax, increased the central services cost allocation transfers from our fee and rate payers to the General Fund, increased salaries and benefits, as well as services and supplies. Who does that when 2020 was a very good year for our economy and 2021, even using the rosier scenario, will not even come close. I did take note of a number of errors in the CIP budgets. First, there is \$2.7 million budgeted for Burnt Cedar Pool with \$225,000 for design fees. At the last meeting, Trustee Dent and Mr. Winquest stated the pool would be budgeted at \$2 million. For the utility fund, you have no budget for the effluent pond liner and you are collecting \$2 million again for the effluent pipeline project for the next five years and showing that you will be spending that \$2 million every year. Really? How is that possible? What exactly will that money be spent on? Mr. Pomroy told us it would cost \$34 million to replace the failing 6 miles. That means it will cost more than \$5 million per mile. Are you saying that no miles will be replaced annually in the next five years? In addition, I did reach out to a few of our citizens with accounting and financial expertise, and after multiple discussions, they revealed their own inability to validate the numbers provided by staff in the Memo provided to the Board. If they couldn't make sense of what was presented, I want to know if any of you can. If so, who has fact checked Staff's numbers? Who will stand up and say that the info provided is accurate? As for the State forms, if you approve, will you state on the record and in writing that ALL of the Budgets you are approving were prepared in compliance with Generally Accepted Accounting Principles, All relevant GASB statements and Nevada Law, and all of the Board's Policies and Practices? If you can't or won't, you must direct Staff to revise the Budgets so that you comply with your oath of office and fulfill your statutory and fiduciary duties.*

Aaron Katz said that just prior to the commencement of proceedings to adopt a 2020/2021 budget, he asked Staff to provide to him documents that showed each and every proposed expense assigned to beach and community service services and supplies. He asked this so that suspect expenditures like fifty-five thousand dollars for employee meals that are disingenuously called employee recruitment

and retention could be rooted out and omitted but Staff, as usual, refused. Instead, they came up with scenario after scenario which in the end did nothing to reduce or eliminate the subsidies of the Rec Fee to the Community Services Fund, the beach fee and the central services cost and General Fund. In this age of COVID-19, the failure to reduce any of these subsidies is unacceptable because Staff has refused to propose reductions to these subsidies and because they cannot be trusted, it is time for more drastic action and what that means is take away all the subsidies. Restrict the fund balance so that Staff cannot invade it and this way Staff will be forced to make meaningful expense cuts and let them figure it out because they still haven't done so. On May 6, 2020, Staff characterized capital as A, B, and C and identified what was priority and what wasn't. The community wants you to eliminate \$1.2 million in marketing expense and that hasn't been done. He demonstrated how \$1 million was designed to hide smoothing. There is \$2 million in the General Fund that could be eliminated. We also can't afford the hundreds of hundreds of thousands in philanthropic endeavors. Why haven't these been eliminated? We need to hire a consultant to review everything. Please take productive action.

Cliff Dobler said that for 2020/2021 budgets, he supports the money aspects but not the accounting. The level of operating to provide services is acceptable. Too much time and effort was spent on predicting the unknown future. People must realize that Staff levels must be set on a ready to go basis. IVGID does not hire people by loading up a pickup truck at 7 in the morning in front of a 7-11. There is training and there must be stability. Governments are never efficient. Accounting irregularities and internal controls are slowly being addressed. Illegal transfers from the funds will either be addressed by money or another lawsuit. The Utility Fund is truly a mess caused by not restricting money or false and misleading rate studies. An outside independent study of infrastructure will be done and he is honored that the Interim District General Manager has asked him to participate. As the Interim District General Manager has stated the Engineering Department does not have the bandwidth. A major cash infusion will be needed and a future bond will be required. Most important is the capital improvement plan for the recreational venues over the next five years as this is truly where the rubber meets the road. The plan addresses taking care of what we have and is well thought out. It is not gallivanting into \$25 million dollars of unnecessary projects like Parasol and the Diamond Peak summer amusements and ignoring existing facilities. Over \$28 million will be infused into these venues and while this amount may seem immense, it can be accomplished with the existing excess reserves and keeping the Rec Fee the same and adjusting the allocation to get more money to the Beach Fund. People must understand and appreciate the size of the real estate and the complexity of the District's venues. Parking spaces alone are in the thousands,

over \$8.4 million is planned for paving replacements and there is another \$6 million to replace equipment however we will get a new Burnt Cedar pool, a new Incline Beach building, new Tennis facility and substantial upgrades to the Rec Center. The Incline Beach building is a priority but mistakenly is not in the plan but should be. His thanks to Trustees Dent, Callicrate and Schmitz for gaining control and doing away with the horrible past five years. They hung tough and voted no on the ridiculous proposals offered up by the Wong regime. If they stick together over the next five years, the capital plan will be completed and a majority of citizens will receive what they ask for. Special thanks to the Interim District General Manager who has spent several hours with him to listen and this five-year plan accomplishes that. After this plan is implemented, new stuff can be discussed but not until then.

Joe Wolfe passed on his opportunity to speak.

Joy Gumz said that she was unable to call in again so she is going to comment now on the Recreation Fee. She would like to address the Trustees before you vote for the budget and asked if you are aware of the potential personal use of funds. Do you think that those who pay the Recreation Fee know that it is so you have end of season parties? Ms. Gumz then listed off several events that took place at Ski and commented that the public was not invited to these events. Did you know that Washoe County has a \$2,500 limit on light meals and refreshments spending and that's for the entire fiscal year and that their ordinance dictates when it can occur; generally public functions. This is the tip of the iceberg and yes it is going on in the current fiscal year. IVGID is a limited powers special district local government under Nevada law as a quasi-municipal corporation created until NRS 318. The District doesn't have home rule; let her repeat that – the District does not have home rule that means the District cannot provide a business expense reason such as employee recruitment and retention. Please don't ask H&S for an opinion as they are not impartial or unbiased.

Frank Wright said that he is a candidate for the Board and that he is not going to repeat what others have said but rather focus on capital. Do the ones that are necessary and put everything on hold through this pandemic to see where we are going to be. We need to understand where we are going to and in listening to the previous lady, we have been saying this for years. There are tons of waste and we can't be wasting all this money. We want to do the right thing so why waste money before we know where we are going. Clean everything up as there is no rush.

Hearing no further comments, Chairman Callicrate asked for a motion to close the public hearing. Trustee Wong made a motion to close the public

hearing; Trustee Morris seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

**D. REQUIRED PUBLIC HEARING ON THE REPORT FOR COLLECTION OF RECREATION STANDBY AND SERVICE CHARGES, FISCAL YEAR 2020-2021 (this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)**

Trustee Wong made a motion to open the public hearing on the Report for Collection of Recreation Standby and Services Charges, Fiscal Year 2020-2021. Trustee Morris seconded the motion. Chairman Callicrate called the question – the motion passed unanimously.

Director of Finance Navazio gave an overview of the submitted materials.

Linda Newman read the following statement:

*I cannot support the District's collection of the Recreation and Beach Facility Fees for fiscal year 2021. As these fees are to be budgeted for the shortfalls in operating, capital expenditures and debt service for our Recreational and Beach venues, the budgeting must be accurate to come up with a dollar figure for these standby and availability of use fees. The budgeting is not in compliance with generally accepted accounting principles and therefore invalid, as it does not comply with Nevada law. Until this Board takes action to account and report the Community Services and Beaches as Enterprise funds, eliminates the double booking of revenues, phony cost of sales allowances and unlawful transfer of money from community services administration to the beaches to create the non-existent revenues from punch card utilization, I cannot support the assessment of Rec and Beach fees. I am in favor of providing all of the recreational and beach facilities, programs and services our property owners use and maintaining them to the highest standards. And I will support them whether or not I use them. But I cannot abide an assessment that does not rest on complete and accurate financial information and accounting and reporting that fails to comply with the law.*

Judith Miller said the rec and beach fee are no longer based on need, they are not required, they are just based on want. We should start looking at Community Services with an eye to need and why are we in this position because one of the challenges to cutting expenses is that we just don't have details on what each individual program or service actually costs that is the needs. For years, citizens have been requesting and candidates have been promising a zero based budget

in which every program or service is required to layout its revenues and expenses in detail together with the number of community members that are served. This doesn't have to happen every year as only the new proposals would need this analysis. Obviously, this will take time so what can we do now. First, give some relief to property owners by cutting the Rec Fee to zero and direct Staff to cut expenses. Two, the pool replacement seems to be a necessary project and she thinks that most people would support the Beach Fee as long as the facility would be for residents and property owners. In recent years, she has been told that the pool is used by various outside groups. There is considerable support for restricting access to picture pass holders or guests accompanied by them. That used to be the rule otherwise please raise the daily beach fee for those not accompanied by a pass holder to \$30 per adult beginning July 1 so that the decline in revenues that are forced upon us by the Governor would offset the reduced capacity by this increased fee. Third, in the coming year, IVGID needs to do what it promised and that is to give the property owners and residents a chance to prioritize all those projects from the various master plans. Give them the best estimate of costs and let them decide what should come up to the top. Up until now, you have been taking your best collective guess or caving to special interests. Four, immediately start the process of developing a zero based budget for 2021/2022 as that does take some time. That way if there is another closure Staff will be better equipped to make cuts where they make sense.

Mike Abel read the following statement:

*May 19<sup>th</sup> Sara Schmitz comes to the meeting having done her homework and you all have the audacity not to agree to her proposal to cut the rec fee.*

*All of this.....*

*In the middle of a financially devastating epidemic*

*With most of our facilities closed or partially closed.*

*With unemployment at depression levels.*

*With people struggling to pay their bills.*

*With mortgages and rent unpaid.*

*With businesses in our town going broke.*

*With IVGID management sitting pretty with no threat to their tenure.*

*With Indra protecting his fellow employees with a fat payroll budget*

*With ludicrous "virtual fitness training" being paid for by the taxpayers*

*We do not need "virtual fitness training" or a \$1 million remodeled tennis center.*

*We need the board to tell management to cut payroll, cut expenses, and cut our un-needed rec fees by at least 30%. How insane is it to charge a full rec fee when the rec center is closed. Next year (God willing) there will be a functional cure or a vaccine for this virus and all of our facilities will be operating at full tilt.*

*Then you can have a \$830 or even a \$1000.00 rec fee – but not now. Right now the correct thing is to give the taxpayers a break. Furthermore – You as Trustees, must attest to the following statement when approving the rec fee....  
Quote: The Trustees find that the owners of the parcels set forth herein are directly benefited in a fair and reasonable way for the sums which are charged. I also do not think that you have any idea of the storm of protests and law suits that is going to hit this board if you do not cut the rec fee. Plans are already afoot already. I can assure you that I will participate in a suit against IVGID for that portion of my rec fee where I have been deprived of service.*

Margaret Martini read the following statement:

*Last meeting, General Manager Winquest wanted the Board to approve a combined Rec and Beach Fee of \$830 so the District could collect a total of more than \$6.5 million in fees from property owners as an availability of use and standby service charge for our recreation and beach venues. \$6.5 million is a lot of money from property owners who must also pay property taxes as well as additional fees to use all our facilities, programs and services. With the exception of entry to our beaches. I have a problem with this large amount of money being collected from our property owners during these tough economic times. Although I can support \$500 being collected for our Beaches to provide funding for a new Burnt Cedar Pool, as long as \$2 million for construction of the pool is committed and a time line for completion is provided, I cannot support \$330 for the Rec Fee. For many years, this District has collected more than \$280 to service bonds that matured in 2013, 2014, and 2018. That money was supposed to be used for capital projects - yet none of that surplus was actually committed to those projects. The Community Services Fund currently has a large surplus above its appropriate fund balance. All of that surplus should be committed to capital projects before an additional \$ is assessed on our property owners. In addition, part of rec fee is being collected to transfer to the beaches for "punch cards utilized" there. The rec fee is only to be collected for the recreational venues and cannot be used at the Beaches. Our Rec Fee is also being collected to transfer money to the General Fund to cover the General Fund's overspending. That, too, is unacceptable. Every day I learn of expenditures made by the Community Services Fund that have nothing to do with providing recreational facilities and services to our property owners. Until we have a forensic audit of this fund's actual revenues and expenses, and a legal review of its compliance with all Nevada laws, I oppose this District assessing a Recreation Standby and Service Charge.*

Frank Wright said he is a candidate to the Board and that he hopes you are paying attention to what he is saying tonight. First of all, he is kind of dismayed that we have the same legal representative so he will ask the question, he won't have the answer and he hopes that the Board members ask this question before you vote on this Recreation Fee. First of all, he would like to ask the question to a competent legal entity - is the rec fee assessed by parcel or is it assessed by dwelling unit. Every time he sees a Recreation Fee being assessed, you are saying you are delivering a service to the property owner, well, if it is a property than that property owner would pay a Rec Fee. If you are assessing it to dwelling units on a property, then you are saying all the people that are living on that property are paying the Rec Fee and if that is the case, that's fine. But a Recreation Fee has to be uniform and assessed equally among the residents of this community. By assessing it by property, yes, that is even. If you are assessing it by dwelling unit then it is anything but even. Some parcels have 420 dwelling units, some have 1, some have 75, now, are you assessing all 420 dwelling units on one parcel, heck no, that is the Hyatt and they pay one parcel fee, that don't pay a dwelling fee. SNC pays one Rec Fee and they have 100 dwelling units that are student apartments. When you go to the Southwood apartments, there are 75 dwelling units on one parcel and they pay 75 Recreation Fees. There you go, it is not assessed equally. If you pass this, you are violating state laws for equality and consistency. Some people are paying others bills, such as him with one dwelling unit, we are paying the Hyatt's bill and SNC. Why should we subsidize them without our permission as this is a fee that should be assessed equally. Now he asks you to ask your legal counsel and watch him stutter. Then he asks you to ask the next legal counsel when he comes in. Before you pass this rec fee make sure you are assessing it.

Aaron Katz said he was cut off. On March 1, 2013, a 2003 \$5.5 million Recreation Bond was retired. Before it was issued, the Board promised the community that when it was retired, the Recreation Fee would be reduced by the amount of the servicing cost because it was no longer required. Yet Staff and the Board continued to report the Rec Fee as paying for this bond even though it was retired and when the truth came to light, they refused to reduce the Rec Fee. Then on October 1, 2014, a 2004 \$4.445 million dollar Recreation Refunding Bond was retired and again the Board refused to reduce the Rec Fee by the sums budgeted for that bond and the community was and is outraged. Back in 2015/2016, the Board Chair voted against an \$830 Rec Fee and then he voted against it in the next year and then Trustee Dent came on the Board and the two of them for years 2016/2020 voted against the \$830 Rec Fee and the reason being is that smoothing had used up the excess funds and the District was violating its promise to the community. Well, now we have a third Trustee willing to do the right thing and reduce the Rec Fee but all of a sudden, Trustee Callicrate and Dent have gone to

an about face and he doesn't understand why. He can understand the motivation to change the allocation for the Beach Fee to build up a balance however the premise is wrong because you are speaking about a beach house project and get this the community doesn't want it Chairman Callicrate and you don't know that it does want it and the only way you will find it is if you ask the community. And when you ask them, you need to ask them the truth – are you willing to pay \$600 per person more just to have a restaurant constructed that is going to cater to outsiders and he predicts you are going to get a no answer and before you get any answer to increase the Beach Fee anticipating it, is totally wrong. Moreover, the beaches are private as that is what Trustee Wong told us a couple of meetings ago and that is what you told us Trustee Callicrate at the last meeting and if they are private, developing any beach house project on the beach violates NRS 318.0105. Finally, you need to adopt a policy for people to seek a refund of the Rec Fee. Your resolutions say there is a right of refund but you can't do it under the current regulations so modify the resolution to allow a pathway for people to seek refunds just like you have it in Ordinance 7.

Cliff Dobler said that he and his wife have been here for 25 years and during that time, we and our children have used all the recreational facilities in abundance. We live in a beautiful home that we maintain to a very high standard of care and that care takes money. There are certain citizens that want the facility fee reduced so let me provide some facts. Governments are inefficient and we all know that. IVGID is a government and it owns and manages our recreational venues. In the past, as facilities were expanded, many promises were made. The Rec Center was to break even, never happened. The rehab of the Championship golf course and the new Chateau would break even, never happened. All community program was to break even, never happened. After bonds were issued to pay for new facilities, when repaid, the facility fees were to be reduced – never happened. Governments make promises and often those promises change or are not kept. New Boards and management keeps changing and everyone wants new stuff but seldom wants to pay for it. There are three things that are certain – the citizens of Incline Village and Crystal Bay want and believe no increase in the Rec Fee and take care of what we have first before any new facilities are considered and most citizens consider the facility fees to be reasonable. The facilities fees have stayed flat for ten years and we have paid approximately \$6.5 million per year with an average of \$2.5 million being budgeted for operations and the remaining \$4 million was for capital and bond payments. Over the five years, two major events occurred – support for the operations were never needed as Diamond Peak had stellar performance which offset the losses at other venues. Bond payments were drastically reduced as bonds were paid off. The results were simple – a massive increase in excess reserves which, as of June 30, will exceed policy by almost ten

million bucks but at the same time, control of the Board was in the hands of big spenders who were willing to overlook taking care of what we have and instead embarked on attempts to borrow large sums of money and use the excess reserves for a massive expanse of new unwanted facilities. That attempt wasted over millions of dollars in consultant fees and plans. We now have three Board members along with the Interim District General Manager whose goal it is to take care of what we have which requires a solid five-year capital plan of \$28 million. Because the existing facilities were neglected for so many years, the annual facility fees must be kept at \$830 and the excess reserves used in order to complete the plan. It takes money. The big spenders' projects are off the table. Approve the fees and commit the funds.

Hearing no further comments, Chairman Callicrate asked for a motion to close the public hearing. Trustee Wong made a motion to close the public hearing; Trustee Morris seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

**E. PUBLIC COMMENTS\***

Linda Newman read the following statement:

*This Board packet is an exceptionally bad beginning for the exceptionally difficult year ahead. Although it is packed with pages and pages of information, there is a deficit of accurate information and no foundation for any one to validate or fact check the financials and the narratives provided. This must end and it must end now. You as a Board are not only responsible for a financially sound budget, you are also responsible for protecting our health and safety during this pandemic, as well as ensuring the safety of our water and sewer infrastructure, and the financial sustainability of our utility fund. Look really close and you will see the fault lines in the overall budget, the lack of planning and funding for the 6 miles of effluent pipeline and the lining for the effluent pond as well as the insufficient funding for operations and emergencies. Operational and Financial Management of our utility fund and capital projects has been abysmal. This needs to change and it needs to change now. The fault lines are emerging across the entire district. We have an inexperienced interim General Manager who has never been a General Manager before and he is in charge of shepherding us through a black swan called a pandemic. He needs Board direction. Our new Director of Finance does not have a CPA and is unfamiliar with our Business Activities and apparently unfamiliar with compliance with GASB statements and Nevada law. We need outside independent experts now to help with financial and operational management. We have General Counsel*

*services from a lawyer and law firm you terminated. Their legal services must end. They have cost us hundreds of thousands of dollars of unnecessary litigation and expenses related to their incompetent legal advice. ALL Public Records are still unattainable. The law requires you provide public records. This is not a matter up to staff's discretion. Please ensure that all requests are fulfilled without further delay. This is just the beginning of an impressive list of defects which also include major problems with our district wide software and information technology. You must take charge now. No one else will or can do what you were elected to do.*

Mike Abel read the following statement:

*I have been fighting mismanagement at IVGID for 10 years. In 2009 I went to a Board meeting to protest a "preferred vendor" contract for snowboard and boot services at Diamond Peak that was to be awarded to Burton. The DP/Manager at that time, Brad Wilson spoke glowingly about the extra services and training that Burton offered. The great Gene Brockman brushed aside my protest and the board voted aye for the contract. I thought nothing more about the issue. Then in mid-February 2010, just a few months later, I had a safety concern that I felt compelled to discuss with Mr. Wilson. I was shocked to be told by the staff (in the heart of ski season) that Brad was at the Winter Olympics in Vancouver. I finally put 2 + 2 together and figured out the IVGID way. Brad got a complementary trip to the Vancouver Olympics - In return for delivering the Burton contract. Now maybe I am an untrusting suspicious jerk and Brad did not get a freebee. But, I have seen scores of similar things at IVGID over the last 10 years to convince me that I am sane and that the staff and management of IVGID see the treasury as a giant slush fund to raid as they please. Now is the time to rein in the budget and cut the rec fee.*

Frank Wright said he is a candidate for the Board. Please do something to stop the spending, please figure out that this rec fee needs to be adjusted it is fair to everybody so the rec venues are paid for by those that use it. Turn it back to what it was meant to be which is for our use. He doesn't use the beaches, nor would he if he could, they are too crowded and they are full of people that are not from here, using money that he is paying as others and they are chasing everybody off those facilities. Who wants to go to a ski area where there are too many people. What do we do, we have a Marketing Department and advertisement that is off the charts to drag these people here and overrun these facilities. We give buses to the Hyatt so they bring people up. We have a Hyatt sports shop that we lose money on every year. The Board members that are here now realize that we have lost control. The overspending and the way we spend money is for outsiders, stop that and turn it

back to the way it was when he first moved here 43 years ago. It has changed in a very ugly way and that is why he is running for the Board as he is trying to make it better for the people who are paying the bills.

Cliff Dobler said that the Utility Fund has been a major concern of his for several of years and has not been properly administered. Board members have been lied to regarding issuing of contracts and, more importantly, false statements were consistently being made on the amount of reserves. Money obtained for the Effluent Pipeline Project wasn't set aside and restricted and several million dollars ended up being repurposed for other projects. The two Board policies are in conflict thus allowing for misrepresentation of what the actual reserve would be. On February 26, 2020, a utility rate study was presented to this Board by Staff. According to Staff's February 13, 2020 memorandum, Staff was very clever to state compliance with the policies which was based on a projection but never stated at what date the projection was to. Was it the next day or was it twenty years from now. The actual reserves were never in accordance with either Board policy. Staff also stated that as of June 30, 2019, the net position was \$12.5m when it was actually \$77.3m, get that, that statement has no bearing on anything and was made so as to confuse. Most Board members, he would suggest, do not know what constitutes the net position. The honorable and proper approach would have to be state that the unrestricted net position at June 30, 2019, was \$12.5 million and then state that \$11.2 million was set aside for the Effluent Pipeline project and four other projects. Properly presented, the actual reserves were only \$1.3 million which was far below the reserve policy requirements of between four and five million. Staff also knew there were three projects awarded last year which were over budget by \$400,000 reducing reserves even further. These overruns were never mentioned in the presentation. After the presentation, the Board moved to not do any increases in utility rates. He wonders if their decision was swayed by the false information provided by Staff. In this new budget, on agenda packet page 101, that the utility fund estimated capital expenditures for 2020 will only be \$1.5 million however on agenda packet page 56 the estimated expenditures are stated at \$3.5 million by the end of fiscal 2020. This is over a \$2 million difference so please explain to him how this additional money will be spent. This is all real bad accounting and this false and inaccurate reporting is unacceptable. We have serious problems in the Utility Fund which cannot be solved unless proper information is provided by this Staff to this Board. Mr. Dobler then requested that the Interim District General Manager do something about this and there is obvious no controls or reviews over what senior management presents.

Margaret Martini read the following:

*For more than five years this district has unlawfully transferred millions of dollars from the Community Services and the Beaches to the General Fund as Central Services Cost Allocations. The District wants to continue this for another year and the new Director of Finance has a new policy for you to approve in the hope that the District can continue to do so. The new policy is still in violation of NRS 354 and cannot be used to allow transfers from these two governmental funds to the General Fund. Do not approve the policy and do not continue the transfers. The Budget for the Utility Fund is not in compliance with the Board's existing policies. Demand Staff comply with the policy and provide a budget that you can responsibly approve. The District is collecting hundreds of thousands of dollars from payers of our Rec Fee and transferring those dollars to the beaches. Stop this. Approving the Budgets is one of the most important decisions you can make as a Board. It affects everything and everyone in our District. Do not make the wrong decision. Demand that this budget comply with all Nevada laws and Board policies and that the Rec and Beach fee be properly assessed. You must send this Budget and the request for Rec and Beach fees back to staff. You cannot approve it until it does in fact meet all statutory requirements and is factually correct.*

Aaron Katz said that Mr. Dobler cares about staff not telling the truth to the Board, well, he cares about staff not telling the truth to the public. That is your proposed resolution for the Rec Fee and that has a number of findings of fact, unless you have evidence to support those findings, the action is voidable and so far we have heard zero evidence. Mr. Katz said that there are twenty-four misstatements of facts are included in resolution so he wants the Board to deny the resolution and read the misstatements he found.

Judith Miller said before he filed the lawsuit against IVGID, my husband asked me if he should go forward. I had worked in government for over fifteen years and never experienced anything like what was happening here. He tried everything else so I told him I believed it was the right thing to do. It consisted of two parts, one, a declaratory relief action that is one that seeks no money but to have the court make findings on some of IVGID's questionable practices and two, a determination that seeks no money where there are documents that IVGID had refused to produce were public records and one of those was a detailed budget. Instead of dealing with the issues, IVGID launched a character assassination so none of the issues were decided. Judge Flanagan deemed that the budget document was nothing more than a draft and therefore not a public record even though it was the basis for the aggregated budget for that year. The lawsuit was brought in good faith and in the interest of every resident and property owner within IVGID's boundaries. This judge was known for favoring government over the

citizens of Incline Village. His record of repeatedly ruling over Save Our Village Assets about the county property taxes is well known. She watched some of the proceedings and in her opinion, he was extremely biased. You are well aware that IVGID has repeatedly violated both the letter and the spirit of the law. This behavior finally drove Mr. Smith to file his lawsuit over public records. IVGID's sale of public property without Board knowledge led to new legislation to prevent a recurrence. You are also aware that IVGID was lax in providing invoices for legal fees to the Board. In my husband's case, they had reported that the fees were being covered by the POOL so there was no effort to understand the issues or work on any settlement. Ultimately, IVGID asked the court for fees it had never paid. Furthermore, after the POOL removed coverage in 2012, several years went by before any bills were brought to the Board. Fees piled up in both the Smith and Katz lawsuit without the Board's knowledge. She feels certain that if the Board and the public had received regular updates on the status of both of these cases and the fees incurred, we would have never reached this point in either action. Please show the community that this Board wants to move forward, rebuild trust in IVGID, support transparency and work with, not against citizens, to make IVGID better and this disturbing pattern of punishing citizens for seeking the truth and exercising their right to petition. The Board is charged with making a decision, not the District's attorneys or IVGID staff.

Joe Wolfe said he had three things – Item I.4.: please do not cave in to Mr. Katz, Mr. Katz has been wrong every time, Mr. Katz has been upsetting everyone in the community, and IVGID has won every case – ignore Mr. Katz. Mr. Dobler is correct, he is tickled pink to pay the \$830, it is all wonderful. Played golf today on the Championship course and it is in the best condition ever - the staff and crew should be congratulated.

Yolanda Knaack said she is a candidate for the Board, thank you for pursuing fixing the effluent pipeline, putting the liner on the pond, and also fixing the BC pool. She is concerned about the whole COVID-19 environment, the state is talking about increasing taxes, county is taking about doing the same, be careful on the projects and do those that are only necessary or for safety. Because the pond, pipeline and pool are critical to our environment, they should be top priority and back off on other things.

Chairman Callicrate, at 7:24 p.m. called for a break; the Board reconvened at 7:35 p.m.

**F. APPROVAL OF AGENDA (for possible action)**

Chairman Callicrate asked for any changes; receiving none, Chairman Callicrate said that the agenda was approved as submitted.

**G. DISTRICT STAFF UPDATE (for discussion only)**

**G.1. Interim District General Manager Indra Winqest**

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

Trustee Schmitz, referencing agenda packet page 4, asked for a brief update on the United States Army Corps of Engineers (USACE) status and the United States Forest Service (USFS) parcel acquisition and if those are progressing on dual tracks and one other request is that Trustee Schmitz said that she believes that the Interim District General Manager used his spending authority to purchase cameras at the beaches that were needed and that she would like that included as part of his written report. Interim District General Manager Winqest said that he will work with Information Technology to get accurate information and will try and keep the Board updated. We have heard nothing further from the USACE and Staff is in constant contact with Mr. Faust. There has been a delay, due to COVID-19, and while he understands the frustration, he did forward the Board an e-mail from Mr. Faust regarding Congressman Amodei's bill. Staff is still working on the special use permit and we are following parallel paths but, with COVID-19, we are hoping that the restrictions will be lifted soon and that we can get going.

**H. REPORTS TO THE IVGID BOARD OF TRUSTEES\***

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

Nothing to report at this time.

**H.2. Board Treasurer Sara Schmitz**

Trustee Schmitz reported that she had a great meeting with the Controller and the Director of Finance and that we have been reviewing the monthly financial reports. Those reports, that are posted on the website, include all the revenue and only include operational expenses. Our Director of Finance

and his team are working to reformat those reports, starting July 1, so they will be a total picture to include numbers on debt and capital projects. We are also working on a Treasurer's report to post to the website and they are going to get for her, on June 16, a monthly wire report and a monthly procurement report. Her first goal is to have monthly financial statements that are comprehensive versus operational and reporting revenues.

### **H.3. Audit Committee Chair Matthew Dent**

Audit Committee Chairman Matthew Dent said that the Audit Committee met today at 4 p.m. and that the first thing they covered was the engagement letter with Eide Bailey and that the committee had a few changes to make to that letter and then we moved forward with that engagement letter. The second item was related to communications and the committee received five communications since April 2, 2020 and we have decided to put them on the agenda and some of the issues we are hearing every year and some are new; we are working through these and we discussed some of those with Staff who are going to be addressing them at the next meeting with a status update. We also have had the attorneys look into some of these communications, with Dillon's rule, which has bothered him over the years and we are working on getting a response even if they disagree so we can put them to rest and put them behind us. The third item was an update on the Audit Committee transition plan on Policy 15.1.0. We sent out a notice on May 22, 2020 requesting individuals to submit and they have until June 1, 2020 to get their information so please do that. The last item was setting a new Audit Committee meeting date and we will do that during the item on the long range calendar.

## **I. GENERAL BUSINESS (for possible action)**

### **I.1. Review, Discuss and Possibly Approve Fiscal Year 2020/2021: Budget, Capital Improvement Project Budget, Recreation Facility Fee, Beach Facility Fee and Central Service Cost Allocation (Requesting Staff Member: Interim District General Manager Indra Winquest)**

Interim District General Manager Winquest said that we have had lengthy discussions with a lot of work done by both the Board and Staff. He would like to thank the Staff for everything they have done to dig in to their budgets. Further, he would like to assure the community that our Staff and team are going to manage to whatever

the situation is as we fully understand that it is our responsibility to manage the resources we have been given and to work diligently to make sure we manage the District's operations, facilities, etc. such that is fair and equitable to everyone and that he looks forward to starting out on a positive note. Chairman Callicrate said, for full disclosure, the Board needs to read the four subsets and that we will take each one independently; Chairman Callicrate then read each subset.

#### **I.1.a. Revision to Policy 18.1.0 Central Services Cost Allocation Plan**

Trustee Schmitz said that she did not recall as to whether the Board made a decision to vote to approve this year's two million dollars collected [for the Effluent Export Project] would be restricted; she doesn't recall how we handled it. Interim District General Manager Winqest said that we have not officially done that action for the money collected in the forthcoming year. Chairman Callicrate said we did restrict over nine million dollars and that we do need to agendized that action so it is put into the budget. Trustee Schmitz said that she is very concerned about the financial status of the Utility Fund and that this is one of the things that she has spoken to Interim District General Manager Winqest about and that perhaps we should remove the Central Services Allocation coming from Utility and look at the General Fund especially if we are going to consider the aforementioned restriction as this is something else that we should be looking at doing as part of the budgeting process. Director of Finance Paul Navazio said there are a number of things that could be looked at as Staff shares the same general concern and the standing financial condition of the Utility Fund especially because of capital projects. He would also note that one of the changes that Staff has made is that we have allocated funding to the rate study and analysis that is needed. He doesn't think there is action needed through the budget because that is something that Staff would do in the financial statements as this is funding for next year. Staff concurs with the Board's action to restrict the \$9.8 million dollars and the Board's desire to continue to restrict the funds for the project. We do end up with an unrestricted fund balance that is below the Board's policy and we need to bring this policy back to the Board. The Utility Fund remains quite solvent as Staff is not planning to encumber the pipeline monies and that he thinks there is a glide path for getting the fund where it needs to be.

He doesn't see a need this evening to modify the Utility budget however that's up to the Board. Trustee Morris said, with regard to transferring funds, the Utility Fund is a special fund until itself so is it possible to transfer from the General Fund to the Utility Fund? Director of Finance Navazio said it is his belief and understanding that this Board has full discretion with General Fund dollars versus where you have the restrictions in Enterprise and Special Revenue Funds. Through the Central Services Allocation, there is a charge to the Utility Fund of \$398,000 that in theory if wiped out would provide some funding however it doesn't address the shortfall in its entirety. It is appropriate and common practice to ensure that all of your funds are covering the costs of the function and removing it would result in a General Fund subsidy to the Utility Fund although it is not contemplated this evening. Trustee Morris asked, for the services done on behalf of Utilities, are they allocated fairly or is this the rule of unintended consequences. Director of Finance Navazio said he has two slides that could hone in on this if Chairman Callicrate is okay with him sharing them. Chairman Callicrate said yes, he can share, if it can help us tighten this up. Director of Finance Navazio went over agenda packet pages 27 and 28 that were in the May 27, 2020 packet. Trustee Wong said, on this subject, we have traditionally addressed this when we have addressed the rate increases and since we have already agreed that we would like to readdress the rate study perhaps that is when we can address this instead of adjusting the budget. Chairman Callicrate said thank you for bringing that up and we can certainly look at this again.

Trustee Morris made a motion to make a revision to Policy 18.1.0 and approval of the Central Services Cost Allocation Plan for Fiscal Year 2020-2021 allocating a total of \$1,471,440 in costs from the General Fund to the Utility Fund, Community Services Funds and Beach Fund. Trustee Wong seconded the motion. Chairman Callicrate asked for any further comments, receiving none, called the question – the motion was passed unanimously.

**I.1.b. Review and adopt the proposed Recreation Facility Fee of \$330 per parcel/dwelling unit and the proposed Beach Facility Fee of \$500 per parcel/dwelling unit;**

Director of Finance Navazio went over agenda packet page 104.

Trustee Schmitz said that she believes at the Board's May 19, 2020 meeting that the Board had requested to have the capital broken out so our community members could see where we have that money budgeted. Director of Finance Navazio said that is a good question and that what Staff has done is, drawing attention to agenda packet page 106, because capital is now \$533,000, we have actually allocated, somewhat arbitrarily to Community Services Administration, \$90,000 at the Recreation Center and that the balance in that fund at the facility and all others is that the capital would be funded from the fund balance and that it is the allocation to the projects that got us to that number. Trustee Schmitz said so we are not cancelling those projects but rather drawing down the fund balance to execute next year's capital project plan.

Trustee Morris made a motion to adopt the proposed Recreation Facility Fee of \$330 per parcel/dwelling unit and the proposed Beach Facility Fee of \$500 per parcel/dwelling unit. Trustee Dent seconded the motion. Chairman Callicrate asked for any further comments.

Trustee Schmitz said that on May 19, 2020 she was the only one that didn't support and that she would like to take a moment to explain her logic; Trustee Schmitz then read the following statement:

*My analysis of the May 19<sup>th</sup> workshop packet, which lead to my recommendation to reduce the combined Recreation and Beach fees below the current combined amount of \$830, was based on incomplete data in the packet. The pages that contained the fund balance analysis were missing about \$2.5M of carryover project costs. Adding these costs and the costs for the Ski Way project, which is contained in the 5-year plan but was excluded in the fund balance analysis in the packet, along with the majority of the Board's desire to increase the Beach fee to \$500 and reducing the Recreation fee to \$330, results in a significant draw down of the Community Services excess fund balance. After updating the numbers to contain complete capital project information, the \$330 recreation fee is needed to maintain the funding of operations and capital improvement projects. To summarize, to fund the beaches with \$500 for next*

*fiscal year, the \$330 is needed to deliver on the 5-year capital improvement project plan.*

Chairman Callicrate asked for any further comments, receiving none, he called the question and the motion was unanimously passed.

**I.1.c. Review and adopt the Incline Village General Improvement District Final Budget as prepared on the State of Nevada Form 4404LGF; and**

Director of Finance Navazio went over the submitted materials.

Trustee Schmitz said that we don't have the transmittal letter. Director of Finance Navazio said that there is a requirement for a letter of transmittal and that it will be the eight-page Board memorandum (agenda packet pages 13-19) that you received and that provides the budget highlights. It will be reformatted into a letter that would serve as a letter of transmittal. Trustee Schmitz said, under budget highlights, that \$54 million does not match what is on agenda packet page 39 and that the numbers don't match up as this isn't revenues but fund balance plus revenues. Director of Finance Navazio said this is really the District's sources and uses of funds and that the change in fund balance would be the net position at the end of the year. If it is okay with the Board, it would appropriate and illustrative to separate from the revenue column as the State requires the District to report the source of funds which is made up of revenues and fund balances. The expenditures are accurate and the change in fund balance, he would need to take a look at; all revenues are revenues and fund balance. Trustee Schmitz said so \$54 million is fund balance and revenues. Director of Finance Navazio said it is sources. Trustee Schmitz said it doesn't match agenda packet page 39. Director of Finance Navazio said that the reconciliation is on agenda packet page 22 and that we have gone over this several times. This budget memorandum was intended to be reformatted as the transmittal and that he will gladly separate and relabel as they do tie out to the detailed budget and the State forms.

Trustee Morris made a motion to adopt the Incline Village General Improvement District Final Budget as prepared on the State of Nevada Form 4404LGF. Trustee Dent seconded the

motion. Chairman Callicrate asked for further comments, none were received, so he called the question and the motion was passed unanimously.

**I.1.d. Review and adopt the Incline Village General Improvement Fiscal Year 2020/2021 Capital Improvement Project Budget**

Director of Finance Navazio went over the submitted materials.

Chairman Callicrate said that he didn't see the beach house for Incline Beach in the five-year plan and asked if it was inadvertently left out. Director of Finance Navazio said that there is no specific funding or project and that there are only some planning dollars however with the setting of the Beach Facility Fee it will result in a fund balance for the new and improved Burnt Cedar pool and the Incline Beach house. It is identified as a Board priority project and Staff will be building it into the multiple year plan as soon as we have a plan, scope and budget as presently it is just a placeholder. Chairman Callicrate said it is critical to have it in there and drawing down the reserves in Community Services. It is his thought that we need to, even if it is as a placeholder, to recognize and restrict the Beach Fund for capital projects. This Board had quite a discussion and so they don't get waylaid by a future Board, we need to make it clear, to the community, what this is for. Director of Finance Navazio said that the placeholder is the Incline Beach Facility Replacement Project and that Staff doesn't have a design or construction built in yet. Trustee Schmitz said that she agrees with Chairman Callicrate and that we should just not commit to capital projects but to specific capital projects and just not to the beaches. She doesn't know how and when we go about that but that it is an important thing to do as a Board so the community understands we have committed. Chairman Callicrate said that this Board has discussed that at length and that we need to make restrictions so people are fully aware what money is going towards what without specifics. We don't need to do this tonight but at the next opportunity we need to do it and soon. Director of Finance Navazio said that he supports that notation and that at this point it is the Board's intent. Staff does need to come back with the specifics which include the terms of the formal action and collection. We understand that it is the intent and Staff will work to agendize it appropriately. Interim District General Manager Winquest said that we haven't started collecting this money, not going to try and push to spend this

money for any other projects, and we will restrict the funds when that time comes. Regarding the placeholder, we went back and forth on this topic and we have had discussions about this and not putting placeholders in this budget. Staff took those out and we have gone back and forth on this with our team and it is our expectation to have some type of budget workshop to lay out everything in the Beach Master Plan. We can then determine things that are no longer wanted and decide what we are going to do and put a dollar amount to that. We would then start restricting the fund balance to those projects to show our community what we are doing with their money. Trustee Schmitz said that she wants to do this on the Community Services projects and on agenda packet page 97, Staff still has the Burnt Cedar pool at \$2.7 million dollars and that she believes that this number has been revised down to \$2 million dollars so do we change this or what is the game plan? Director of Finance Navazio said we can make that change but we don't have a solid number. The consensus is that \$2.7 million is not the right number and if there is a direction from the Board it would go into the 2022 budget. Trustee Dent said that he agrees with the approach other than the \$100,000 and that in July, we can address some of this stuff. Director of Finance Navazio said yes, that is one of the opportunities.

Trustee Morris made a motion to adopt the Incline Village General Improvement Fiscal Year 2020/2021 Capital Improvement Project Budget. Trustee Dent seconded the motion. Chairman Callicrate asked for any further comments.

Trustee Schmitz asked if we needed to make the modification for the Burnt Cedar pool. Director of Finance Navazio said that it doesn't impact the budget form and the appropriation for next year. There is a reporting requirement in July and that Staff can address it there if that is the pleasure of the Board.

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

- I.2. Review, Discuss and Possibly Adopt Resolution Number 1879: A Resolution Approving the Report for Collection on the Washoe County Tax Roll of Recreation Standby and Service Charges, Fiscal Year 2020/2021 (Requesting Staff Member: Interim District General Manager Indra Winquest)**

Director of Finance Navazio gave an overview of the submitted materials and made one correction under II. on agenda packet page 114.

Trustee Schmitz, referencing agenda packet page 108, said that in the resolution it talks about dwelling units and the equitability of that. She wanted to make a recommendation that the Director of Finance write up an explanation on the punch card accounting, with beach access or not and that the punch card accounting is not transferring money to the beaches for those without beach access as that would calm the concerns of some people. When asked a question about appearance during a virtual meeting, District General Counsel Alex Velto said that appear doesn't mean physically and if they the Board would like to clarify they can say appeared virtually as that works. Chairman Callicrate said that an explanation to the community about punch card allocation would help. Director of Finance Navazio said that Staff will provide some explanation on these items and that he needs to do some research on some items.

Trustee Morris made a motion to adopt Resolution Number 1879, with the addition of the edits as discussed tonight, to include consideration of any comments or protests made at the hearing held May 27, 2020, a finding of the equity of the report, a finding on the completeness of the report including any actions that may revise, change, reduce or modify any charge therein, and sets for the collection of Recreation Standby and Services Charges (also known as the Recreation Facility Fee and Beach Facility Fee). It further states findings of benefit to the parcels covered thereunder, and fair and reasonable basis for the sums to be charged. Trustee Wong seconded the motion. Chairman Callicrate asked for further comments, receiving none, called the question – the motion was passed unanimously.

- I.3. Review, discuss and possibly adopt Resolution Number 1880: A resolution of intent to transition to Enterprise Funds for Fiscal Year 2021/2022 (Requesting Staff Member: Director of Finance Paul Navazio)**

Director of Finance Navazio gave an overview of the submitted materials.

Trustee Morris made a motion to adopt Resolution Number 1880 which establishes the District's intent to initiate the process to transition the Incline Village General Improvement District from use of Governmental Fund type - Special Revenue funds to use of Proprietary Type - Enterprise funds for the District's Community Services and Beach funds beginning with the FY2021-22 budget. Trustee Wong seconded the motion. Chairman Callicrate asked for further comments, receiving none, called the question – the motion was passed unanimously.

Director of Finance Navazio thanked the Board and Staff and said we still have a lot of work to do and that he is looking forward to continuing to advance this. Chairman Callicrate said he would echo that and to the entire team and the members of the community to share their expertise. We are not perfect but we are working towards getting things in a much better way. We are well on our way and now the hard work really starts. Trustee Schmitz said that she wanted to request, at the Audit Committee, that we discuss as to why the change was made as it was rather lacking and that she asks this for the sake of future so that Staff could document it so future Board's wouldn't second guess it. Chairman Callicrate said that he didn't want to have future Boards to have to re-do something and that we can put that up on our website and that it should be something like a frequently asked questions in order to help with the issues in the future. Trustee Dent said that is a great idea and that Staff should contribute too because one example is with Dillon's rule as he remembers addressing it ten years ago and you remember addressing it twenty years ago so let's document that and have the right information in front of them.

**I.4. Review, discuss and possibly take action on a settlement offer received by the Incline Village General Improvement District from Mr. Aaron L. Katz as submitted by his attorney Richard H. Cornell with an expiration date of June 2, 2020 (Requesting Staff Member: Interim District General Manager Indra Winquest)**

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

Trustee Morris said that every court decision has been made in favor of the District and we have continued to do the right thing. We have spent more money than consideration so let's reject this settlement offer. Chairman Callicrate asked if the Board was able to discuss the actual dollar amounts. District General Counsel Velto said yes because it is in the packet you are able to discuss what the letter contains. There is not a clear statement but you are able to discuss the contents. Chairman Callicrate said that is his point and that he doesn't want to belabor this point but that there is no actual dollar amount listed and that he doesn't want to do something that is out of legal opportunity. District General Counsel Velto said there is no legal reason why you can't discuss what a potential settlement would be to gauge the Board's intent and that if you could avoid discussing a certain number, it would be helpful. Chairman Callicrate asked the Board what it wants to do. Trustee Schmitz said that one of the things that she thinks is represented is that IVGID didn't incur a cost from the POOL/PACT so do we have to pay back the POOL/PACT? On agenda packet page 123, Mr. Katz has to submit to the U.S. Supreme Court his petition before or on June 2 and is she reading that incorrectly? District General Counsel Velto said that is how he reads it as well and that he hasn't checked the deadline but he has no reason to believe that it is inaccurate and that he thinks that analysis is correct. Interim District General Manager Winquest said that he can explain; from what he can remember, we have nothing definitive from POOL/PACT and that the District has incurred somewhere around an additional \$250,000 however that is an estimate as he doesn't want to make a false statement. Chairman Callicrate said he doesn't see an actual offer number and because we are discussing this in public, shouldn't there be some kind of a number of what Mr. Katz is offering. District General Counsel Velto said that all that the community needs to see is the offer and that your confusion is enough as the letter identifies certain amounts of money and that it is up to the POOL/PACT to decide that this was the amount of attorney fees they spent so there is no second guessing on what was spent by them. Chairman Callicrate said that this is a little bit of a tightrope.

Trustee Morris made a motion to reject the settlement offer submitted to Mr. Beko by Mr. Cornell [Mr. Katz's attorney of record] as included in the Board packet. Trustee Wong seconded the motion. Chairman Callicrate asked for further

comments, receiving none, called the question – the motion was passed unanimously.

**J. APPROVAL OF MINUTES (for possible action)**

**J.1. Meeting Minutes of Regular Meeting of May 6, 2020**

Trustee Schmitz said that she has not had an opportunity to review the revised ones yet. Chairman Callicrate said he hasn't been able to review them either and asked that they be resubmitted at the next meeting.

**J.2. Meeting Minutes of Special Meeting of May 7, 2020**

Chairman Callicrate asked for comments, none were submitted, the meeting minutes were approved as submitted.

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

Chairman Callicrate congratulated Trustee Wong and her husband Ethan on the birth of their baby girl and said it was an exciting time and offered best wishes.

Trustee Schmitz reminded the Board that she has received feedback from Trustee Wong on the Board of Trustees handbook and that if any other Trustees have any other feedback to please get that to her by Friday.

**L. PUBLIC COMMENTS**

Cliff Dobler said Trustees, does the law provide the citizens the right to obtain public records. Do you, as Trustees, allow your Staff to break the law. Six hundred and seventy-two days ago for all correspondence between the USFS, TRPA and IVGID regarding the Diamond Peak Master Plan application. Six hundred and thirty-six days ago he made a public records request for all correspondence from February 2018 between the Army Corps of Engineers and IVGID regarding the Effluent Pipe. Three hundred and fifty-seven days ago he made a public records request for all correspondence between Terracon and IVGID regarding the Burnt Cedar pool. I have received nothing. At first, he was told he would have to pay for the request which he would not as the premise used by IVGID was inaccurate. Then he

was told by Staff that an actual delivery date would not be given until he would pay the deposit; he would not bow to such an answer. Two hundred and sixty days ago he was told by the Interim District General Manager that he told Staff to fulfill his request and that there would be no charge. Two hundred and fifty-two days ago Staff told him that he would receive a response to his request by the end of October last year which did not happen. Two hundred and nine days ago he was told by Staff that he would receive a response to his request for documents by the end of December which did not happen. Two hundred and nine days ago he suggested to Staff to do one request at a time and he never received a response. Approximately two months ago, via a telephone call he told the Interim District General Manager that he had not received any of the three requests and he stated he would look into it. He never responded. He recognizes that the public records he is requesting have to do with three capital projects which are quite controversial and he knows that IVGID staff has concocted misinformation about the projects. His requests are necessary to find the truth and correct the misinformation that each of you knows and be better informed. So what should he do? Does he sue IVGID and request the courts force you to provide the public documents and should he include in the lawsuit that IVGID is suppressing vital information or should he continue to accept broken promises and keep being played by IVGID staff for being a fool; he has made his choice and what is your choice – he wants the requested public records in the next thirty days.

Linda Newman said that she wanted to thank you all for a very well run meeting, appreciate everyone's hard work and analysis and lively discussion.

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

- Trustee Dent asked that his item be moved to June 24, 2020 and asked about the rebate/refund on venues item which was added to the June 24, 2020 agenda.
- Moved the Wednesday, June 24, 2020 Board of Trustees meeting to Tuesday, June 23, 2020.
- Add a Request for Quotation for legal services after July.
- Add an item for a review of capital improvement projects commitments so the Board can follow through.
- Add the General Manager's appointment and contract for the last meeting in June.

- Consider continuing the use of Zoom for public comments as it is giving opportunities that haven't been available in the past and do so while staying in compliance with all applicable laws.

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

The meeting was adjourned at 9:26 p.m.

Respectfully submitted,

Susan A. Herron  
District Clerk

**Attachments\*:**

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

Submitted by Aaron Katz (24 pages): Written statement to be included in the written minutes of this May 27, 2020 regular IVGID Board meeting – Agenda items D and I(2) – Opposition to proposed Resolution 1879 approved report adopting 2020-21 Recreation (“RFF”) and Beach (“BFF”) facility fee(s) and electing to have both collected by the Washoe County Treasurer on the county tax roll.

Submitted by Jim & Joanne Benjamin (1 page): E-mail dated May 27, 2020 – Our comments for proposed Recreation & Beach Facility Fees

Submitted by Aaron Katz (28 pages): Written statement to be included in the written minutes of this May 27, 2020 regular IVGID Board meeting – Agenda items C, I(c) and I(d) – Proposed final 2020/21 operational and capital budget – no matter what Staff do to reduce costs, they continue to budget to overspend to the subsidy of Recreation (“RFF”) and Beach (“BFF”) Facility Fee(s), and Central Services Cost Transfers. In order to meaningfully reduce costs, the Board *must* take away these subsidies!

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 27, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEMS D AND I(2) – OPPOSITION TO PROPOSED RESOLUTION 1879<sup>1</sup> APPROVING REPORT ADOPTING 2020-21 RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEE(S) AND ELECTING TO HAVE BOTH COLLECTED BY THE WASHOE COUNTY TREASURER ON THE COUNTY TAX ROLL**

**Introduction:** On April 14, 2020 the IVGID Board of Trustees (“the Board”) passed Resolution 1878<sup>2</sup> which adopted a preliminary report proposing a not to exceed \$705 RFF and a not to exceed \$125 BFF for the upcoming 2020-21 fiscal year<sup>3</sup>, and ordering their involuntary collection on the county tax roll against all nonexempt parcels/dwelling units<sup>4</sup> within IVGID’s boundaries. The Board labeled the RFF/BFF “recreation standby and service charges”<sup>5</sup> purportedly paying the costs for nothing more than mere “availability to use” IVGID’s *public* recreation and beach facilities<sup>6</sup>, respectively, as well as the services offered thereat. This agenda item now proposes adoption of a final report<sup>7</sup> which proposes a \$330 RFF, \$500 BFF<sup>8</sup>, and orders their collection on the county tax roll (“the Report”). As a resident and local property owner proposed to be assessed the RFF/BFF, and because of the twenty-six (26) misrepresentations of fact (below) staff propose the Board adopt, I protest and object. And that’s the purpose of this written statement.

This agenda item is another example of *pseudologia phantastica*. Our interim GM has admitted he and his staff are incapable of operating any of the public’s recreation/beach facilities on a break even or positive cash flow basis, but for possibly Diamond Peak. Notwithstanding, they’re

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<sup>1</sup> See pages 107-116 of the packet of materials prepared by staff in anticipation of this May 27, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular-5-27-20.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular-5-27-20.pdf) (“the 5/27/2020 Board packet”)].

<sup>2</sup> See pages 84-88 of the packet of materials prepared by staff in anticipation of this May 6, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-6-2020\\_BOT\\_Packet\\_Regular.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-6-2020_BOT_Packet_Regular.pdf) (“the 5/6/2020 Board packet”)].

<sup>3</sup> See pages 48-57 of the packet of materials prepared by staff in anticipation of the Board’s April 14, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular-4-14-20.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular-4-14-20.pdf) (“the 4/14/2020 Board packet”)].

<sup>4</sup> See Policy 16.1.0.2.4 at page 42 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Board\\_Policies\\_5-12-2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf) which defines “dwelling unit” as: “any building or portion thereof, which contains living facilities with provisions for sleeping, eating, cooking, and sanitation.”

<sup>5</sup> See page 51 of the 4/14/2020 Board packet.

<sup>6</sup> See ¶¶ at page 53 of the 4/14/2020 Board packet.

<sup>7</sup> See pages 111-116 of the 5/27/2020 Board packet.

<sup>8</sup> See page 104 of the 5/27/2020 Board packet.

unwilling to make meaningful cuts to their intentional overspending. So they have perpetuated the concoction of the subject “fees” secured by local parcels/dwelling units based upon lie-after-lie. What they refer to as a “method of collection...rooted in historical references”<sup>9</sup> rather than truth.

**Twenty-Six (26) Misrepresentations of Fact This Board Will be Making if it Adopts the RFF/BFF as Proposed:** Consider the following:

**A. That the RFF/BFF Are “Fees;”** in particular, NRS 318.197<sup>10</sup>(1) “rates, tolls or charges other than special assessments.” But they’re not.

Just because the District labels the RFF/BFF “fees,” *doesn't* necessarily mean that is what they are. “Courts will (instead) determine and classify (exactions) on the basis of realities” [*Hukle v. City of Huntington*<sup>11</sup>, 134 W.Va. 249, 58 S.E.2d 780, 783 (1950)] looking to their “operative effect” [*Emerson College v. City of Boston*<sup>12</sup>, 39 Mass. 415, 462 N.E.2d 1098, 1105 (1984)]. In identifying the differences between “fees,” “taxes” and “assessments,” and “applying the reasoning of *Douglas Co. Contractors v. Douglas Co.*<sup>13</sup>, 112 Nev. 1452, 1459, 929 P.2d 253, 257 (1996) to this case, (the RFF/BFF are) are *impermissible taxes*” [*Clean Water Coalition v. The M Resort, LLC*<sup>14</sup>, 127 Nev. 301, 255 P.3d 247, 257-59 (2011)]; taxes *neither* recognized nor permissible under NRS 361.445<sup>15</sup> [“the assessment made by the county assessor and by the Department (of Taxation), as equalized according to law, shall be the *only* basis for property taxation by any city, town, school district, road district or other district in that county”].

**B. That the RFF/BFF Are “Recreation Standby Charges:”**<sup>16</sup> Again they’re not.

Although NRS 318.197(1) allows GIDs to “fix, and from time to time increase or decrease... standby service charges, for...the availability of service,” nowhere is this charge defined. Notwithstanding, other states have described standby service charges to be some sort of property levy imposed for the mere availability of water/sewer [*State v. Medeiros*<sup>17</sup>, 89 Haw. 361, 367, 973 P.2d

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<sup>9</sup> See page 103 of the 5/27/2020 Board packet.

<sup>10</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec197>.

<sup>11</sup> Go to <https://www.casemine.com/judgement/us/5914a0d7add7b0493467f97d>.

<sup>12</sup> Go to <https://www.casemine.com/judgement/us/59148f70add7b04934565682>.

<sup>13</sup> Go to <https://www.casemine.com/judgement/us/5914825dadd7b04934494838>.

<sup>14</sup> Go to <https://www.casemine.com/judgement/us/5914af0cadd7b0493474abb7>.

<sup>15</sup> Go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec445>.

<sup>16</sup> See page 112 of the 5/27/2020 Board packet.

<sup>17</sup> Go to <https://www.casemine.com/judgement/us/59148001add7b0493446b7b7#p364>.

736, 742 (1999); *Chapman v. City of Albuquerque*<sup>18</sup>, 65 N.M. 228, 335 P.2d 558, 562 (1959); *Graham v. City of Lakewood Village*<sup>19</sup>, 796 S.W.2d 800, 801 (1990); *Lakeside Utilities Corp. v. Bernum*<sup>20</sup>, 5 Ohio.St.3d 99, 449 N.E.2d 430, 431 (1983)] *services* [*Kellerman v. Chowchilla Water Dist.*<sup>21</sup>, 80 Cal.App.4th 1006, 1011, 96 Cal.Rptr. 246, 250-51 (2000)] *delivered to property* [*State v. City of Port Orange*<sup>22</sup>, 650 So.2d 1, 3 (1994); *Chapman, supra*, at 335 P.2d 561], whether or not *those services* are actually used [*San Diego Cty. Water Auth. v. Metro Water Dist.*<sup>23</sup>, 117 Cal.App.4th 13, 27, 11 Cal.Rptr. 446, 457 (2004)]. In other words, charges assessed to property where the landowner has the ability to become a customer for a municipal corporation's health or sanitation services<sup>24</sup> which are capable of being delivered to his/her/its property because those services are immediately available due to the landowner's property either being physically connected or immediately adjacent to the municipal corporation's public health or sanitation system.

Here the RFF/BFF do not pay for health or sanitation services. In fact, they pay for no "services" whatsoever (see discussion below). And the overwhelming majority of parcels of real property/dwelling units assessed are neither physically connected or immediately adjacent to the public's recreational or beach facilities. Remember IVGID staff's motivation; "the ends justify the means" because other than *ad valorem* taxes<sup>25</sup>, standby service charges are the *only* possible charges general improvement districts ("GIDs") are arguably authorized to *involuntarily* assess. The Board cannot elect to have the RFF/BFF collected on the tax roll pursuant to NRS 318.201<sup>26</sup>, et seq., or otherwise<sup>27</sup>.

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<sup>18</sup> Go to <https://www.casemine.com/judgement/us/59149dfdadd7b04934655896>.

<sup>19</sup> Go to <https://www.casemine.com/judgement/us/5914896dadd7b04934502465>.

<sup>20</sup> Go to <https://www.casemine.com/judgement/us/5914901cadd7b04934571125>.

<sup>21</sup> Go to <https://www.casemine.com/judgement/us/5914ba6badd7b04934790b07>.

<sup>22</sup> Go to <https://www.casemine.com/judgement/us/59148472add7b049344b73d3>.

<sup>23</sup> Go to <https://www.casemine.com/judgement/us/5914b74badd7b0493477e437>.

<sup>24</sup> Namely public water, sewerage and solid waste disposal services.

<sup>25</sup> See NRS 318.225.

<sup>26</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec201>.

<sup>27</sup> I have previously commented that because Nevada is a *Dillon's Rule* State [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43, 65 P.2d 133 (1937) {<https://www.casemine.com/judgement/us/5914cc62add7b0493480a220>}], IVGID's basic powers are limited to those "stated in (its) initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of...chapter (NRS 318) designated therein" [NRS 318.055(4)(b)] *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be "any fair, reasonable (or) substantial doubt concerning the existence of power (it) is resolved...*against* the (municipal) corporation...(and) all acts beyond the scope of...powers (expressly) granted are void" (*Ronnow, supra*, at 57 Nev. 343).

**C. That the RFF/BFF Are “Recreation...Service Charges:”**<sup>16</sup> No they’re not because they pay for no services.

Given no actual service is being provided in consideration of forced payment of the RFF/BFF, they are not legitimate charges for services. “Service(s must)...benefit the payors of the charge... rather (than)...society at large” (*Medeiros, supra*, at 89 Haw. 368). And if not “service charges,” the Board cannot elect to have them collected on the tax roll pursuant to NRS 318.201, et seq., or otherwise<sup>27</sup>.

**D. That the RFF/BFF Are *Not* “Taxes:”** Yes they are. Moreover, the District, its trustees, and auditors *all* agree!

Effective July 1, 2015 the District’s Community Services and Beach Funds were converted from enterprise to special revenue<sup>28</sup>. In generally accepted accounting principles (“GAAP”), “fees” are charges for “exchange” or “exchange-like” goods or services. Each party receives or gives up something of essentially equal value<sup>29</sup>. “Taxes” on the other hand are charges where one party (a government) gives (or receives) something of value without directly receiving (or giving) equal value in return<sup>29</sup>. Thus if those who are assessed the BFF and/or RFF receive nothing of equal value in return, those “fees” are the product of an “imposed non-exchange transaction” which are considered to be a “tax.” Because “special revenue” funds are used to report IVGID’s receipt and expenditure of Community Services RFFs/Beach BFFs, this is an admission the RFF/BFF are “taxes” rather than “fees.”

Moreover, on numerous occasions when budget matters have been discussed the District’s former Finance Director, Gerry Eick, has given testimony to the effect that “most people think the RFF/BFF are taxes.” Knowing this is the way the public views the RFF/BFF and he does nothing to educate them to the contrary (assuming there are facts which would educate them otherwise), Mr. Eick is guilty of omitting material facts as to the true nature of the RFF/BFF which only perpetuates the public’s view.

But it’s not just Mr. Eick’s representations to the Board and the public which demonstrate he knows the RFF/BFF are not “fees.” Mr. Eick has owned and continues to own (through his wife) Incline Village property which is assessed the RFF/BFF. Presumably he files federal income tax returns, and presumably in the past he has claimed itemized personal deductions on Schedule A of those returns. One of those deductions is for real estate taxes paid. And what number do you think Mr. Eick has inserted (i.e., a number with or without inclusion of the RFF/BFF)? Assuming it’s the number which

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<sup>28</sup> See ¶1 at page 63 of the packet of materials prepared by staff in anticipation of the Board’s May 19, 2020 meeting [<https://www.yourtahoeplace.com/uploads/pdf-ivgid/Package-Workshop-5-19-2020.pdf> (“the 5/19/2020 Board packet”)].

<sup>29</sup> See Government Accounting Standards Board (“GASB”) Standard 33 ([http://gasb.org/jsp/GASB/Document\\_C/GASBDocumentPage?cid=1176160029148&acceptedDisclaimer=true](http://gasb.org/jsp/GASB/Document_C/GASBDocumentPage?cid=1176160029148&acceptedDisclaimer=true)).

includes the RFF/BFF, hasn't Mr. Eick declared to the IRS that the RFF/BFF represent real estate taxes paid rather than "fees?"

And it's not just Mr. Eick. Trustees Wong, Dent and Schmitz own Incline Village properties which assessed the RFF/BFF. As have essentially every past trustee in the last fifteen (15) or more years but for Trustees Callicrate and Morris. They too have presumably filed federal income tax returns, and presumably have claimed itemized personal deductions. Does anyone think they have not deducted real estate taxes on their Incline Village homes with inclusion of the RFF/BFF? Assuming it's the number which includes the RFF/BFF, haven't all of them represented that the RFF/BFF are real estate taxes paid?

Moreover, sometimes a "slip of the tongue" can reveal the truth. And our former GM Steven Pinkerton slipped at least once. Agenda item G(5) for the Board's April 11, 2018 meeting asked for approval to pay the County Treasurer \$33,177.81 in *delinquent taxes*<sup>30</sup> which had been waived against three parcels conveyed by the County Treasurer to IVGID in 2014 pursuant to NRS 361.603(4). But in Mr. Pinkerton's memorandum in support of this action item, he described how most of this sum (\$31,584) represented delinquent "fees" (i.e., RFFs/BFFs):

"IVGID's recreation and beach fees comprise \$31,584 of the total due with the balance of \$1,593.81 owed to the respective taxing entities...Therefore, the net cost (to IVGID will)...be less than \$1,593.81."<sup>31</sup>

So what were they Mr. Pinkerton? Taxes or fees? Or to him was there really any difference?

Moreover still, on December 16, 2015, testifying in support of IVGID's special revenue fund reporting, Dan Carter, EideBailly Audit Engagement Partner, represented to the Board's Audit Committee that the RFF/BFF *are taxes*. According to Mr. Carter, the fact there was a restriction on their use meant they me(t)...the definition of...imposed non-exchange revenue."<sup>32</sup>

On May 23, 2016, in response to public embarrassment, and in a memo to the Chairman of the Audit Committee, Mr. Carter "clarified" his prior testimony:

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<sup>30</sup> See page 211 of the packet of materials prepared by staff in anticipation of the Board's April 11, 2018 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_4-11-2018.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-11-2018.pdf)] ("the 4/11/2018 Board packet").

<sup>31</sup> See pages 212-213 of the 4/11/2018 Board packet.

<sup>32</sup> I have a written transcript of that testimony should any trustee think it may be deemed useful or of interest.

“Enterprise fund accounting is primarily used when exchange fees (for example, the fee to play a round of golf) support (enterprise)... fund(s).” Special revenue fund accounting on the other hand is used when “imposed non-exchange [fees {‘for example, property tax or other assessment(s)’}]...result from assessments imposed by governments on individuals.”

Because the payor(s) of these fees receive *nothing* of value in return, Mr. Carter testified “**classification...may be more appropriately accounted for in...special revenue fund(s)**” which again translates into the conclusion the RFF/BFF are taxes.

At the Board's April 11, 2018 meeting I submitted a written statement<sup>33</sup> which made the case that the *only* revenues a public agency can report in a special revenue fund are:

1. Derived tax revenues, which result from assessments imposed on exchange transactions (for example, income taxes, sales taxes, and other assessments on earnings or consumption);

2. Imposed non-exchange revenues, which result from assessments imposed on non-governmental entities, including individuals, other than assessments on exchange transactions (for example, property taxes and fines);

3. Government-mandated non-exchange transactions, which occur when a government at one level provides resources to a government at another level and requires the recipient to use the resources for a specific purpose (for example, federal programs that state or local governments are mandated to perform); and,

4. Voluntary non-exchange transactions, which result from legislative or contractual agreements, other than exchanges, entered into willingly by the parties to the agreement (for example, certain grants and private donations).

Since the RFF/BFF represent involuntarily imposed non-exchange revenue against property, totaling twenty percent (20%) or more of the total revenue flow assigned to IVGID's special revenue funds, and it has reported the same to the DOT, I concluded IVGID must admit these fees represent revenue derived from either property taxes or assessments. *In other words, taxes.*

Finally, consider the Board's admission at page 54 of the 2016 CAFR<sup>34</sup>, Note 17, that “the District provides recreation functions through two individual *special revenue funds*.” Since GASB 33<sup>29</sup>

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<sup>33</sup> See pages 135-142 of the packet of materials prepared by staff in anticipation of the Board's April 25, 2018 meeting [[https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_4-25-18.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-25-18.pdf) (“the 4/25/2018 Board packet”).

<sup>34</sup> Go to [https://www.yourtahoepalace.com/uploads/pdf-ivgid/2016CAFRReport\\_Revised\\_5\\_11\\_2017.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/2016CAFRReport_Revised_5_11_2017.pdf).

states that in order to qualify for Special Revenue fund accounting a substantial portion of the fund's revenues must come from *non-exchange* transactions, the RFF/BFF revenue IVGID assigns to its Community Services and Beach Special Revenue Funds *must be taxes*.

**E. That the RFF Pays “For the Availability of Use of the (Public’s) Recreational Facilities”<sup>35</sup> and the Services Offered Thereat:** Of course it doesn’t.

Listen to what Mr. Eick, told the public in his May 23, 2018 Budget letter “to the Board of Trustees and Citizens of Incline Village and Crystal Bay”<sup>36</sup> when answering the question “What...Parcel Owners (*rather than* their parcels which are involuntarily assessed *really*) Get for Paying their Facility Fees:”<sup>37</sup>

“Five cards issued in the form of picture passes and/or punch cards or a combination of both...Picture Passholder(s) get...preferred pricing and/or preferred access to the District's major venues or programming...Punch Card Holder(s) receive...the opportunity, at designated venues, to reduce their user fees from the rack rate to (the) Picture Passholder rate based on an allocated value assigned” by the Board.

Moreover, when the Governor issued an emergency order on April 8, 2020<sup>38</sup>, if not before<sup>39</sup>, closing the District’s recreation facilities in response to the COVID-19 pandemic, we learned firsthand that the RFF/BFF do *not* pay for “the availability to use” *anything!* That’s because the public’s recreation facilities were closed to local property owners. Notwithstanding, the District continued to charge the RFF. If not providing for the “availability to use” recreation facilities, then what? Whatever the answer it’s clear the RFF is not a “standby service charge.” And as a consequence, the Board

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<sup>35</sup> See ¶11 at page 113 of the 5/27/2020 Board packet.

<sup>36</sup> See pages 40-48 of the packet of materials prepared by staff in anticipation of the Board’s May 23, 2018 Meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_5-23-18.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-23-18.pdf) (“5/23/2018 Board packet”).

<sup>37</sup> See pages 46-47 of the 5/23/2018 Board packet. Interestingly, staff’s Budget Letter for 2019-20 [see pages 180-184 of the packet of materials prepared by staff in anticipation of the Board’s May 22, 2019 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_5-22-19.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-22-19.pdf) (“the 5/22/2019 Board packet”)}] now omits this admission which is obviously prejudicial to their position.

<sup>38</sup> Go to [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-04-08\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency\\_Directive\\_013\\_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-08_-_COVID-19_Declaration_of_Emergency_Directive_013_(Attachments)/).

<sup>39</sup> Go to [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/).

cannot elect to have them collected on the tax roll pursuant to NRS 318.201<sup>40</sup>, et seq., or otherwise<sup>41</sup> for that matter.

Thus rather than being a legitimate standby service charge for an assessed property's mere "availability to use" the public's recreational and beach facilities as well as the services offered thereat, the RFF/BFF really represent forced pre-payment for nothing more than up to five (5) access cards, similar to Costco or Sam's Club membership cards, which themselves offer nothing more than preferred access and pricing.

**F. That the BFF Pays "For the Availability of Use of the (Beach)...Facilities"<sup>35</sup> and the Services Offered Thereat:** Of course it doesn't.

Have you ever read the deed to the beaches under which IVGID claims ownership<sup>42</sup>? If not you will discover that all real property that was within IVGID's boundaries in June of 1968 when the beaches were conveyed, as well as their owners, successors and assigns, were granted beach *use easements* which run with their lands. In other words, owners, successors and assignees of properties with beach access have the right to access and use the beaches *not* because of their payment of the BFF, but rather, because of a property right (the grant of a beach deed easement).

Moreover, because of the COVID-19 pandemic, we have learned that just like the RFF, the BFF does *not* pay for "the availability to use" *anything!* That's because the beaches were closed to local property owners. Notwithstanding, the District continued to charge property owners with beach access the BFF. As a consequence, the Board cannot elect to have the BFF collected on the tax roll pursuant to NRS 318.201, et seq., or otherwise<sup>27</sup> for that matter.

**G. That the RFF/BFF Pay for "Facilities" and "Services" the District Furnishes to *Parcels/Dwelling Units*:** Of course it doesn't. Nevertheless, this assertion is supported by at least two facts:

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<sup>40</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec201>.

<sup>41</sup> I have previously commented that because Nevada is a *Dillon's Rule* State [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43, 65 P.2d 133 (1937) {<https://www.casemine.com/judgement/us/5914cc62add7b0493480a220>}], IVGID's basic powers are limited to those "stated in (its) initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of...chapter (NRS 318) designated therein" [NRS 318.055(4)(b)] *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be "any fair, reasonable (or) substantial doubt concerning the existence of power (it) is resolved...*against* the (municipal) corporation...(and) all acts beyond the scope of...powers (expressly) granted are void" (*Ronnow, supra*, at 57 Nev. 343).

<sup>42</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach\\_Deed.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach_Deed.pdf).

1. The Board's assertion "the availability of the use of IVGID's" recreational facilities and the beaches "are...benefits which...are provided to...*properties* whether or not...developed;"<sup>43</sup> and,

2. The Board's reliance upon NRS 318.201 to collect the RFF/BFF on the county tax roll<sup>44</sup>. NRS 318.201(1) and (9) instruct that the Board may *only* elect to have the RFF/BFF collected on the county tax roll where it finds "each *parcel of real property* (assessed actually) *receiv(es)* such services and facilities;"

But here the recipients of those "services" are *persons*: "the Trustees find that the *owners of the parcels* set forth herein are directly benefited."<sup>45</sup>

**H. That the RFF Pays for Administrative Costs Assigned to the District's Community Services Fund the District Furnishes to Parcels/Dwelling Units:** Of course it doesn't.

The District maintains a Community Services Administration sub-fund<sup>46</sup>. According to staff expenses assigned to this sub-fund include administration/management of: Ordinance 7, the beach deed, parcel data, issuance of picture passes and punch cards, commercial property/manager/timeshare owner interaction, and title company interaction the services<sup>47</sup>. For fiscal year 2020/21 staff have assigned *minus* \$317,830 of revenue and \$1,041,833 of RFF subsidies<sup>48</sup> to this sub-fund.

But not only do these expenses have nothing to do with making recreational facilities available to be used by the properties which are assessed, but as I have demonstrated numerous times, this reported negative cash flow is *completely phony*. Instead, it represents non-existing expenses to hide a "discretionary reserve" for all recreational venues the product of "smoothing" (see discussion below). This fact was documented by my written statement submitted at the Board's May 19, 2020 meeting for inclusion in the minutes of that meeting. Again, listen to Mr. Eick's admission of this fact in answer to former Trustee Hammerel's April 17, 2016 questions pertaining to this sub-fund<sup>49</sup>:

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<sup>43</sup> See ¶4(b) at page 109 of the 5/27/2020 Board packet.

<sup>44</sup> The Report proposed to be adopted (see ¶6 at page 109 of the 5/27/2020 Board packet) seeks "collection...of...the RFF and BFF...on the county tax roll...under NRS 318.201" (see page 111 of the 5/27/2020 Board packet).

<sup>45</sup> See ¶4(c) at page 109 of the 5/27/2020 Board packet.

<sup>46</sup> See page 143 of the packet of materials prepared by staff in anticipation of the Board's March 11, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT\\_Packet\\_Regular.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf) ("the 3/11/2020 Board packet").

<sup>47</sup> See pages 140-141 of the 3/11/2020 Board packet.

<sup>48</sup> See page 46 of the 5/27/2020 Board packet.

<sup>49</sup> This portion of the Board's April 17, 2016 meeting can be viewed at 43:37-53:28 of the 4/17/2016 livestream (<http://livestream.com/IVGID/events/5144683>).

Mr. Eick: "I have used that venue title...as *our discretionary fund*...to make it clear...what we've accumulated through operations or will accumulate through operations to finance future expenditures."

Trustee Hammerel: "I understand *it's kind of a built in cushion*...(But) more importantly, I think we talked before about not only having a reserve fund for each (recreation) venue but then having an (additional) umbrella (reserve) fund for *all* community services (venues)...*Is that what you're intending here for this Community Services Admin (entry)?*"

Mr. Eick: "*That is correct.*"

So where does this excess revenue come from? Prior to commencement of the 2013-14 fiscal year the RFF paid the servicing costs on a 2003 \$5.5 Million Recreation general obligation bond<sup>50</sup>. ("GOB"). And prior to commencement of the 2015-16 fiscal year the RFF paid the servicing costs on a 2004 \$4.445 Million Recreation Refunding GOB<sup>50</sup>. Although the 2003 Recreation GOB matured on March 1, 2013 and the 2004 Recreation Refunding GOB matured on October 1, 2014, then Board(s) did *not* reduce each parcel/ dwelling unit owner's RFF by like amounts. Instead, they continued to order collection of their servicing costs as if both bonds existed. And staff propose this practice continue insofar as 2020/21 is concerned<sup>51</sup>. Mr. Eick coined this technique "smoothing."<sup>52</sup>

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<sup>50</sup> ¶II of the 2012-13 Report for the collection of the RFF on the county tax roll recited that the RFF was required "for the proper servicing of said identified bond."

<sup>51</sup> It was for this very reason trustees Callicrate and Dent voted *against* a RFF/BFF of \$830 for fiscal years: 2016-17 (see pages 155-159 of the packet of materials prepared by staff in anticipation of the Board's July 7, 2016 meeting); 2017-18 [see pages 80-81 of the packet of materials prepared by staff in anticipation of the Board's July 20, 2017 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_7-20-17.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_7-20-17.pdf) ("the 7/20/2017 Board packet")}]; 2018-19 [see pages 405-407 of the packet of materials prepared by staff in anticipation of the Board's July 24, 2018 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_7-24-18\\_-\\_as\\_revised.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_7-24-18_-_as_revised.pdf) ("the 7/24/2018 Board packet")}]; and, 2019-20 [see page 193 of the packet of materials prepared by staff in anticipation of the Board's June 19, 2019 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_6-19-19.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_6-19-19.pdf) ("the 6/19/2020 Board packet")}]. And before then, trustee Smith voted *against* a RFF/BFF of \$830 for fiscal year 2014-15 (see pages 214-215 of the packet of materials prepared by staff in anticipation of the Board's June 11, 2014 meeting); and, trustees Smith and Callicrate voted *against* a RFF/BFF of \$830 for fiscal year 2015-16 (see pages 358-361 of the packet of materials prepared by staff in anticipation of the Board's June 24, 2015 meeting). That's six (6) straight years of voting no. *Why all of a sudden the change of course?*

<sup>52</sup> See November 14, 2014 memorandum from Mr. Eick to Kelly Langley of the State Department of Taxation ("the DOT") proffered in an effort to secure the DOT's "concurrence...as (IVGID's) oversight

So how much of the upcoming fiscal year's (2020-21's) RFF is earmarked to add to this "discretionary fund?" At page 153 of the 5/19/2020 Board packet staff have prepared another "Reconciliation by Parcel" spreadsheet in conjunction with the current fiscal year's proposed budget. There staff have inserted the alleged "component" labeled "Comm. Services Administration," as well as its \$127 "per parcel" as well as "Total 2020-21 Facility Fee" of \$1,041,781. Ladies and gentlemen, please understand that **a whopping 38.49% of the proposed RFF pays for absolutely no costs whatsoever associated with "the proper servicing of (recreation general obligation) bonds and...the administration, operation, maintenance and improvement of (the public's recreational facilities)... equipment and facilities!"** Stated differently, whatever recreation subsidy the District actually requires, I hope the reader sees that in reality, it requires \$1,041,833 *less*.

**I. That Allocated "Central Services" Costs Assigned to the District's Community Services and Beach Funds Are Permissibly Assigned: No they're not.**

At page 28 of the 5/27/2020 Board packet staff have prepared an allocated Central Services Cost spreadsheet in conjunction with the 2020-21's proposed budget. At the bottom of the page the following language appears: "prepared and calculated in accordance with NRS 354.613 Subsection 1c and IVGID Board Policy 18.1.0." NRS 354.613<sup>53</sup>(1)(c) prohibits,

"loan(s) or transfer(s) of money from an enterprise fund (but)...for a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund which is approved by the governing body under a non-consent item that is separately listed on the agenda for a regular meeting of the governing body."

Policy 18.1.0<sup>54</sup> states nothing more than that "the District will maintain practices in conformity with the Nevada Revised Statute Section 354.107 (Regulations) and 354.613(c) (Enterprise Funds Cost Allocation)."

But the District's Community Services and Beach Funds are *not* enterprise funds<sup>28</sup>. Since staff have represented that these transfers will be made in accordance with NRS 354.613(1)(c), and they are proposed to take place from special revenue funds, they will be impermissible.

**J. That the RFF/BFF Pay for the Necessary, Reasonable and Allocated "Cost of (Central) Services Provided by the (District's) General Fund (to its)...Utility, Community Service(s) and Beach Funds:"<sup>55</sup> No they don't.**

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agency...for (Mr. Eick's) planned action" to convert IVGID's recreation *enterprise* funds to *special revenue* funds effective July 1, 2015.

<sup>53</sup> Go to <https://www.leg.state.nv.us/NRS/NRS-354.html#NRS354Sec613>.

<sup>54</sup> See page 47 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Board\\_Policies\\_5-12-2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf).

As one looks at each of the District's Community Services sub-funds and the Beach Fund<sup>56</sup>, he/she will see expense entries for "central services." Given staff budget to overspend in essentially every one of these funds/sub-funds but for possibly the Ski fund, central services costs only add on to the overspending. Or stated differently, when one budgets to overspend, *every* expenditure contributes to that overspending and it's disingenuous to cherry pick which ones don't.

Nonetheless, upon closer inspection the reader will discover that these costs do not represent the costs of services represented (i.e., they have *nothing* to do with the costs required to make the public's recreational facilities merely "available to be used"). This truism was documented by my written statement submitted at the Board's May 19, 2020 meeting for inclusion in the minutes of that meeting. To restate, besides the more obvious examples<sup>57</sup>, consider the following costs: \$474,855 of "General Government" expenditures<sup>58</sup>. Or \$216,420 of "Trustees" expenses<sup>58</sup>. Or \$456,289 of "General Manager"<sup>59</sup> expenses<sup>58</sup>. Or \$216,673 of "Communication" expenses<sup>58</sup>. Or \$45,376 of "Health & Wellness" expenses<sup>58</sup>. Or \$666,445 of "Capital Outlay" expenses<sup>58</sup>. Or rent paid/transferred to the Facilities sub-fund<sup>60</sup> (part of "charges for services") for the Board's public/other meetings held at The Chateau<sup>61</sup>. Or the unknown food, beverage and personnel costs to lay out/tear down that food and beverage I have objected to in the past which is provided to the public at those meetings.

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<sup>55</sup> See page 157 of the 2019-20 Budget.

<sup>56</sup> See pages 89-143 of the 3/11/2020 Board packet.

<sup>57</sup> Such as \$48,000 annually to a public relations firm to publicly spew staff propaganda, \$24,000-\$36,000 annually to a lobbyist to influence State legislation, tens of thousands of dollars in attorney's fees to fight citizens (like Mark Smith) seeking public records and citizens (like Kevin Lyons) for retaliation purposes, hundreds of thousands of dollars in attorney's fees to fight citizens (like Aaron Katz) petitioning the courts to address grievances, providing notary services for free to the public, issuing county marriage licenses to the public, hosting private homeowner association meetings for free in the admin. building's boardroom, attendance at various job fairs and school assistance of "How to" (see page 72 of the 2019-20 Budget), etc.

<sup>58</sup> See page 21 of the 2019-20 Budget.

<sup>59</sup> Our General Manager renders little if any services directly to our Community Services and Beach Venues because each has its own venue manager (Mike Bandelin for Diamond Peak, Darren Howard for the golf courses, Pandora Bahlman for Parks and Recreation Center, and Susan Mandio for the beaches).

<sup>60</sup> See page 112 of the 3/11/2020 Board packet.

<sup>61</sup> Most people don't realize the General Fund is charged to rent The Chateau for the Board's public meetings. Some years ago I made a public records request and Susan Herron responded with the then particulars.

So how much of the upcoming fiscal year's (2020-21's) RFF is earmarked to pay for allocated central services costs? Staff's proposed allocated Central Services Cost spreadsheet includes a column which states allocated central services costs assigned to each recreation venue under Community Services, as well as the beaches. There you will see that \$972,645 of allocated central services costs have been collectively assigned to all Community Services sub-funds. And another \$106,046 has been assigned to the Beach Fund. Therefore, another **whopping 35.93% of the RFF and 2.74% of the BFF pay for absolutely no costs whatsoever associated with "the proper servicing of (recreation and beach general obligation) bonds and...the administration, operation, maintenance and improvement of (the public's recreational facilities)...equipment and facilities."**

**K. That the *Parcels of Real Property/Dwelling Units* Which Are "Assessed Pursuant to... Resolution (1879 Are)...Specifically Benefited:"<sup>62</sup> Of course they aren't.**

Nevertheless, according to Resolution 1879 the specifics of that special benefit:

1. Are "set...forth in detail (in)...Ordinance 7;"<sup>63</sup> and,

2. Include "availability of the use of IVGID's" recreation and beach facilities "which inure to (the)...properties (which are assessed)...whether or not...developed."<sup>43</sup>

But Ordinance 7 does nothing more than "establish...rates, rules and regulations for (picture) passes and...punch cards."<sup>64</sup> Moreover those cards are issued to *persons*<sup>65</sup> rather *property*;

**L. That the "Owners of (Assessed) Parcels...Are Directly Benefited in a Fair and Reasonable Way For the Sums...They Are Charged:"<sup>45</sup> Of course they aren't.**

Putting aside the fact Resolution 1879 tells us *parcels of real property/dwelling units* rather than the "owners of (those) parcels are...specifically benefited, what evidence is there the alleged benefit is "fair and reasonable?" In fact, what is "fair and reasonable" about charging local parcel owners "user fees" at facilities where the public is not charged user fees (see below)?

Moreover, will staff provide evidence in support of this proposed finding? Assuming the answer to this question is "no," which has been the case for the last thirteen (13) or more years I have been attending public hearings like this one, why do you propose making it? Ask your attorneys.

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<sup>62</sup> See ¶4 at page 108 of the 5/27/2020 Board packet.

<sup>63</sup> See ¶4(a) at page 108 of the 5/27/2020 Board packet.

<sup>64</sup> See title page to Ordinance 7 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec\\_ordinance\\_7\\_1998.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf).

<sup>65</sup> ¶20 of Ordinance 7 defines "pass holder" as "an *individual* who has been issued a Recreation Pass." ¶22 defines "punch card" as a "transferable...card issued...to eligible *parcel owners* and/or their assignees.

Without substantial evidence supporting formal findings the Board's adoption is arbitrary, capricious, an abuse of discretion and voidable. I therefore object.

**M. That the RFF Represents "User Fees" at Those Public Facilities Where User Fees Are Not Charged:** such as the District's parks, athletic fields, disc golf course, skateboard park, mountain bike pump track, fitness track, beach overflow parking lot, and other miscellaneous lesser recreational venues. Can you believe the arrogance of staff?

At the IVGID Board's March 3, 2016 meeting, Mr. Eick provided an "executive summary" in the "context...need(ed) for (then upcoming 2016-17) budget deliberations." In that summary Mr. Eick presented a series of descriptive slides<sup>66</sup>. These slides depict Mr. Eick's testimony to the IVGID Board as to the alleged benefits, importance of and reliance upon the RFF/BFF. Insofar as recreational venues where no user fee is assessed, Mr. Eick testified that because there is essentially no other "user fee process to generate a source" of revenue *other than the RFF*, those whose properties are assessed should consider the RFF/BFF to be a user fee substitute<sup>67</sup>. In other words, rather than being legitimate standby service charges for the mere "availability to use," at venues where no user fees are charged the Board has budgeted the RFF to pay the costs associated with these venues which are "available" for free to the general public as a whole.

**N. That the Amounts Proposed to be Collected** [“about \$2,706,990 for the RFF and \$3,674,000 for (the) BFF”] **Are “Required:”**<sup>68</sup> Of course they aren't.

Putting aside the fact the RFF does not pay for the "availability" to access and use public recreation facilities because instead it pays for up to five (5) picture passes and/ or punch cards (see discussion above), at the IVGID Board's May 19, 2020 meeting both the Board and staff admitted that *no sums* whatsoever are required "for the proper servicing of (outstanding)...bonds (or)...the administration, operation, maintenance and improvement of (District recreational) real properties, equipment and facilities." I submitted a written statement which documented the steady increase in our Community Services and Beach Fund balances<sup>69</sup>. For instance, on June 30, 2011 the unrestricted

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<sup>66</sup> See pages 127 and 129 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Special\\_3-3-2016.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Special_3-3-2016.pdf) ("the 3/3/2016 Board packet").

<sup>67</sup> The Board livestreams its meetings (<http://new.livestream.com/accounts/3411104>). The portion of the Board's March 3, 2016 meeting [<https://livestream.com/IVGID/events/4912422/videos/114195041> ("the 3/3/2016 livestream")] where Mr. Eick gave the testimony attributed to him can be viewed at 29:24-29:38 of the 3/3/2016 livestream.

<sup>68</sup> See ¶11 at page 114 of the 5/27/2020 Board packet.

<sup>69</sup> "Fund Balance" is defined in our budgets as "the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes" [see page 159 of the 2019-20 Budget {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf) ("the 2019-20 Budget")}]

balance assigned by staff to the District's Community Services Fund was \$4,226,167<sup>70</sup>. Yet as of June 30, 2020 staff estimates that fund balance will have grown to \$12,360,444<sup>71</sup>. Similarly, on June 30, 2011 the unrestricted balance assigned by staff to the District's Beach Fund was \$1,177,762<sup>70</sup>. And as of June 30, 2020 staff estimates it will have grown to \$2,159,282<sup>72</sup>.

And now we see that rather than subsidizing bond and operational cost overspending (excess fund balances are available for this purposes), the RFF/BFF pay for capital improvement projects ("CIPs"). Insofar as the RFF is concerned,

*"Of the \$9 million in new...FY2020-21 Capital Improvement Program ...appropriations, \$3,572,845 is proposed to be allocated from available excess fund balances, primarily within the various Community Services (sub) Funds. This draw down of fund balances for capital program expenditures is required, and indeed intentional."*<sup>73</sup>

And insofar as the BFF is concerned,

*"Facility Fees established for FY2020-21 are intended to increase funding capacity within the Beach Fund in support of priority capital projects (by)...shift(ing) funding for capital program expenditures... from new Facility Fee revenues."*<sup>74</sup>

Thus any way one cuts the cards, over at least the last nine (9) or more years staff have realized *more* recreation funds than those required to make the public's recreation facilities "available to be used." And as a result, less amounts are required now.

**O. That the Amounts Proposed to be Collected Will Pay "For the Proper Servicing of (Outstanding)...Bonds (or)...the Administration, Operation, Maintenance and Improvement of (District Recreational) Real Properties, Equipment and Facilities."**<sup>67</sup> Of course they won't.

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<sup>70</sup> See page 25 of the Comprehensive Annual Financial Report ("CAFR") ending June 30, 2011 ("the 2011 CAFR").

<sup>71</sup> See page 24 of the packet of materials prepared by staff in anticipation of the Board's May 7, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-7-2020\\_Workshop\\_Packet.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-7-2020_Workshop_Packet.pdf) ("the 5/7/2020 Board packet")].

<sup>72</sup> See page 25 of the 5/7/2020 Board packet.

<sup>73</sup> See ¶7 at page 17 of the 5/27/2020 Board packet.

<sup>74</sup> See ¶6 at page 17 of the 5/27/2020 Board packet.

As I have demonstrated, the RFF/BFF pay for CIPs; \$2,706,990 assigned to the Community Services Fund, and \$3,674,000 assigned to the Beach Fund<sup>8</sup>.

**P. That “All of (Incline Village’s Contemplated ‘Complete Recreational Area’)... Recreational Facilities Except...Park Properties (Including the Two (Lake Tahoe) Beaches...Will be Privately Owned...Operated”<sup>75</sup> and Presumably Financed:** Well that certainly hasn’t happened!

This was the promise the IVGID Board made to the Washoe County Board of Commissioners (“County Board”), Incline Village property owners and the public on October 25, 1965<sup>75</sup> if the County Board granted IVGID the basic power to furnish facilities for public recreation. But given this requested basic power was in fact given to IVGID, the CIPs the Board contemplates prosecuting with the requested RFF/BFF represent a breach of this promise.

**Q. That *Ad Valorem Taxes* From “the Assessed Value of IVGID...Will...Finance... Acquisition and Operation of the...Beaches:”<sup>75</sup>** That certainly didn’t happen.

If this were true, there would be no RFF/BFF. Because there is, the RFF/BFF represent a breach of this promise.

**R. That the “Board of Trustees Shall Have Authority to Levy Assessments and Charges;”<sup>42</sup>** i.e., the BFF: Part of this statement is true. However, the most important part has been omitted.

The beach deed goes on to recite “that (the) Board of Trustees shall have the authority to levy *assessments and charges as authorized by law.*” Since the beaches are private property, NRS 318.015(2) prohibits use of “the provisions of this chapter...to provide a method for financing the costs of developing private property, and construction of the proposed Incline Beach House represents development of private property<sup>76</sup>, assessment of the BFF for this purpose represents a breach of the beach deed.

**S. Notwithstanding the Beaches are “Private Property,” and the BFF Increases the Beach Fund Balance to Finance Development of That Property (With an Incline Beach House Restaurant), the Prohibition of NRS 318.015<sup>77</sup> (2) Does Not Apply:** To the contrary, this prohibition applies.

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<sup>75</sup> See page 159 of the 5/27/2020 Board packet.

<sup>76</sup> As to what represents the “development of private property,” consider NRS 318.015(1) which instructs: “the provisions of this chapter shall be broadly construed” (go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec015>).

<sup>77</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec015>.

At least three courts have opined that IVGID's beaches are "private property" [*Wright v. Incline Village General Improvement District*<sup>78</sup>, 597 F.Supp.2d 1191, 1197 (2009); *Kroll v. Incline Village General Improvement District*<sup>79</sup>, 598 F.Supp.2d 1118, 1126-28 (2009); *Wright v. Incline Vill. Gen. Improvement Dist.*<sup>80</sup>, 665 F.3d 1128, 1137-38 (9th Cir. 2011)] as have at least two current IVGID Board members.

Moreover, at the Board's May 7, 2020 workshop meeting Trustee Wong labeled the beaches "private property" ("because our beaches *are private*, to your point"<sup>81</sup>) which is what we all know to be the case. And then at the Board's May 19, 2020 workshop meeting Chairperson Callicrate made the same admission at least three times:

"I understand we have an odd or peculiar situation obviously at the beaches *because they are private*...I agree with you it would be great if we could say 'yah, let's pay for this over the course of several years.' I don't believe we have the luxury at the beaches to do that. The rest of the community I believe we do, but at the beaches we're precluded because *of the private nature*...(Question to attorney Alex:) What are we able to do as far as long term debt for our *beaches...because they are private*?"<sup>82</sup>

Additionally, don't forget an IVGID Board trustee (Harold Tiller) represented to the County Board that if it granted IVGID the basic power to furnish facilities for public recreation, it would not be acquiring and constructing new facilities like an Incline Beach House<sup>75</sup>.

Given "the provisions of...chapter (NRS 318) shall be broadly construed,"<sup>76</sup> NRS 318.015(2) instructs that "the provisions of this chapter are not intended to provide a method for financing the costs of developing private property," and Harold Tiller represented IVGID staff wouldn't do what it is suggesting it will in fact do, I submit these facts prove the Board has no power to adopt the BFF.

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<sup>78</sup> Go to <https://www.courtlistener.com/opinion/2447540/wright-v-incline-village-general-imp-dist/>.

<sup>79</sup> Go to <https://www.casemine.com/judgement/us/5914b204add7b0493475d247>.

<sup>80</sup> Go to <https://www.casemine.com/judgement/us/5914f589add7b0493498adbe>.

<sup>81</sup> IVGID livestreams its Board meetings (<https://livestream.com/accounts/3411104>). The livestream of the Board's May 7, 2020 meeting where Trustee Wong made the admission quoted appears at 2:44:16-19 at <https://livestream.com/ivgid/events/9119222/videos/205728870> ("the 5/7/2020 livestream").

<sup>82</sup> See 2:20:59-2:21:53 of the livestream of the Board's May 19, 2020 meeting [<https://livestream.com/ivgid/events/9139017/videos/206286426> ("the 5/19/2020 livestream")].

**T. That the Annual BFF For “Each...Single Family Homesite...Will Not Under Any Circumstances Exceed \$50 For Each Fiscal Year (Thereafter) Ending June 30:”** That certainly hasn’t happened!

At the Board’s May 19, 2020 meeting I submitted a written statement for inclusion in the minutes of that meeting which provided evidence of an April 11, 1968 judicially approved settlement agreement between several Incline Village property owners, their former homeowners’ association the Incline Village Recreation Association, IVGID and others. In consideration of dismissal of then pending litigation involving these parties, the settlement agreement in part provided that,

**“Assessable (beach) charges...for each...single family homesite...will not under any circumstances exceed Fifty Dollars (\$50.00) for each fiscal year ending June 30 commencing July 1, 1968.”**

Given the requested annual BFF of \$500 exceeds \$50, it represents a breach of this agreement.

**U. That the Report “Contain(s)...All...Properties(/Dwelling Units) Within the District That Will be Benefited by Being Charged” the RFF/BFF<sup>83</sup>:** No it doesn’t!

Non-profit Pet Network owns an Incline Village parcel (401 Village Blvd.) which is not assessed the RFF/BFF. Although ¶1(D) of the Report “except(s) and exclude(s)...parcels...used, or intended to be used, for religious...or educational purposes...from the” RFF/BFF, Pet Network’s parcel does not qualify because it is not used for religious or educational purposes. Notwithstanding, this parcel is improperly excluded from the Report and excepted from paying the RFF/BFF.

If one examines the beach deed<sup>42</sup>, one will see that the beaches “shall be held, maintained and used by (IVGID)...only for the purposes of recreation by, and for the benefit of, property owners and their tenants (*specifically including occupants of motels and hotels*).” For this reason when the District adopted the first RFF, motels and hotels were assessed one-half of a RFF single family parcels were assessed for *every motel or hotel room*<sup>84</sup>. This remained the case until April 15, 1983 when inexplicably, Resolution 1424 was adopted which changed the assessment on motel and hotel parcels to the same as a single family parcel<sup>85</sup> (i.e., *a single RFF*). Nothing stops this Board from reinstating the initial practice of assessing *every motel or hotel room* a RFF/BFF!

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<sup>83</sup> See ¶3 at page 108 of the 5/27/2020 Board packet.

<sup>84</sup> See ¶7(e) of Resolution 451.

<sup>85</sup> See ¶F of the report adopted pursuant to Resolution 1424 to collect the RFF on the county tax roll.

There are many parcels within IVGID's boundaries which house multiple dwelling units yet they are assessed a single BFF and/or RFF. I have brought evidence of numerous examples to past Boards' attention<sup>86</sup>, and yet they've done nothing.

I and others have brought these anomalies to the attention of past Boards but they have refused to do their jobs by: spreading the obligation of the RFF/BFF uniformly over all parcels/dwelling units within the District's boundaries; and, adopting resolutions such as 1879 making explicit findings to the contrary. Given there are probably one-thousand (1,000) or more of such dwelling units which are escaping assessment, and NRS 318.203<sup>87</sup> offers a procedure to impress RFFs/BFFs against such dwelling units<sup>88</sup>, *the consequences are enormous*.

**V. That the RFF/BFF "Ha(ve) Been...Reasonab(ly)...Apportioned...in Relation to... Natural, Intrinsic, Fundamental and Reasonable Distinctions:"**<sup>89</sup> Do you even know what this means?

Will staff provide evidence in support of this proposed finding? Assuming the answer to this question is "no," which has been the case for the last thirteen (13) or more years I have been attending public hearings like this one, why do you propose making it? Without substantial evidence supporting formal findings the Board's adoption is arbitrary, capricious, an abuse of discretion and avoidable. I therefore object.

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<sup>86</sup> Three times in just the last three years no less: October 30, 2019 [see pages 359-377 of the packet of materials prepared by staff in anticipation of the Board's May 13, 2019 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_11-13-2019updated.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_11-13-2019updated.pdf) ("the 11/13/2019 Board packet")}], March 13, 2018 [see pages 296-308 of the packet of materials prepared by staff in anticipation of the Board's March 28, 2018 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_3-28-18.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_3-28-18.pdf) ("the 3/28/2018 Board packet")}], and December 13, 2017 [see pages 388-398 of the packet of materials prepared by staff in anticipation of the Board's January 24, 2018 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_1-24-18.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_1-24-18.pdf) ("the 1/24/2018 Board packet")}].

<sup>87</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec203>.

<sup>88</sup> "(1) If a...person has a reasonable belief that a dwelling unit exists that is not currently being charged for services provided by a general improvement district...the...person may submit an affidavit to the board of trustees of the district, setting forth the facts upon which the...person bases his or her belief...(2) If a board of trustees receives an affidavit described in subsection 1, the board may set a date for a hearing to determine whether the unit referenced in the affidavit is being used as a dwelling unit...(3) If, after the hearing, the board determines that the unit referenced in the affidavit submitted pursuant to subsection 1 is being used as a dwelling unit, the board may adopt a resolution by the affirmative votes of not less than two-thirds of the total membership of the board to charge the owner pursuant to NRS 318.197 for the services provided by the district to the dwelling unit."

<sup>89</sup> See ¶15 at page 109 of the 5/27/2020 Board packet.

Moreover, what “apportionment” has taken place? Aren’t the RFF/BFF the same regardless of the type or size of the assessed parcel? And since there has been none, how is it “reasonable?”

**W. That the RFF/BFF Have Been “Equitably Distributed Among the Parcels of Property”<sup>90</sup>**  
**Within the District:** Of course they haven’t.

Will staff provide evidence in support of this proposed finding? Assuming the answer to this question is “no,” which has been the case for the last thirteen (13) or more years I have been attending public hearings like this one, why do you propose making it? Without substantial evidence supporting formal findings the Board’s adoption is arbitrary, capricious, an abuse of discretion and avoidable. I therefore object.

Moreover, what is “equitable” about assessing all parcels within IVGID’s boundaries the same RFF/BFF? Do the occupants of a studio apartment located miles away from any recreational facility realize any different benefit than the occupants of a 20,000 square foot Lakeshore Blvd. estate? Or those of a home on the Championship Golf Course?

Or what is equitable about assessing a single parcel with a seventy-six (76) unit apartment building seventy-six (76) RFFs/BFFs, yet assessing two parcels with four hundred eighty-eight (488) hotel rooms, each of which is a “portion (of a)...building...which contains living facilities with provisions for sleeping, eating, cooking, and sanitation”<sup>4</sup> with two (2) RFFs/BFFs?

**X. That “All Laws Applicable to the Levy, Collection and Enforcement of General (*Ad Valorem*) Taxes of the District, (Expressly) Including, But Not Limited to...*Refund*...Are Applicable to” the RFF/BFF<sup>91</sup>:** Of course they’re not.

And this is a subject I’ve raised to the Board several times in the past<sup>92</sup>. The laws applicable to the refund of general taxes don’t work insofar as RFF/BFF refunds are concerned because the latter are based upon: assessments a property owner believes are “higher...than another property,”<sup>93</sup> or an assessed “full cash value (that)...is (more) than the taxable value computed for the property in the current assessment year.”<sup>94</sup> The RFF/BFF are uniform and not based upon an assessed property’s assessed valuation.

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<sup>90</sup> See ¶12 at page 108 of the 5/27/2020 Board packet.

<sup>91</sup> See ¶18 at page 110 and ¶VII at page 115 of the 5/27/2020 Board packet as well as NRS 318.201(12).

<sup>92</sup> The last time being May 20, 2020 (I have attached my e-mail to the Board as Exhibit “A” to this written statement).

<sup>93</sup> See NRS 361.356(1)(a) [go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec356>].

<sup>94</sup> See NRS 361.357(1)(a) [go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec357>].

So how does a parcel/dwelling unit owner seek refund of the RFF/BFF he/she/it is compelled to pay? Because Resolution 1879 doesn't instruct how, it must be modified. That is unless Board members really don't want to allow parcel/dwelling unit owners to seek refund. *Is that your intent Board members?*

**Y, Z. There Are at Least Two Additional Statements of Fact in Resolution 1879 Which Are Untrue. But I Will Not Call These to the Attention of the Board Until After the Resolution is Adopted:**

**Conclusion:** How can Board members adopt the RFF/BFF and order their collection on the county tax roll supported by a resolution and incorporated Report which include so many misrepresentations of fact, especially when they know those representations are false? Members of the community demand the Board start speaking the truth. And if this means the ends cannot be justified by the means, then so be it.

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

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

**EXHIBIT "A"**

## Staff's Proposed 2020-21 Rec and Beach Fees - Please Do the Right Thing!

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**From:** s4s@ix.netcom.com  
**To:** Callicrate Tim  
**Cc:** Dent Matthew <dent\_trustee@ivgid.org>, Wong Kendra Trustee <wong\_trustee@ivgid.org>, Morris Peter <morris\_trustee@ivgid.org>, Schmitz Sara <schmitz\_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan\_Herron@ivgid.org" <Susan\_Herron@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>  
**Subject:** Staff's Proposed 2020-21 Rec and Beach Fees - Please Do the Right Thing!  
**Date:** May 20, 2020 11:26 AM

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Dear Chairperson Callicrate and Other Honorable Members of the IVGID Board:

Last night four (4) of you made it quite clear you intend to adopt a combined 2020-21 RFF/BFF of \$830. Because you have already preliminarily adopted a report for the collection of those fees [see pages 51-56 of the packet of materials prepared by staff in anticipation of the Board's April 14, 2020 meeting ([https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular-4-14-20.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular-4-14-20.pdf))], I want to call your attention to language in the report which is set forth at paragraph VI which I full expect will be incorporated into the final report you adopt: "all laws applicable to the levy; collection and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges." Moreover, this language complies with NRS 318.201(13) which states "All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

There is a public hearing on the RFF/BFF set for next Wednesday, May 27, 2020. Afterwards I fully expect four (4) of you to adopt a final version of the report which will adopt the proposed RFF/BFF and order its collection on the County Tax Roll. Although those of us who are aggrieved cannot avoid paying these fees, we can seek their refund. However there is no procedural remedy for refund as there is for the District's or the County's general taxes because the RFF/BFF is not based upon assessed valuation.

So I am asking the Board create an IVGID administrative remedy for seeking refund so local property owners can appeal to the Board for refunds where as here:

1. The public's recreation and beach facilities have **not** been available for property owners' use contrary to the language of paragraph I of the report that "the following annual charges (i.e., the RFF/BFF) are for the availability of use of the recreational facilities above described;"
2. At last night's meeting both staff and all members of the Board admitted that because of our excess fund balances, no Rec Fee was "required." Yet this finding conflicts with paragraph II of the report that, "the amount of moneys **required for the fiscal year extending from July 1, 2020, to June 30, 2021, has been determined by this Board to be** about \$\_\_\_\_\_ (fill in the blank) for the Recreation Facility Fee and \$\_\_\_\_\_ (fill in the blank) for the Beach Facility Fee;
3. At last night's meeting both staff and all members of the Board admitted that rather than "**the proper servicing of said identified bonds and for the administration, operation, maintenance and improvement of said real properties, equipment and facilities,**" the purpose of a 2020-21 RFF/BFF was to create/increase Community Services and Beach Fund balances to pay for future CIPs - namely a reconstructed Burnt Cedar Beach pool, construction of a new Incline Beach "House" restaurant, and the repaving of Ski Way;

4. Notwithstanding the beaches are "private property" the Board intends to use "the provisions of this chapter (NRS 318)...to provide a method for financing the costs of developing private property" (i.e., the beaches) contrary to the prohibition of NRS 318.015(2); and,

5. Notwithstanding the fact that on May 16, 2020 I provided the Board with evidence that the District entered into a court approved settlement agreement with the public on or about April 11, 1968 that the BFF would never exceed \$50, I anticipate the Board will violate this agreement by adopting a 2020-21 BFF in excess of \$50.

This type of administrative remedy already has already been adopted by the Board at paragraph 67 of Ordinance 7 ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec\\_ordinance\\_7\\_1998.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf)) for "misconduct" (paragraph 66). It would be pretty easy for the Board to adopt a similar administrative remedy for those seeking refund of part/all of the RFF/BFF. This is what I request.

Thank you for your anticipated courtesies and implementation as part of next Wednesday's Board meeting.

Aaron Katz

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**From:** Jim & Joanne Benjamin <jben999@verizon.net>  
**Sent:** Wednesday, May 27, 2020 10:12 AM  
**To:** Info\_at\_IVGID  
**Cc:** Tim Callicrate; Matthew Dent; Sara Schmitz; Wong, Kendra; Peter Morris  
**Subject:** Our comments for proposed Recreation & Beach Facility Fees

Below are our comments for the tonight's public hearing regarding proposed Recreation & Beach Facility Fees. Please have them included in the official record.

Ladies and Gentlemen;

We strongly urge you to not adopt at this time the proposed Recreation Facility Fee of \$330 per parcel/dwelling unit and the proposed Beach Facility Fee of \$500 per parcel/dwelling unit. Our reasons are twofold:

First, this is a very sudden and significant change from past practice and likely to have substantial impact and "unintended consequences" to current recreation facility operations and many Incline Village residents. Even if the proposed fee structure is appropriate and correct, given its magnitude it should be implemented carefully, in phases over time. For example, execute the reallocation over four years, reducing the Recreation Facility Fee by approximately \$100 each year, and increasing the Beach Fee by the same amount. This would lessen immediate negative impacts, provide the community with proper expectations, and allow for the reallocation to be "tuned" or adjusted based on experience and feedback.

Second, we do not believe that the proposal has been properly scrutinized or evaluated by the majority of affected Incline Village residents. In fact, we, and our neighbors were shocked to learn of it (from Trustee Smith's email newsletter, but not from any visible public notice). IVGID and its trustees need to be especially transparent and communicative during these times of sheltering in place and closed public meetings. A change of this magnitude warrants extensive outreach, education, and public engagement, conducted over a significant period of time. This is even more important right now as we are no longer served by a local newspaper and many folks at this time of year are more focused on the COVID virus and cleaning up pine needles for fire safety than they are on monitoring local government affairs.

In conclusion we urge you to postpone (or reject and later reconsider) this proposal until it and its potential impacts have been thoroughly explained, and understood and vetted by the community.

Very truly yours,

Jim & Joanne Benjamin  
966 Caddie Court  
Incline Village, NV

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 27, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEMS C, I(c) AND I(d) – PROPOSED FINAL 2020/21 OPERATIONAL AND CAPITAL BUDGET – NO MATTER WHAT STAFF DO TO REDUCE COSTS, THEY CONTINUE TO BUDGET TO OVERSPEND TO THE SUBSIDY OF RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEE(S), AND CENTRAL SERVICES COST TRANSFERS. IN ORDER TO MEANINGFULLY REDUCE COSTS, THE BOARD *MUST* TAKE AWAY THESE SUBSIDIES!**

**Introduction:** After three (3) budget workshops and now six (6) revised reduced revenue scenarios, staff propose a final budget which *again* budgets to the constant of RFF/BFF and central services subsidies with essentially no reductions in initially proposed capital improvement project (“CIP”) expenditures<sup>1</sup>. As long as staff refuse to budget to a lower or no RFF/BFF, lower central services cost subsidies, and reduced CIPs, *it doesn’t matter what cost cutting measures are implemented*. Since staff refuse to propose less aggressive CIPs, or central services reductions, or RFF/BFF reductions, there’s only one way to force them to meaningfully reduce overspending. And that’s to *take away the subsidies*; that is, to reduce/eliminate the RFF/BFF, and to reduce central services cost transfers. And that’s the purpose of this written statement.

**Insofar as Possible Cost Cutting Measures Are Concerned, as You Can See Below, the Only Realistic Categories Where Cost Cutting Can Possibly Occur, Continue to Be Personnel, Services and Supplies, Central Services and CIPs:** I previously supported this assertion with argument at the Board’s May 7, 2020 workshop so I won’t repeat myself here. However, take a look at proposed *reduced* central services transfers to the General Fund. *THERE ARE NONE*<sup>2</sup>!

How about proposed *reduced* Community Services and Beach Fund CIP expenditures? *THERE ARE ESSENTIALLY NONE*<sup>1</sup>!

How about proposed *reduced* RFFs/BFFs? *THERE ARE NONE*<sup>3</sup>!

**So With the Foregoing in Mind, Let’s Examine Staff’s Final Proposed Cost Reductions Insofar as Each of the District’s Recreation Venues (Including the Beaches) is Concerned:** I have created

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<sup>1</sup> I say essentially *none* because out of \$3,792,040 initially proposed on Community Services Fund CIPs, staff have now proposed *a meager* \$142,615 or 3.76% reduction. But upon closer inspection there has been no reduction. \$113,985 of Mountain Golf cart acquisition costs have been reduced to \$0.00 [see page 33 of the packet of materials prepared by staff in anticipation of this May 19, 2020 Board meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/Package-Workshop\\_5-19-2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/Package-Workshop_5-19-2020.pdf) (“the 5/19/2020 Board packet”)}] because of lease rather than purchase. And insofar as initially proposed Beach Fund CIPs are concerned, *no reductions whatsoever* have been proposed!

<sup>2</sup> See page 17 of the 5/19/2020 Board packet.

<sup>3</sup> See page 52 of the 5/19/2020 Board packet.

spreadsheets (below) depicting staff's cost cutting proposals. These are compared to staff's initial proposed budget as well as its five (5) revised reduced revenue scenarios:

<b>Community Services Fund Budgeting</b>				
	<b>Current Estimated</b>	<b>Originally Proposed</b>	<b>Currently Proposed</b>	<b>Difference If Any</b>
Revenues	\$ 18,405,000 <sup>4</sup>	\$ 17,831,445 <sup>4</sup>	\$ 17,936,507 <sup>4</sup>	\$ 105,062
Facility Fees	\$ 5,782,702 <sup>4</sup>	\$ 5,782,410 <sup>4</sup>	\$ 1,763,645 <sup>4</sup>	(\$ 4,018,765)
			\$ 533,195 <sup>5</sup>	
Sub-Total Revenues	\$ 24,187,702	\$ 23,613,855	\$ 19,700,152	(\$ 3,913,703)
Personnel	\$ 9,003,000 <sup>6</sup>	\$ 9,632,773 <sup>6</sup>	\$ 8,724,164 <sup>6</sup>	(\$ 908,609)
Services & Supplies	\$ 8,361,174 <sup>6</sup>	\$ 9,485,360 <sup>6</sup>	\$ 9,066,907 <sup>6</sup>	(\$ 418,453)
Central Services	\$ 903,200 <sup>7</sup>	\$ 950,640 <sup>8</sup>	\$ 972,685 <sup>9</sup>	\$ 22,045
Sub-Total Operational	\$ 17,364,174	\$ 19,118,133	\$ 18,149,871 <sup>6</sup>	(\$ 968,262)
CIP New	\$ 4,802,775 <sup>10</sup>	\$ 5,709,731 <sup>6</sup>	\$ 3,627,040 <sup>10</sup>	(\$ 1,175,735)
CIP Carry Over	\$ 1,240,725 <sup>10</sup>		\$ 2,500,701 <sup>10</sup>	\$ 1,259,976
Sub-Total Expenses	\$ 23,407,674	\$ 24,827,864	\$ 24,277,612	(\$ 550,252)
<b>Totals</b>	<b>\$ 780,028</b>	<b>(\$ 1,214,009)</b>	<b>(\$ 4,577,460)</b>	<b>(\$ 3,363,451)</b>

<sup>4</sup> See page 46 of the packet of materials prepared by staff in anticipation of this May 27, 2020 meeting [[https://www.yourtahoepace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_5-27-2020.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-27-2020.pdf) ("the 5/27/2020 Board packet")].

<sup>5</sup> See page 49 of the 5/27/2020 Board packet.

<sup>6</sup> See page 47 of the 5/27/2020 Board packet.

<sup>7</sup> Go to page 114 of the 2019-20 Budget [[https://www.yourtahoepace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf) ("the 2019-20 Budget")].

<sup>8</sup> See pages 92-139 of the packet of materials prepared by staff in anticipation of the Board's March 11, 2020 meeting [[https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020\\_F.6.\\_-\\_General\\_Business\\_-\\_Districts\\_DRAFT\\_Operating\\_Budget.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020_F.6._-_General_Business_-_Districts_DRAFT_Operating_Budget.pdf) ("the 3/11/2020 Board packet")].

<sup>9</sup> See page 28 of the 5/27/2020 Board packet.

<sup>10</sup> See page 49 of the 5/27/2020 Board packet.

Beach Fund Budgeting				
	Current Estimated	Originally Proposed	Currently Proposed	Difference If Any
Revenues	\$ 1,568,000 <sup>11</sup>	\$ 1,608,050 <sup>11</sup>	\$ 843,205 <sup>11</sup>	\$ 105,062
Facility Fees	\$ 968,500 <sup>11</sup>	\$ 968,375 <sup>11</sup>	\$ 658,580 <sup>11</sup>	(\$ 4,018,765)
			\$ 3,207,672 <sup>12</sup>	
Sub-Total Revenues	\$ 2,536,500 <sup>11</sup>	\$ 2,576,425 <sup>11</sup>	\$ 1,501,785 <sup>11</sup>	(\$ 3,913,703)
Personnel	\$ 1,080,000 <sup>11</sup>	\$ 1,174,638 <sup>11</sup>	\$ 1,032,023 <sup>11</sup>	(\$ 908,609)
Services & Supplies	\$ 914,500 <sup>11</sup>	\$ 987,569 <sup>11</sup>	\$ 874,276 <sup>11</sup>	(\$ 418,453)
Central Services	\$ 110,527 <sup>7</sup>	\$ 118,920 <sup>13</sup>	\$ 106,046 <sup>9</sup>	\$ 12,874
Sub-Total Operational	\$ 17,364,174	\$ 19,118,133	\$ 18,149,871 <sup>5</sup>	(\$ 968,262)
CIP New	\$ 4,802,775	\$ 483,600 <sup>13</sup>	\$ 454,500 <sup>12</sup>	(\$ 1,175,735)
CIP Carry Over	\$ 0		\$ 0	\$ 1,259,976
Sub-Total Expenses	\$ 23,407,674	\$ 24,827,864	\$ 24,277,612	(\$ 550,252)
Totals	\$ 780,028	(\$ 1,214,009)	(\$ 4,577,460)	(\$ 3,363,451)

Facilities						
	Proposed <sup>14</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>15</sup>
Personnel	\$ 136,083	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 24,214)
Services & Supplies	\$ 352,898	(\$ 4,659)	(\$ 7,610)	(\$ 11,492)	(\$ 13,292)	(\$ 6,110)
Other	\$ 49,590					(\$ 2,000)
Central Services	\$ 27,420	(\$ 0)	(\$ 1,000)	(\$ 2,000)	(\$ 2,938)	(\$ 0)
Capital Improvements	\$ 100,000	(\$ 15,140)	(\$ 15,140)	(\$ 15,140)	(\$ 15,140)	(\$ 0)
Total	\$ 665,991	(\$ 19,799)	(\$ 23,750)	(\$ 28,632)	(\$ 31,370)	(\$ 32,324)

<sup>11</sup> See page 48 of the 5/27/2020 Board packet.

<sup>12</sup> See page 50 of the 5/27/2020 Board packet.

<sup>13</sup> See pages 134 of the 3/11/2020 Board packet.

<sup>14</sup> See page 117 of the 5/7/2020 Board packet.

<sup>15</sup> See page 21 of the 5/19/2020 Board packet.

<b>Ski</b>						
	Proposed <sup>16</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>17</sup>
Personnel	\$ 4,186,534	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 413,259)	(\$ 0)
Services & Supplies	\$ 2,058,216	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 2,401)	(\$ 0)
Cost of Goods Sold	\$ 529,100					(\$ 0)
Other	\$ 863,449					(\$ 0)
Central Services	\$ 417,600	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 198,328)	(\$ 0)
Capital Improvements	\$ 1,192,000	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 9,246,899</b>	<b>(\$ 0)</b>	<b>(\$ 0)</b>	<b>(\$ 0)</b>	<b>(\$ 613,988)</b>	<b>(\$ 0)</b>

<b>Recreation Center/Community Programming</b>						
	Proposed <sup>18</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>17</sup>
Personnel	\$ 1,655,644	(\$ 185,133)	(\$ 224,600)	(\$ 283,262)	(\$ 325,599)	(\$ 280,409)
Services & Supplies	\$ 563,979	(\$ 23,042)	(\$ 41,606)	(\$ 62,884)	(\$ 96,847)	(\$ 61,893)
Cost of Goods Sold	\$ 44,559					(\$ 11,159)
Other	\$ 206,410					(\$ 12,000)
Central Services	\$ 133,440	(\$ 0)	(\$ 3,100)	(\$ 6,200)	(\$ 10,600)	(\$ 0)
Capital Improvements	\$ 455,000	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 3,059,032</b>	<b>(\$ 208,175)</b>	<b>(\$ 269,306)</b>	<b>(\$ 352,346)</b>	<b>(\$ 433,046)</b>	<b>(\$ 365,461)</b>

<sup>16</sup> See page 118 of the 5/7/2020 Board packet.

<sup>17</sup> See page 22 of the 5/19/2020 Board packet.

<sup>18</sup> See page 119 of the 5/7/2020 Board packet.

**Community Services Administration**

	Proposed <sup>20</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>21</sup>
Personnel	\$ 251,978	(\$ 57,274)	(\$ 69,514)	(\$ 83,690)	(\$ 97,991)	(\$ 42,624)
Services & Supplies	\$ 79,068	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 2,300)
Fuels Management	\$ 100,000					(\$ 0)
Other	\$ 8,604					(\$ 999)
Transfers Out	\$ 4,085,212					\$ 12,860
Central Services	\$ 21,300	(\$ 0)	(\$ 2,000)	(\$ 4,000)	(\$ 6,000)	(\$ 0)
Capital Improvements	\$ 90,000	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 4,636,162</b>	<b>(\$ 57,274)</b>	<b>(\$ 71,514)</b>	<b>(\$ 87,690)</b>	<b>(\$ 103,991)</b>	<b>(\$ 33,063)</b>

**Parks**

	Proposed <sup>22</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>23</sup>
Personnel	\$ 428,742	(\$ 23,646)	(\$ 24,479)	(\$ 25,378)	(\$ 26,277)	(\$ 7,753)
Services & Supplies	\$ 302,862	(\$ 0)	(\$ 3,127)	(\$ 1,985)	(\$ 5,097)	(\$ 0)
Utilities	\$ 96,485					(\$ 0)
Other	\$ 14,490					(\$ 0)
Central Services	\$ 45,540	(\$ 0)	(\$ 1,000)	(\$ 2,000)	(\$ 3,000)	(\$ 0)
Capital Improvements	\$ 172,440	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 1,060,559</b>	<b>(\$ 23,646)</b>	<b>(\$ 28,606)</b>	<b>(\$ 29,363)</b>	<b>(\$ 34,374)</b>	<b>(\$ 7,753)</b>

<sup>19</sup> See page 23 of the 5/19/2020 Board packet.

<sup>20</sup> See page 120 of the 5/7/2020 Board packet.

<sup>21</sup> See page 24 of the 5/19/2020 Board packet.

<sup>22</sup> See page 121 of the 5/7/2020 Board packet.

<sup>23</sup> See page 25 of the 5/19/2020 Board packet.

Tennis						
	Proposed <sup>24</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>25</sup>
Personnel	\$ 158,007	(\$ 50,502)	(\$ 85,887)	(\$ 97,481)	(\$ 97,909)	(\$ 21,439)
Services & Supplies	\$ 63,830	(\$ 4,360)	(\$ 6,500)	(\$ 8,600)	(\$ 10,300)	(\$ 3,500)
Cost of Goods Sold	\$ 15,500					(\$ 8,900)
Other	\$ 14,863					(\$ 0)
Central Services	\$ 13,680	(\$ 0)	(\$ 400)	(\$ 800)	(\$ 1,200)	(\$ 0)
Capital Improvements	\$ 48,600	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 311,897</b>	<b>(\$ 54,862)</b>	<b>(\$ 92,787)</b>	<b>(\$ 106,881)</b>	<b>(\$ 109,409)</b>	<b>(\$ 33,839)</b>

Community Services Totals						
	Proposed	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final
Personnel	\$ 9,632,793	(\$ 445,758)	(\$ 564,104)	(\$ 885,662)	(\$ 1,356,886)	(\$ 534,529)
Services & Supplies	\$ 4,886,825	(\$ 83,237)	(\$ 112,874)	(\$ 176,631)	(\$ 219,607)	(\$ 128,320)
Cost of Goods Sold	\$ 1,846,634					(\$ 275,296)
Fuels Management	\$ 100,000					(\$ 0)
Transfers Out	\$ 4,085,212					\$ 12,860
Other	\$ 1,585,647					(\$ 19,951)
Central Services	\$ 971,940	(\$ 0)	(\$ 17,000)	(\$ 34,114)	(\$ 241,180)	(\$ 0)
Capital Improvements	\$ 3,792,040	\$ 12,860	\$ 12,860	\$ 12,860	\$ 12,860	(\$ 142,615)
<b>Total</b>	<b>\$ 26,901,091</b>	<b>(\$ 516,135)</b>	<b>(\$ 681,118)</b>	<b>(\$ 1,083,547)</b>	<b>(\$ 1,804,813)</b>	<b>(\$ 1,087,851)</b>

Beach						
	Proposed <sup>26</sup>	Scenario 2 <sup>5</sup>	Scenario 3 <sup>6</sup>	Scenario 4 <sup>7</sup>	Scenario 5 <sup>8</sup>	Final <sup>25</sup>
Personnel	\$ 1,174,638	(\$ 236,110)	(\$ 282,752)	(\$ 317,396)	(\$ 337,085)	(\$ 142,615)
Services & Supplies	\$ 573,175	(\$ 49,899)	(\$ 83,607)	(\$ 84,203)	(\$ 94,653)	(\$ 72,184)
Cost of Goods Sold	\$ 100,500					(\$ 16,900)
Other	\$ 194,974					(\$ 11,335)
Central Services	\$ 118,920	(\$ 0)	(\$ 6,000)	(\$ 12,000)	(\$ 12,000)	(\$ 0)
Capital Improvements	\$ 454,500	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)	(\$ 0)
<b>Total</b>	<b>\$ 2,616,707</b>	<b>(\$ 286,009)</b>	<b>(\$ 372,359)</b>	<b>(\$ 413,599)</b>	<b>(\$ 443,738)</b>	<b>(\$ 243,034)</b>

<sup>24</sup> See page 122 of the 5/7/2020 Board packet.

<sup>25</sup> See page 26 of the 5/19/2020 Board packet.

<sup>26</sup> See page 123 of the 5/7/2020 Board packet.

**Note That All of These Numbers Are Staff's Numbers. I Haven't Added Onto Any of Them. All I Have Done is to Present Them in a Different/Less Deceitful Manner:**

**Note That Under All of These Proposed Cost Cutting Scenarios, the RFF/BFF Remain at Their Current Excessive Levels:**

**Note That Under All of These Proposed Cost Cutting Scenarios, Central Services Cost Transfers to the General Fund Remain at Their Current Excessive Levels:**

**Note That Under All of These Proposed Cost Cutting Scenarios, Capital Spending at All of Our Recreational Venues and the Beaches Essentially Remain at Their Current Excessive Levels<sup>1</sup>:**

**The Growth of Community Services and Beach Fund Balances Proves That For at Least the Last Nine (9) Years, the RFF/BFF Subsidies Local Property Owners Have Been *Involuntarily Assessed* Have Been Excessive:** On June 30, 2011, the unrestricted balance assigned by staff to the District's Community Services Fund<sup>28</sup> was \$4,226,167<sup>29</sup>. The unrestricted balance<sup>28</sup> assigned by staff to the District's Beach Fund was \$1,177,762<sup>29</sup>. As of June 30, 2020 staff estimates that the unrestricted balance assigned to the District's Community Services Fund will be \$12,360,444<sup>30</sup>. And the unrestricted balance assigned by staff to the District's Beach Fund will be \$2,159,282<sup>31</sup>. How did the fund balance in the District's Community Services Fund increase by \$8,134,277 (on average, \$903,808.56/year) in nine (9) short years? And how did the fund balance in the District's Beach Fund increase by \$981,520 (on average, \$109,057.78/year) in a similar number of short years? The simple answer is Gerry Eick's "smoothing" or "re-purposing." The more complicated answer is:

1. Intentionally budgeting higher than necessary RFFs/BFFs to pay for "virtual bonds" which exist in cyberspace yet not in the real world. In other words, retired recreation general obligation bonds;

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<sup>27</sup> See page 27 of the 5/19/2020 Board packet.

<sup>28</sup> "Fund Balance" is defined as "the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes" [see page 159 of the 2019-20 Budget ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf))].

<sup>29</sup> See page 25 of the Comprehensive Annual Financial Report ("CAFR") ending June 30, 2011 ("the 2011 CAFR"). I have attached this page and placed asterisks next to the referenced numbers as Exhibit "A" to this written statement.

<sup>30</sup> See pages 24 of the 5/7/2020 Board packet. I have attached this page as well as page 23 of the 5/7/2020 Board packet, and placed an asterisk next to the referenced number on page 24, as Exhibit "B" to this written statement. Page 23 evidences that

<sup>31</sup> See page 25 of the 5/7/2020 Board packet. I have attached this page and placed an asterisk next to the referenced number as Exhibit "C" to this written statement.

2. Budgeting for CIPs staff never prosecuted or perpetually carried-forward and in essence never prosecuted (a good example being the Diamond Peak Master Plan). Notwithstanding, since these CIPs were funded, these monies became part of the fund balance:

3. Estimating CIP costs at excessive amounts guarantying excess budgeted sums after completion which got swept into fund balances: and,

4. Budgeting for expenses which were never incurred. But since they were funded, from local property owners' perspective, they might as well have been incurred/spent because they're the ones who paid.

**“Any Way the Cookie Crumbles,” Over at Least the Last Nine (9) or More Years Staff Have Realized *More* Recreation/Beach Funds Than Those Necessary to Make the Public’s Recreation/Beach Facilities “Available to be Used:”<sup>32</sup>**

**And Since Staff Intentionally Over Budget Expenses to the Given of Excessive RFF/BFF Subsidies, Over at Least the Last Nine (9) or More Years Staff Have Exacted More RFFs/BFFs Than Those Required to Subsidize Overspending:**

**How Have Staff Been Able to Hide the Fact These Fund Balances Have Been Increasing:** given the District’s financials do not reveal yearly positive cash flow? *The answer is budgeting phony expenses to the District’s Community Services Administration sub-fund.*

Instead of reporting that revenues assigned by staff to the District’s Community Services Fund exceed expenses by \$903,808.56/year, on average, staff report a balanced budget because there are no revenues left over to report after subtracting expenses assigned to the Community Services Administration sub-fund<sup>33</sup>. Similarly, instead of reporting that revenues assigned by staff to the Beach

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<sup>32</sup> As I have demonstrated many times before, according to staff, the RFF/BFF represent nothing more than fees allegedly necessary to make the public’s recreational and beach facilities merely available to be used by those whose properties are involuntarily assessed [see pages 51-56 of the packet of materials prepared by staff in anticipation of the Board’s April 14, 2020 meeting {“the 4/14/2020 Board packet” ([https://www.yourtahoepace.com/uploads/pdf-ivgid/4-14-2020\\_BOT\\_Packet\\_Regular.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/4-14-2020_BOT_Packet_Regular.pdf))}].

<sup>33</sup> See pages 71-72 of the 4/14/2020 Board packet. I have attached these pages and placed asterisks next to estimated current year ending 6/30/2020 revenues of \$37,763,530 and expenses of \$37,763,530 assigned to the District’s Community Services Fund as Exhibit “D” to this written statement. In other words, a balanced budget.

Fund exceed expenses by \$109,057.78/year, on average, staff report a balanced budget because there are no revenues left over to report after subtracting expenses assigned to the Beach sub-fund<sup>34</sup>.

Thus whatever amounts exceed revenues and increase fund balances ended up being hidden because they are either assigned to the Community Services Administration sub-fund, or the "Services and Supplies" expense category in the Beach Fund.

**Staff's Phony Community Services Administration Sub-Fund:** At the Board's April 1, 2020, April 14, 2020, and May 7, 2020 meetings I submitted written statements objecting to approval of the proposed 2020-21 CIP budget<sup>35</sup> and preliminary report for the collection of 2020-21's RFF/BFF<sup>36</sup>. At pages 204-205 of the 4/14/2020 Board packet and 132-133 of the 5/6/2020 Board packet I provided evidence of how expenses assigned to the District's Community Services Administration sub-fund and the District's Beach Fund under Services and Supplies are *phony* and nothing more than a vehicle and placeholder to accumulate funds for future unidentified, un-budgeted and un-appropriated pet projects. In other words, this sub-fund exists to hide the fact the RFF is higher than required by making the public think excess amounts are actually being spent on "something" when in-truth-and-in-fact they aren't. Remember, these accumulations have been made possible because of Mr. Eick's "smoothing" and "repurposing" techniques whereby excessive RFFs/BFFs are budgeted to levels "the market will bear" rather than to those actually required because local property owners have gotten used to paying these sums in the past when past recreation bonds had to be serviced.

**Staff's Phony Central Services Costs Allocation:** Staff's budgeted overspending is not limited to the District's Community Services and Beach Funds. It extends to the District's General Fund<sup>2</sup>. How do staff balance the revenues and overspending assigned to this fund like it does for the District's Community Services and Beach Funds? They have concocted another subsidy disingenuously called "central services." The current 2019-20 Budget<sup>37</sup> defines "central services cost allocation" as "the amount allocated between the Utility, Community Service and Beach Funds to cover the cost of services (allegedly) provided by the General Fund under Board Policy." But not all of staff overspending assigned to the General Fund represents "services provided by the General Fund." Besides the more obvious examples<sup>38</sup>, consider: \$474,855 of "General Government" expenditures

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<sup>34</sup> See Exhibit "C." I have placed asterisks next to estimated current year ending 6/30/2020 revenues of \$4,360,003 and expenses of \$4,360,003 assigned to the District's Beach Fund. In other words, a balanced budget.

<sup>35</sup> See pages 202-207 of the 4/14/2020 Board packet.

<sup>36</sup> See pages 128-134 of the packet of materials prepared by staff in anticipation of the Board's May 6, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-6-2020\\_BOT\\_Packet\\_Regular.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-6-2020_BOT_Packet_Regular.pdf) ("the 5/6/2020 Board packet")].

<sup>37</sup> See page 157 of the 2019-20 Budget.

<sup>38</sup> Services such as a public relations firm to spew staff propaganda, a lobbyist to influence State legislation, attorney's fees to fight citizens (like Mark Smith) seeking public records, attorney's fees to

represented to the State Department of Taxation at page 21 of the District's current 2019-20 Budget<sup>39</sup>? Or \$216,420 of "Trustees" expenses that are similarly represented<sup>39</sup>? Or \$456,289 of "General Manager" expenses<sup>40</sup> that are similarly represented<sup>39</sup>? Or \$216,673 of "Communication" expenses that are similarly represented<sup>39</sup>. Or \$45,376 of "Health and Wellness" expenses that are similarly represented<sup>39</sup>. Or \$666,445 of "Capital Outlay" expenses that are similarly represented<sup>39</sup>. Or the rent paid/transferred to the Facilities sub-fund<sup>13</sup> for the Board's public meetings held at The Chateau<sup>41</sup>? Or the food, beverage and personnel costs to lay out/tear down that food and beverage I have objected to which is provided to the public at those meetings?

I submit that rather than "the cost of services (allegedly) provided by the General Fund under Board Policy," the Community Service (\$903,200<sup>42</sup>) and Beach (\$110,500<sup>42</sup>) Funds' central services cost allocations (a combined \$1,013,700) pay for a portion of this \$2.1 million or more of expenses assigned to the District's General Fund *which have nothing to do with than "the cost of services (allegedly) provided by the General Fund under Board Policy."* Staff have no standing to argue otherwise because when they budget to overspend, every expense ends up contributing to that overspending. Thus it is disingenuous to cherry pick any one or more particular expenditure(s) and declare it/they are subsidized by central services cost allocation versus other revenues assigned to the General Fund.

Moreover, to justify the allocation amongst these three funds staff go through a computation per sub-fund based upon full time equivalent ("FTE") employees<sup>42</sup> which includes part-time/seasonal employees, budgeted personnel, accounting and services and supplies expenses<sup>43</sup>. Therefore as these costs are reduced in a particular sub-fund or fund, one expects the allocation of central services costs to be reduced by a like amount. *But that's not what takes place here.*

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fight citizens (like Aaron Katz) petitioning the courts to address grievances, attorney's to file lawsuits against local citizens (like Kevin Lyons), etc.

<sup>39</sup> I have attached this page (go to [https://www.yourtahoepace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf)) and placed asterisks next to "General Government," "Trustees" and "General Manager" sub-totals as Exhibit "E" to this written statement.

<sup>40</sup> Our General Manager renders little if any services directly to our Community Services and Beach Venues because each has its own venue manager (Mike Bandelin for Diamond Peak, Darren Howard for the golf courses, Pandora Bahlman for Parks and Recreation Center, and Susan Mandio for the beaches).

<sup>41</sup> Most people don't realize the General Fund is charged to rent The Chateau for the Board's public meetings. Some years ago I made a public records request and Susan Herron responded with the then particulars.

<sup>42</sup> See page 120 of the 2019-20 Budget.

<sup>43</sup> You can see the current computation at page 114 of the 2019-20 Budget.

Take a look at the Community Services Total spreadsheet above. Notwithstanding staff propose personnel costs be reduced by \$534,529 (5.55%) and services and supplies costs be reduced by \$128,320 (2.63%), they propose *no reduction whatsoever* in the central services costs allocation. Similarly, notwithstanding staff propose personnel costs be reduced by (\$142,615) (12.14%) and services and supplies costs be reduced by \$72,184 (12.6%) in the District's Beach Fund, they propose *no reduction whatsoever* in the central services costs allocation.

Now take a look at staff's proposed budget for the District's phony Community Services Administration sub-fund<sup>19</sup>. Staff have proposed budgeting a \$21,300 central services expense. In other words, *phony on top of phony!* But wait; there's more.

Go back to the FTE page in the current 2019-20 budget<sup>42</sup>. There you will see that 2.5 FTEs have been assigned to both Community Services Administration and Tennis. Yet look at the central services costs assigned to both funds; \$21,300 to Community Services Administration yet only \$13,680 to tennis! Why the difference?

Let's go back to page 114 of the current 2019-20 Budget<sup>44</sup>. This is the page which calculates the current fiscal year's central services costs allocation. There you will see that \$1,367,400 was allocated amongst the District's Utility, Community Service and Beach Funds based upon budgeted General Fund personnel costs of \$3,194,744 and services and supplies costs of \$768,185<sup>2</sup>. Compare these numbers to staff's proposed allocated central services costs for 2020-21; General Fund personnel costs of \$3,186,900 (\$7,844 less than 2019-20) and services and supplies costs of \$780,940 (\$12,755 more than 2019-20). Yet central services costs have increased to \$1,471,440 [a whopping \$104,040 more than 2019-20 (an unbelievable 7.6% increase in a single year)]. But wait; there's more.

Let's go back to page 124 the District's 2018-19 Budget<sup>44</sup>. General Fund personnel costs of \$2,973,924 (\$212,976 less than proposed 2020-21 costs); services and supplies costs of \$1,129,365 (\$348,425 more than proposed 2020-21 costs); and, central services of \$1,169,400 [\$302,040 less than proposed 2020-21 costs (unbelievably, 25.83% less than proposed 2020-21)].

**Since the Community Services and Beach Funds Are "Special Revenue" Rather Than "Enterprise," it is Inappropriate to Assign Central Services Costs to Either:** The idea of central services cost transfers comes from NRS 354.613(1)(c) which states that,

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<sup>44</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Annual\\_Budget\\_FY2018-19\\_03122019.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Annual_Budget_FY2018-19_03122019.pdf).

“Except as otherwise provided (here there is no exception)...the governing body of a local government may...loan or transfer money *from an enterprise fund*, money collected from fees imposed for the purpose for which *an enterprise fund* was created or any income or interest earned on money in *an enterprise fund* only if the loan or transfer is made...for a cost allocation for employees, equipment or other resources related to the purpose of *the enterprise fund* which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body.”

If one examines the District’s current central services cost allocation<sup>43</sup>, one will see it has been “prepared and calculated in accordance with NRS 354.613 Subdivision 1c and IVGID Board Policy 18.1.0.” If one examines Policy 18.1.0, one will see “this Policy is specific to the equitable distribution of general, overhead, administrative and similar costs incurred by the District’s General Fund in the process of supporting the operation of the District’s *Enterprise Funds*.”<sup>45</sup>

The operative words here are “*enterprise funds*.” Because here the District’s Community Services and Beach Funds are special revenue rather than enterprise, “cost allocation (transfers) for employees, equipment or other resources” in reliance upon NRS 354.613(1)(c) and Policy 18.1.0 are *impermissible*. Yet as the Board can see, that’s exactly what staff have done.

Like I said, lacking rationality, *staff’s central services costs allocation is phony* because rather than NRS 354.613 and Policy 18.1.0, it is based upon the premise “the ends justify the means.”

**Meanwhile Staff Continue to Budget the Give Away Use of the Public’s Recreation Facilities to Local Charities and Non-Profits at Local Parcel/Dwelling Unit Owners’ Expense:** Past Board have adopted Resolutions 1619 and 1701<sup>45</sup>. Resolution 1619 governs the give away of access to and use of the public’s recreational facilities without assessment of user fees. Resolution 1701 governs give away of access to and use of the public’s recreational facilities so the recipients can make money off their use at local parcel/dwelling unit owners’ expense.

To get an idea of the magnitude of cost to local parcel/dwelling unit owners, check out staff’s proposed budget for facilities<sup>13</sup>. There staff propose that \$362,210 of charitable allowances and discounts be extended out of a total of \$788,879 (Nearly 46%) in budgeted rental income. Stated differently, here staff tell us they propose giving away \$362,210 of potential rent revenues to favored charities and non-profits, and at the same time transferring \$300,345 of RFFs and/or Diamond Peak positive cash flow to cover this deceitfully reported loss. Didn’t staff represent to the community in 2001 when it sought their consent to issue bonds to pay for renovations to The Chateau that the facility costs represented in this sub-fund would be offset by catering (today called food & beverage)? *So where is the alleged offsetting catering sales and fee revenue?*

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<sup>45</sup> Go to [https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID\\_Policy\\_and\\_Procedure\\_Resolutions.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

Moreover, there is *nothing* in NRS 318 which allows general improvement districts (“GIDs”) to give away or donate public property. We’ve had this discussion before. The *only* powers a GID may legitimately exercise are those included in its “initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein” [see NRS 318.055(4)(b)]. NRS 318.116 mentions nothing about public philanthropy. Moreover, the subject is not addressed anywhere in the remainder of NRS 318. Given Nevada is a *Dillon’s Rule State* [*Ronnow v. City of Las Vegas*<sup>46</sup>, 57 Nev. 332, 341-43, 65 P.2d 133 (1937)], IVGID exists to *only* exercise those enumerated powers, *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be “any fair, reasonable (or) substantial doubt concerning the existence of power (it) is (to be) resolved...*against* the (municipal) corporation...(and) all acts beyond the scope of...powers (expressly) granted are void” (*Ronnow, supra*, at 57 Nev. 343).

***These losses can be eliminated simply by repealing Resolutions 1619 and 1701 as Dillon’s Rule declares. But instead, staff propose no such elimination whatsoever.***

**For All These Reasons, if the Board Refuses to Reduce Personnel, Services & Supplies, Central Services Costs and CIPs Further, it Should Simply Eliminate 2020’s/2021’s Proposed RFF/BFF:**

**The Board Can Easily Afford to *ELIMINATE* the RFF/BFF:** At page 52 of the 5/19/2020 Board packet staff admit their proposed budget presumes receipt of \$705 in RFFs from 8,203 parcels<sup>47</sup>/dwelling units, and \$125 in BFFs from 7,748 parcels<sup>47</sup>/dwelling units with beach access. That’s a total of \$6,751,615. But assuming staff’s budgeted Community Services Administration entry is phony, and that the RFF/BFF are nothing more than financial subsidies<sup>48</sup>, the RFF subsidy staff requires is really \$963,231<sup>19</sup> *less* than represented<sup>49</sup>. So if one subtracts \$5,788,384 in proposed 2020-21 net RFFs/BFFs from staff’s combined estimated Community Services (\$12,360,444<sup>28</sup>) and Beach (\$2,159,282<sup>29</sup>) Fund balances [as of June 30, 2020 (\$14,519,726)], one will see that the District will still have a more than sufficient remaining combined fund balance (\$8,731,342) left over.

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<sup>46</sup> Go to <https://www.courtlistener.com/opinion/3569018/ronnow-v-city-of-las-vegas/>.

<sup>47</sup> See page 52 of the 5/19/2020 Board packet.

<sup>48</sup> On many past occasions I have demonstrated that the RFF is nothing more than a subsidy for an equivalent amount of budgeted overspending assigned by staff to the District’s Community Services Fund (take a look at Exhibit “B” and the reader will see that without the subsidy of the RFF, staff have budgeted to overspend a like amount). Similarly, the BFF represents a subsidy for an equivalent amount of budgeted overspending assigned by staff to the District’s Beach Fund (take a look at Exhibit “C” and the reader will see that without the subsidy of the BFF, staff have budgeted to overspend a like amount).

<sup>49</sup> Am I the only one who finds it remarkable how close this number is to the \$903,808.56/year, on average, of the last nine (9) years of increases to the Community Services Fund balance?

**Moreover, the Board Cannot Legitimately Assess the RFF/BFF Because it is Not “Required:”** We’ve had this discussion before. Each year when the Board adopts new RFFs/BFFs, it approves a report for their collection on the county tax roll<sup>50</sup> (see NRS 318.201, et seq). ¶III of that report declares the amounts the Board finds are “required” “for the proper servicing of said identified bonds and for the administration, operation, maintenance and improvement of said real properties, equipment and facilities.” The operative word here is “required.”

But at the Board’s meeting tonight I anticipate the Board as well as staff will admit no facility fee is required. Moreover, rather than “the proper servicing of...bonds and...the administration, operation, maintenance and improvement of said real properties, equipment and facilities,” I anticipate the Board will declare that the justification for the RFF/BFF will be to create/build up one or more reserves to fund a series of CIPs.

**If the Board Refuses to Reduce Personnel, Services & Supplies and Central Services Costs Any Further, the Only Other Realistic Expense Category Left to Reduce is CIPs:** At the Board’s May 7, 2020 meeting I submitted a similar written statement to the one herein, to be attached to the minutes of that meeting, wherein I addressed staff’s prioritization of CIPs (see pages 144-145 of the 5/7/2020 Board packet). In that statement I went through staff’s proposed Community Services Fund CIPs with a priority of “B,” “C” or “A/B”<sup>51</sup> and observed they totaled \$1,905,600. This sum can easily be deferred or deleted and the per parcel/dwelling unit RFF savings ***totals roughly \$232/parcel/dwelling unit!***

And if I go through staff’s assigned priorities of “A,” I feel I can disagree with inclusion of the following “vital” CIPs: Champ Golf Bear Boxes (\$6,000), Champ Golf parking lot pavement maintenance (\$55,000), 2017 (it’s only three years old) Toro Aerator (\$26,000), resurface Chateau patio deck (\$36,000), replace two Diamond Peak shuttle buses (\$280,000), Diamond Peak parking lot reconstruction (\$300,000), replace Diamond Peak facilities flooring materials (\$55,000), Ski arc flash study (\$20,000), replace Diamond Peak staff uniforms (\$135,000), recoat Incline Park bathroom floors (\$13,940), and Community Services arc flash study (\$10,000). If these proposed CIPs were deferred or deleted, it would free up another \$936,940 in RFF savings or ***another roughly \$114/parcel/dwelling unit owner!***

I have similarly gone through staff’s proposed Beach Fund CIPs with a priority of “B,” “C” or “A/B”<sup>52</sup> and see they total \$229,500. Thus they too can be deferred or deleted and the per parcel/dwelling unit BFF savings ***will total another nearly \$30!***

**Additionally and as a Cost Cutting Measure, Didn’t I Suggest Elimination of a Proposed \$1.2 Million of Marketing Expenditures at the Board’s March 11, 2020 Meeting<sup>53</sup>?**

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<sup>50</sup> See pages 48-57 of the 4/14/2020 Board packet.

<sup>51</sup> See pages 146-147 of the 5/7/2020 Board packet.

<sup>52</sup> See page 148 of the 5/7/2020 Board packet.

**And Didn't I Suggest Elimination of a Proposed \$72,000 of Public Relations Propaganda at the Board's March 11, 2020 Meeting<sup>54</sup>?**

**And Didn't I Suggest Elimination of a Proposed \$1,609,000 of Very Easy to Eliminate Community Services and Beach CIP Expenditures at the Board's April 1, 2020 Meeting<sup>55</sup>?**

**And Didn't I Suggest Elimination of a Proposed \$72,000 of Hutchison Law Firm Severance Fees at the Board's April 14, 2020 Meeting<sup>56</sup>?** My written statement on this subject recommended terminating the Hutchison firm's legal services agreement for a lesser period than six (6) months thus avoiding the need to pay up to \$72,000 in severance fees. Yet at page 66 of the 5/6/2020 Board packet I see where the District is relying upon the severance clause in the "retainer agreement (that) calls for a six month period of transition... that...will (not) be complete (until) on or about October 12, 2020." This is an unnecessary waste of \$72,000.

**And Didn't I Suggest Elimination of a Proposed \$400,000 of Credit Card Processing Charges at the Board's April 1, 2020 Meeting<sup>57</sup>?**

**And Didn't I Suggest Elimination of a Proposed \$700/Month in Weather Forecasting Charges at the Board's March 11, 2020 Meeting<sup>58</sup>?**

**And Didn't I Suggest Elimination of a Proposed \$1,700/Month in Armored Car Pick-Up Charges at the Board's April 14, 2020 Meeting<sup>59</sup>?** My written statement on this subject recommended eliminating expenses associated with operating commercial "for profit" business enterprises such as Loomis armored car pick-up services. This is an unnecessary waste of taxpayer monies to be charged against local parcel owners' RFF because they have nothing to do with making Diamond Peak or the Championship Golf Course "available" for their use.

**And Didn't Fellow Resident Diane Heirshberg Suggest Elimination of Hundreds of Thousands of Dollars of Proposed Employee Food and Beverage Expenditures at the Audit Committee's April 14, 2020 Meeting<sup>60</sup>?** I have heard that over the last five (5) years our staff have spent over \$425,000

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<sup>53</sup> See pages 166-170 of the 4/14/2020 Board packet.

<sup>54</sup> See pages 127-131 of the 4/14/2020 Board packet.

<sup>55</sup> See pages 205-206 of the 4/14/2020 Board packet.

<sup>56</sup> See pages 104-105 of the 5/6/2020 Board packet.

<sup>57</sup> See pages 216-231 of the 4/14/2020 Board packet.

<sup>58</sup> See page 131 of the 4/14/2020 Board packet.

<sup>59</sup> See pages 106-108 of the 5/6/2020 Board packet.

<sup>60</sup> See pages 55-62 of the packet of materials prepared by staff in anticipation of the Audit Committee's May 6, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/Audit\\_Committee\\_Packet\\_5-6-2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/Audit_Committee_Packet_5-6-2020.pdf) ("the 5/6/2020 Audit Committee packet")].

on their District credit cards for self/colleague food and beverage purchases. I never knew of the particulars until I read Diane Heirshberg's April 8, 2020 e-mail to Trustees Callicrate and Schmitz<sup>61</sup>. There I learned of "pizza for employees working non-stop," "Gung Ho" meetings at Brewforia, birthdays at MOFOS, lunch "after a tough week," food for a "going away party," and our former General Manager taking people out to dinner as "business entertainment." And this is on top of our former Diamond Peak venue manager taking the principals of one of our vendors, SE Group, out to dinner at the Lone Eagle Grille. These and other expenditures like them are an unnecessary waste of taxpayer monies.

*So you see, we don't really need the subsidy of the RFF/BFF.*

**Conclusion:** Hopefully I have demonstrated that we just can't trust our staff's financial reporting. With the unnecessary and wasteful expenditures I and others have heretofore called to the Board's attention, realistically, the RFF/BFF can at the very least be substantially reduced, if not eliminated altogether. And that's exactly what the Board should do. Eliminate the RFF/BFF, direct staff to reduce Community Services and Beach Fund expenditures by a like amount, suspend the expenditure of funds on any CIPs except for the most critical, and then designate the Community Services and Beach Fund balances "restricted" to prevent staff from invading these funds. So are you Board members going to continue business as usual? Or are you going to take away staff's budgeting for excessive spending? Hopefully each of you will incorporate the several modifications I have shared in this written statement.

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

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

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<sup>61</sup> See pages 55-58 of the 5/6/2020 Audit Committee packet.

**EXHIBIT "A"**

**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT  
 PROPRIETARY FUNDS  
 STATEMENT OF NET ASSETS  
 JUNE 30, 2011**

	Business - type Activities - Enterprise Funds				Business-type Activities Internal Service Funds
	Utility Fund	Community Services Fund	Beach Fund	Total	
<b>ASSETS</b>					
Current assets:					
Cash and cash equivalents	\$ 413,002	\$ 28,218	\$ 8,410	\$ 449,630	\$ -
Investments	2,047,792	1,175,508	-	3,223,300	12,911
Accounts receivable	851,691	35,553	1,578	888,822	-
Interest receivable	18,755	7,491	-	26,246	45,807
Grants receivable	249,620	225,578	-	475,198	-
Due from other governments	-	194,151	24,621	218,772	-
Inventories	171,371	355,059	-	526,430	58,117
Prepaid expenses	3,897	119,010	-	122,907	35,778
Due from other funds	567,788	522,511	1,178,913	2,269,212	161,589
Total current assets	4,323,916	2,663,079	1,213,522	8,200,517	314,202
Noncurrent assets:					
Long-term investments	4,503,000	2,498,875	-	7,001,875	1,012,500
Restricted for debt service reserve	213,324	-	-	213,324	-
TRPA Deposits	18,190	124,392	-	142,582	-
State of Nevada Work Comp Deposit	-	-	-	-	130,605
State of Nevada Sales Tax	-	6,075	-	6,075	-
	4,734,514	2,629,342	-	7,363,856	1,143,105
Capital Assets					
Land	6,520,358	8,690,495	2,304,850	17,515,703	-
Construction in progress	3,533,424	554,720	41,762	4,129,906	-
Water system plant and lines	40,894,430	-	-	40,894,430	-
Sewer system plant and lines	45,123,634	-	-	45,123,634	-
Buildings and structures	10,855,939	54,759,627	3,822,966	69,438,532	-
Equipment, furniture and fixtures	2,853,374	8,541,361	264,733	11,659,468	257,048
Total capital assets	109,781,159	72,546,203	6,434,311	188,761,673	257,048
Less: accumulated depreciation	(50,716,089)	(28,575,411)	(2,671,404)	(81,962,904)	(182,163)
Total capital assets (net)	59,065,070	43,970,792	3,762,907	106,798,769	74,885
Total noncurrent assets	63,799,584	46,600,134	3,762,907	114,162,625	1,217,990
Total assets	68,123,500	49,263,213	4,976,429	122,363,142	1,532,192
<b>LIABILITIES</b>					
Current liabilities:					
Accounts payable	764,414	247,319	25,897	1,037,630	18,918
Accrued personnel costs	85,953	51,028	2,379	139,360	556,097
Accrued interest payable	85,682	107,341	7,484	200,507	-
Unearned revenue	334,926	494,746	-	829,672	-
Refundable deposits	3,200	35,353	-	38,553	-
Current maturities of long-term debt	841,886	1,766,072	108,928	2,716,886	-
Total current liabilities	2,116,061	2,701,859	144,688	4,962,608	575,015
Non-current liabilities:					
Deferred bond issuance costs, net	(70,148)	(159,813)	(20,452)	(250,413)	-
Bond Premium, net	2,788	304,919	-	307,707	-
Non-current long term debt	5,239,500	9,997,642	692,358	15,929,500	-
Total non-current liabilities	5,172,140	10,142,748	671,906	15,986,794	-
Total liabilities	7,288,201	12,844,607	816,594	20,949,402	575,015
<b>NET ASSETS</b>					
Invested in capital assets, net of related debt	53,051,044	32,061,972	2,982,073	88,095,089	74,885
Restricted by Third Party Agreement	231,514	130,467	-	361,981	738,546
Unrestricted	7,552,741	4,226,167	1,177,762	12,956,670	143,746
Total net assets	\$ 60,835,299	\$ 36,418,606	\$ 4,159,835	101,413,740	\$ 957,177
Adjustment to reflect the consolidation of internal service funds' activities related to Enterprise Funds.				957,177	
Net assets of business-type activities				\$ 102,370,917	

The notes to the financial statements are an integral part of this statement.

**EXHIBIT "B"**

REVENUES	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/21	
	ACTUAL PRIOR YEAR ENDING 6/30/2019	ESTIMATED CURRENT YEAR ENDING 6/30/2020	TENTATIVE APPROVED	FINAL APPROVED
<b>Charges for Services</b>				
Championship Golf Course	3,902,689	4,570,000	5,071,084	
Mountain Golf Course	740,968	615,000	922,166	
Facilities (Chateau & Aspen Grove)	392,246	450,000	529,421	
Ski	11,778,871	10,025,000	10,148,735	
Community Programming	1,364,044	1,320,000	1,364,897	
Parks	46,580	53,000	65,801	
Tennis	153,435	156,000	158,100	
Recreation Administration	(730,819)	(750,000)	(738,000)	
Subtotal Charges for Services	17,646,014	16,439,000	17,522,204	-
<b>Facility Fee</b>				
Championship Golf Course	805,884	172,000	32,808	
Mountain Golf Course	517,661	328,120	221,454	
Facilities (Chateau & Aspen Grove)	468,584	131,248	41,010	
Ski	238,403	(1,640,600)	(1,640,400)	
Community Programming	1,307,104	1,173,029	1,222,098	
Parks	970,052	730,067	729,978	
Tennis	164,416	114,842	114,828	
Recreation Administration	1,350,671	4,773,996	5,080,634	
Subtotal Facility Fees	5,822,775	5,782,702	5,782,410	-
<b>Other miscellaneous</b>				
Operating Grants	17,000	17,000	17,000	
Investment Income	199,322	79,000	52,500	
Sale of Assets	34,567	24,000		
Interfund services (green spaces)	86,060	88,000	99,911	
Intergovernmental (IV high school fields)	14,570	23,000	21,700	
Miscellaneous other & Cell Tower Leases	112,777	110,000	118,130	
Capital Grants	-	1,375,000	-	
Insurance proceeds	50,300	250,000	-	
Subtotal Other Miscellaneous	514,596	1,965,000	309,241	-
Subtotal	23,985,385	24,187,702	23,613,855	-
<b>OTHER FINANCING SOURCES (specify)</b>				
Transfers in (Schedule 1)	645,000	241,875		
<b>BEGINNING FUND BALANCE</b>	10,645,469	13,393,953	12,360,444	
Prior Period Adjustments	(645,000)			
Residual Equity Transfers				
<b>TOTAL BEGINNING FUND BALANCE</b>	10,000,469	13,333,953	12,360,444	-
<b>TOTAL AVAILABLE RESOURCES</b>	34,630,854	37,763,530	35,974,299	-

Incline Village General Improvement District

Community Services Special Revenue Fund

EXPENDITURES		ACTUAL PRIOR YEAR ENDING 6/30/2019	ESTIMATED CURRENT YEAR ENDING 6/30/2020	TENTATIVE APPROVED	FINAL APPROVED
		(1)	(2)	(3)	(4)
Championship Golf Course					
Salaries and Wages	1,509,876	1,635,000	1,739,948	1,739,948	1,739,948
Employee Benefits	383,157	470,000	524,010	524,010	524,010
Services and Supplies	2,392,390	2,591,800	2,835,820	2,835,820	2,835,820
Capital Outlay	-	588,200	1,537,000	1,537,000	1,537,000
Subtotal Championship Golf Course	4,285,423	5,285,000	6,736,778	6,736,778	6,736,778
Mountain Golf Course					
Salaries and Wages	340,012	355,000	432,066	432,066	432,066
Employee Benefits	93,523	103,000	119,791	119,791	119,791
Services and Supplies	526,907	562,000	629,239	629,239	629,239
Capital Outlay	-	2,188,200	395,791	395,791	395,791
Subtotal Mountain Golf Course	960,442	1,108,200	1,576,877	1,576,877	1,576,877
Facilities (Chateau and Aspen Grove)					
Salaries and Wages	76,190	85,000	88,583	88,583	88,583
Employee Benefits	37,739	47,000	47,500	47,500	47,500
Services and Supplies	368,598	472,840	429,908	429,908	429,908
Capital Outlay	-	180,400	100,000	100,000	100,000
Subtotal Facilities	482,527	719,240	665,991	665,991	665,991
SKI					
Salaries and Wages	3,072,710	2,970,000	3,135,849	3,135,849	3,135,849
Employee Benefits	925,074	980,000	1,050,665	1,050,665	1,050,665
Services and Supplies	3,833,164	3,600,100	3,868,386	3,868,386	3,868,386
Capital Outlay	-	1,640,850	1,614,000	1,614,000	1,614,000
Subtotal SKI	7,830,948	9,190,950	9,668,900	9,668,900	9,668,900
Community Programming (Including Rec Center)					
Salaries and Wages	1,156,579	1,210,000	1,280,766	1,280,766	1,280,766
Employee Benefits	321,005	355,000	394,888	394,888	394,888
Services and Supplies	407,988	354,800	459,377	459,377	459,377
Capital Outlay	-	2,158,752	172,440	172,440	172,440
Subtotal Parks	875,439	2,928,552	1,050,559	1,050,559	1,050,559
Tennis					
Salaries and Wages	136,149	135,000	128,372	128,372	128,372
Employee Benefits	26,172	26,000	29,635	29,635	29,635
Services and Supplies	91,223	101,490	105,270	105,270	105,270
Capital Outlay	-	201,950	1,270,600	1,270,600	1,270,600
Subtotal Tennis	253,544	464,440	1,473,877	1,473,877	1,473,877
Community Services Administration					
Salaries and Wages	153,065	170,000	181,948	181,948	181,948
Employee Benefits	43,445	55,000	70,930	70,930	70,930
Services and Supplies	166,775	177,400	208,972	208,972	208,972
Capital Outlay	-	-	90,000	90,000	90,000
Subtotal Comm. Serv. Administration	363,285	402,400	550,950	550,950	550,950
Debt Service - G.O. Revenue Supported Bond					
Principal	-	355,188	382,076	382,076	382,076
Interest	-	29,166	21,097	21,097	21,097
Subtotal Debt Service	-	384,354	383,172	383,172	383,172
Subtotal - Comm. Services Expenditures					
Transfers Out	3,678,473	25,403,086	25,210,136	25,210,136	25,210,136
Transfers Out	329,848	-	-	-	-
ENDING FUND BALANCE	13,333,953	12,360,444	10,764,163	10,764,163	10,764,163
TOTAL COMMITMENTS & FUND BALANCE	34,630,854	37,763,530	36,974,299	36,974,299	36,974,299

Community Services Special Revenue Fund

Incline Village General Improvement District

**EXHIBIT "C"**

REVENUES	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/21	
	ACTUAL PRIOR YEAR ENDING 6/30/2019	ESTIMATED CURRENT YEAR ENDING 6/30/2020	TENTATIVE APPROVED	FINAL APPROVED
Charges for Services	1,492,687	1,550,000	1,596,800	
Facility Fees	975,121	968,500	968,375	
Investment income	36,188	18,000	11,250	
Sales of capital assets	-	-	-	
Capital Grants	-	-	-	
Subtotal	2,503,996	2,536,500	2,576,425	-
<b>OTHER FINANCING SOURCES:</b>				
Operating Transfers in (Schedule 1)	35,000	13,125	-	
BEGINNING FUND BALANCE	1,413,091			
Prior Period Adjustment(s)	(35,000)			
Residual Equity Transfers				
TOTAL BEGINNING FUND BALANCE	1,378,091	1,810,378	2,159,262	-
TOTAL RESOURCES	3,917,087	★ 4,360,003	4,735,687	-
<b>EXPENDITURES</b>				
Salaries and Wages	847,293	870,000	933,632	
Employee Benefits	190,452	210,000	241,006	
Services and Supplies	868,771	914,500	987,569	
Capital Outlay	-	200,000	474,500	
Debt Service - G.O. Revenue Supported Bond				
Principal	-	5,812	5,925	
Interest	-	429	345	
Subtotal	1,906,516	2,200,741	2,642,977	-
<b>OTHER USES</b>				
CONTINGENCY (not to exceed 3% of total expenditures)				
Transfers Out (Schedule 1)	198,558	-	-	
Transfers Out (Schedule 1)	1,835	-	-	
ENDING FUND BALANCE	1,810,378	★ 2,159,262	2,092,710	-
TOTAL COMMITMENTS & FUND BALANCE	3,917,087	★ 4,360,003	4,735,687	-

Incline Village General Improvement District

Beach Special Revenue Fund

REVENUES	(1)	(2)	(3) BUDGET YEAR ENDING 06/30/21	
	ACTUAL PRIOR YEAR ENDING 6/30/2019	ESTIMATED CURRENT YEAR ENDING 6/30/2020	TENTATIVE APPROVED	FINAL APPROVED
<b>Charges for Services</b>				
Championship Golf Course	3,902,889	4,570,000	5,071,084	
Mountain Golf Course	740,968	815,000	922,166	
Facilities (Chateau & Aspen Grove)	392,246	450,000	529,421	
Ski	11,778,871	10,025,000	10,148,735	
Community Programming	1,364,044	1,320,000	1,364,897	
Parks	46,580	53,000	65,801	
Tennis	153,435	156,000	158,100	
Recreation Administration	(730,819)	(750,000)	(738,000)	
Subtotal Charges for Services	17,648,014	16,439,000	17,522,204	-
<b>Facility Fee</b>				
Championship Golf Course	805,884	172,000	32,808	
Mountain Golf Course	517,861	328,120	221,454	
Facilities (Chateau & Aspen Grove)	468,584	131,248	41,010	
Ski	238,403	(1,640,600)	(1,640,400)	
Community Programming	1,307,104	1,173,029	1,222,098	
Parks	970,052	730,067	729,978	
Tennis	164,416	114,842	114,828	
Recreation Administration	1,350,671	4,773,996	5,060,834	
Subtotal Facility Fees	5,822,775	5,782,702	5,782,410	-
<b>Other miscellaneous</b>				
Operating Grants	17,000	17,000	17,000	
Investment Income	199,322	79,000	52,500	
Sale of Assets	34,567	24,000		
Intfund services (green spaces)	86,060	88,000	99,911	
Intergovernmental (IV high school fields)	14,570	23,000	21,700	
Miscellaneous other & Cell Tower Leases	112,777	110,000	118,130	
Capital Grants	-	1,375,000	-	
Insurance proceeds	50,300	250,000	-	
Subtotal Other Miscellaneous	514,596	1,966,000	309,241	-
<b>Subtotal</b>	<b>23,985,385</b>	<b>24,187,702</b>	<b>23,613,855</b>	<b>-</b>
<b>OTHER FINANCING SOURCES (specify)</b>				
Transfers In (Schedule T)	645,000	241,875		
<b>BEGINNING FUND BALANCE</b>	<b>10,645,469</b>	<b>13,333,953</b>	<b>12,360,444</b>	
Prior Period Adjustments	(645,000)			
Residual Equity Transfers				
<b>TOTAL BEGINNING FUND BALANCE</b>	<b>10,000,469</b>	<b>13,333,953</b>	<b>12,360,444</b>	<b>-</b>
<b>TOTAL AVAILABLE RESOURCES</b>	<b>34,630,854</b>	<b>37,763,530</b>	<b>35,974,299</b>	<b>-</b>

Incline Village General Improvement District

Community Services Special Revenue Fund

**EXHIBIT "D"**

EXPENDITURES		ACTUAL PRIOR YEAR ENDING 6/30/2019 (1)	ESTIMATED CURRENT YEAR ENDING 6/30/2020 (2)	TENTATIVE APPROVED (3)	FINAL APPROVED (4)
<b>Championship Golf Course</b>					
Salaries and Wages	1,509,876	1,655,000	1,739,948		
Employee Benefits	383,157	470,000	524,010		
Services and Supplies	2,392,390	2,591,800	2,835,820		
Capital Outlay	-	568,200	1,637,000		
<b>Subtotal Championship Golf Course</b>	<b>4,285,423</b>	<b>5,265,000</b>	<b>6,736,778</b>		
<b>Mountain Golf Course</b>					
Salaries and Wages	340,012	355,000	432,056		
Employee Benefits	93,523	103,000	119,791		
Services and Supplies	526,907	562,000	629,239		
Capital Outlay	-	2,188,200	395,791		
<b>Subtotal Mountain Golf Course</b>	<b>960,442</b>	<b>3,208,200</b>	<b>1,576,877</b>		
<b>Facilities (Chateau and Aspen Grove)</b>					
Salaries and Wages	76,190	85,000	88,583		
Employee Benefits	37,739	47,000	47,500		
Services and Supplies	368,598	412,840	429,908		
Capital Outlay	-	180,400	100,000		
<b>Subtotal Facilities</b>	<b>482,527</b>	<b>719,240</b>	<b>665,991</b>		
<b>SKI</b>					
Salaries and Wages	3,072,710	2,970,000	3,135,849		
Employee Benefits	925,074	980,000	1,050,666		
Services and Supplies	3,833,164	3,600,100	3,868,396		
Capital Outlay	-	1,840,850	1,614,000		
<b>Subtotal SKI</b>	<b>7,830,948</b>	<b>9,190,950</b>	<b>9,668,900</b>		
<b>Community Programming (Including Rec Center)</b>					
Salaries and Wages	1,156,579	1,210,000	1,260,756		
Employee Benefits	321,005	355,000	394,888		
Services and Supplies	819,388	932,300	948,388		
Capital Outlay	-	344,850	489,000		
<b>Subtotal Community Programming</b>	<b>2,296,972</b>	<b>2,841,950</b>	<b>3,093,032</b>		
<b>Parks</b>					
Salaries and Wages	337,927	338,000	342,681		
Employee Benefits	75,544	75,000	86,061		
Services and Supplies	401,968	354,800	459,377		
Capital Outlay	-	2,158,752	172,440		
<b>Subtotal Parks</b>	<b>815,439</b>	<b>2,926,552</b>	<b>1,060,559</b>		
<b>Tennis</b>					
Salaries and Wages	136,149	135,000	128,372		
Employee Benefits	26,172	26,000	29,635		
Services and Supplies	91,223	101,490	105,270		
Capital Outlay	-	201,950	1,270,600		
<b>Subtotal Tennis</b>	<b>253,544</b>	<b>464,440</b>	<b>1,473,877</b>		
<b>Community Services Administration</b>					
Salaries and Wages	153,065	170,000	181,948		
Employee Benefits	43,445	55,000	70,030		
Services and Supplies	166,775	177,400	208,972		
Capital Outlay	-	-	90,000		
<b>Subtotal Comm. Serv. Administration</b>	<b>363,285</b>	<b>402,400</b>	<b>550,950</b>		
<b>Debt Service - G.O. Revenue Supported Bond</b>					
Principal	-	355,188	362,075		
Interest	-	29,166	21,097		
<b>Subtotal Debt Service</b>	<b>-</b>	<b>384,354</b>	<b>383,172</b>		
<b>Subtotal - Comm. Services Expenditures</b>					
Transfers Out	3,678,473	25,403,086	25,210,136		
Transfers In	329,848	-	-		
<b>ENDING FUND BALANCE</b>	<b>13,333,953</b>	<b>12,360,444</b>	<b>10,764,163</b>		
<b>TOTAL COMMITMENTS &amp; FUND BALANCE</b>	<b>34,630,854</b>	<b>37,763,530</b>	<b>35,974,299</b>		

Incline Village General Improvement District

Community Services Special Revenue Fund

**EXHIBIT "E"**

<b>EXPENDITURES BY FUNCTION AND ACTIVITY</b>	(1)	(2)	(3) (4) BUDGET YEAR ENDING 06/30/20	
	ACTUAL PRIOR YEAR ENDING 6/30/2018	ESTIMATED CURRENT YEAR ENDING 6/30/2019	TENTATIVE APPROVED	FINAL APPROVED
<b>GENERAL GOVERNMENT</b>				
<b>General Administration</b>				
Salaries and Wages	42,668	28,200	29,160	29,160
Employee Benefits	13,250	17,800	18,896	18,896
Services and Supplies	406,634	434,000	426,799	426,799
Subtotal General Administration	462,552	480,000	474,855	474,855
<b>General Manager</b>				
Salaries and Wages	237,500	247,500	270,144	270,144
Employee Benefits	104,419	114,000	125,205	125,205
Services and Supplies	13,093	50,000	60,940	60,940
Subtotal General Manager	355,012	411,500	456,289	456,289
<b>Trustees</b>				
Salaries and Wages	99,852	100,900	104,340	104,340
Employee Benefits	27,905	24,800	32,480	32,480
Services and Supplies	48,693	50,000	79,600	79,600
Subtotal Trustees	176,450	175,800	216,420	216,420
<b>Accounting</b>				
Salaries and Wages	537,564	566,000	592,315	592,315
Employee Benefits	240,003	268,000	286,686	286,686
Services and Supplies	55,781	68,000	79,296	79,296
Subtotal Accounting	833,348	902,000	958,297	958,297
<b>Information Services &amp; Technology</b>				
Salaries and Wages	368,250	466,100	484,000	484,000
Employee Benefits	145,695	200,000	255,454	255,454
Services and Supplies	306,713	323,000	334,243	334,243
Subtotal Information Services	820,658	989,100	1,073,697	1,073,697
<b>Risk Management</b>				
Salaries and Wages	75,689	80,000	Included in Human Resources	
Employee Benefits	42,005	44,500	effective July 1, 2019	
Services and Supplies	9,338	20,000		
Subtotal Risk Management	127,032	144,500		
<b>Human Resources</b>				
Salaries and Wages	369,565	418,000	532,660	532,660
Employee Benefits	181,497	228,300	307,348	307,348
Services and Supplies	46,819	76,000	134,309	134,309
Subtotal Human Resources	597,875	722,300	974,317	974,317
<b>Health &amp; Wellness</b>				
Salaries and Wages	13,786	14,000	16,983	16,983
Employee Benefits	4,800	5,500	6,918	6,918
Services and Supplies	6,008	20,000	21,475	21,475
Subtotal Health & Wellness	24,594	39,500	45,376	45,376
<b>Communications</b>				
Salaries and Wages	103,766	81,300	96,338	96,338
Employee Benefits	44,267	32,000	35,817	35,817
Services and Supplies	40,649	62,000	84,518	84,518
Subtotal Communications	188,682	175,300	216,673	216,673
<b>Capital Outlay</b>				
General Government	34,361	181,000	566,445	686,445
Information Services & Technology	79,452	-	-	-
Subtotal Capital Outlay	113,813	181,000	566,445	686,445
<b>FUNCTION SUBTOTAL</b>	<b>3,700,016</b>	<b>4,221,000</b>	<b>4,982,369</b>	<b>5,102,369</b>

Incline Village General Improvement District

SCHEDULE B - GENERAL FUND

FUNCTION General Government