COMPLAINT

ADAM PAUL LAXALT
Attorney General

WESLEY K. DUNCAN
First Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

KETAN D. BHIRUD
General Counsel

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701

April 4, 2017

via U.S. Mail

Jason D. Guinasso, Esq.
Reese Kintz Guinasso
190 West Huffaker Lane, Suite #402
Reno, NV 89511

Re: Open Meeting Law Complaint, O.A.G. File No. 13897-226
Incline Village General Improvement District Board of Trustees

Dear Mr. Guinasso:

The Office of the Attorney General (OAG) has jurisdiction over the investigation of complaints alleging violations of the Open Meeting Law (OML), NRS Chapter 241. Enclosed please find a complaint with attachments filed with the OAG dated March 20, 2017, alleging OML violations by the Incline Village General Improvement District Board of Trustees (Board).

The OAG requests that, as the Board's legal counsel, you provide a response and/or defense to the allegations on behalf of the Board. Please include any records or documentation that support the Board's response. Due to the limitations periods set forth in NRS 241.037(3), please respond on or before April 21, 2017.

Should you have any questions, I can be contacted at (775) 684-1201 or via email at bkandt@ag.nv.gov.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: _____
BRETT KANDT
Chief Deputy Attorney General
Boards and Open Government Division

WBK/klr
Encl. As Stated

10:37 am

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 N. Carson St.
Carson City, NV 89701
Phone: 775-684-1100
Fax: 775-684-1108

555 E. Washington Ave., #3900
Las Vegas, NV 89101
Phone: 702-486-3420
Fax: 702-486-3768

www.ag.nv.gov

For official use only:
Received by: _____
Date Received: _____
Complaint Type: _____
Referred to: ☐ BCP ☐ GI ☐ IFU ☐ OML ☐ MFU ☐ MFCU ☐ PIU ☐ WCFU ☐ CM
[Stamp here]

COMPLAINT FORM

The information you report on this form may be used to help us investigate violations of state laws. When completed, mail, or electronically submit your form and supporting documents to the office listed above. Upon receipt, your complaint will be reviewed by a member of our staff. The length of this process can vary depending on the circumstances and information you provide with your complaint. The Attorney General's Office may contact you if additional information is needed.

INSTRUCTIONS: Please TYPE/PRINT your complaint in dark ink. You must write LEGIBLY. All fields MUST be completed.

SECTION 1.

COMPLAINANT INFORMATION Salutation: ☒ Mr. ○ Mrs. ○ Ms. ○ Miss

Your Name: Wright (Last) Frank (First) _____ (MI)

Your Organization, if any: _____

Your Address: PO Box 156 (Address) Crystal Bay (City) NV (State) 89402 (Zip)

Your Phone Number: 775-253-4919 (Home) _____ (Cell) 818-601-1996 (Work) _____ (Fax)

Email: alpinesport55 @ gmail.com Call me between 8am-5pm at: ☒ Home ☒ Cell ☒ Work

Age: ○ Under 18 ○ 18-29 ○ 30-39 ○ 40-49 ○ 50-59 ● 60 or older

SECTION 2.

TYPE OF COMPLAINT

○ Bureau of Consumer Protection	○ Mortgage Fraud
○ General Investigations	● Open Meeting Law
○ High Tech Crime	○ Public Integrity
○ Insurance Fraud	○ Workers Comp. Fraud
○ Medicaid Fraud	

Note! this open meeting LAW complaint could reflect a need for General Investigations or Public Integrity

SECTION 3.

BUSINESS OR INDIVIDUAL COMPLAINT IS AGAINST

Business/Provider Name: _____

Individual/Contact: _____ (Last) _____ (First) _____ (Job Title *(Example: CEO)*)

Individual/Business Address: _____ (Address) _____ (City) _____ (State) _____ (Zip)

Individual/Business Phone: _____ (Work) _____ (Mobile) _____ (Fax)

Individual/Business Email: _____

Individual/Business Web Site: _____

Please detail the nature of your complaint against the individual, business, or provider listed in Section 3. Include the who, what, where, when, and why of your complaint, full explanation of the transaction involved and a chronology of the events. (Please include any nicknames or aliases, identifying information such as Social Security number(s), license plate(s), year/make of vehicle(s), etc.). You may use additional sheets if necessary.

My complaint is:

ALLEGED OPEN MEETING LAW VIOLATION IS AGAINST

Name of Public Body: Incline Village General Improvement District
(i.e., specific board, commission, agency, or person(s) etc.)

Date of meeting where alleged violation occurred (mm/dd/yyyy): 01-18-2017 and 03-08-2017

Please detail the specific violations against the board, commission, or agency or person listed in Section 3. Include the who, what, where, when, and why of your complaint. You may use additional sheets if necessary. Remember the Open Meeting Law applies only to public bodies (see NRS 241.015 for definition) and only to members of public bodies.

My complaint is: The Incline Village General Improvement District held Secret, unannounced meetings of the board of Trustees. Five trustees, Legal Council, Board Secretary held 2 or more meetings not involving litigation or pending litigation, but only giving specific instructions to the Board.

PUBLIC OFFICIAL'S INFORMATION (Whom Your Complaint Is Against) "See Attached sheet"

Official's Name: Kendra Wong / Board of Trustee Title: Board Chair of IVGID

Official's Government Agency or Body: Incline Village General Improvement District

Official's Work Address: 893 Southwood Blvd (Street / PO Box) Incline Village (City) NV (State) 89451 (ZIP Code)

Official's Telephone: 775-832-1122

SECTION 4.

PAYMENTS

Did you make any payments to this individual or business? ◯ Yes–***Continue to Next Question*** ◯ No–***Skip to Section 5***

How much did the company/individual ask you to pay? _____

Date(s) of payments (mm/dd/yyyy): _____

How much did you actually pay? $ _____ Payment Method: ☐ Cash ☐ Credit Card ☐ Debit Card ☐ Check ☐ Financed ☐ Wire Transfer ☐ Money Order ☐ Cashier's Check ☐ Other: _____

Was a contract signed? ◯ Yes ◯ No If yes, date you signed the contract (mm/dd/yyyy): _____

Identify your attempts to resolve the issue(s) with the company, corporation, or organization.

OTHER AGENCIES

Have you contacted another agency for assistance? ◯ Yes ◯ No If so, which agency? _____

Have you contacted an attorney? ◯ Yes ◯ No
If so, what is the attorney's name, address, and phone number?

Last _____ First _____ Phone _____

Address _____ City _____ State _____ Zip _____

Is court action pending? ◯ Yes ◯ No Have you lost a lawsuit in this matter? ◯ Yes ◯ No

SECTION 5.

EVIDENCE

List and attach photocopies of any relevant documents, agreements, correspondence, or receipts that support your complaint (examples include billing statements, correspondence, receipts, payment information, witnesses, and any other document which explains or supports the matters raised in the complaint). **No originals.** Copy both sides of any canceled checks that pertain to this complaint.

SECTION 6.

WITNESSES

List any other known witnesses or victims. Please provide names, addresses, phone numbers, email addresses, and/or websites.

Kendra Wong
Peter Morris
Cell 775-298-1005 Matthew Dent
Cell 775-336-9925 Tim Calicrate
Phil Horan
} all are trustees who were present,

Ivgio main office 775-832 1100
893 Southwood Blvd, Incline Village, NV

SECTION 7.

Sign and date this form. The Attorney General's Office cannot process any unsigned, incomplete, or illegible complaints.

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

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

Frank Wright
Signature

Frank Wright
Print Name

03/22/2017
Date (mm/dd/yyyy)

SECTION 8. (Optional)

The following section is optional and is intended to help our office better serve Nevada consumers. Please check the categories that apply to you.

Gender: ● Male ○ Female

Have you previously filed a complaint with our office?: ○ Yes ○ No
If yes, enter in the approximate filing date (mm/dd/yyyy) of your original complaint: _____

I am (mark all that apply):

- ☐ Income below federal poverty guideline
- ☐ Disaster victim
- ☐ Person with disability
- ☐ Medicaid recipient
- ☐ Military service member
- ☐ Veteran
- ☐ Immediate family of service member/veteran

Ethnic Identification:

- ☒ White/Caucasian
- ☐ Black/African American
- ☐ Hispanic/Latino
- ☐ Native American/Alaskan Native
- ☐ Asian/Pacific Islander
- ☐ Other: Senior Citizen

Primary Language:

- ☒ English
- ☐ Spanish
- ☐ Other: _____

May we provide your name and telephone number to the media in the event of an inquiry about this matter?
● Yes ○ No

How did you hear about our complaint form (please choose only one):
○ Called/visited Las Vegas AG Office ○ Called/visited Carson City AG Office ○ Called/visited Reno AG Office
○ Attended AG Presentation/Event ○ Another Nevada State Agency/Elected Official ○ Search Engine ● AG Website
○ AG Social Media Sites ○ Media: Newspaper/Radio/TV ○ Other

4/3/17
10:38 am
TW

Adam Laxalt
Attorney General, State of Nevada
100 North Carson Street
Carson City, Nevada 89701

Dear Sir,

The Incline Village General Improvement District violated the Nevada Open Meeting Law, not once but up to three times over the course of two months.

Incline Village General Improvement District (IVGID) Board Chair Kendra Wong with the assistance of IVGID legal counsel Jason Guinasso, held two Board "training sessions" for the new 2017 Board of Trustees. These were not your normal training sessions. They were indoctrination sessions where the IVGID Board was spoon-fed faulty and misleading information by legal counsel to limit the scope of Statutory Trustee oversight of the District's operations and restrict Trustee access to public records. Citizens pay a big penalty when their elected officials are improperly counseled on their leadership duties and responsibilities.

THE FIRST OML VIOLATION

On January 18, 2017, the first of two new Board training sessions took place at 8:15 PM. All five Trustees attended this meeting along with legal counsel Jason Guinasso. This training session which was never publicly noticed or agendized was announced at the end of a scheduled and publicly noticed Board Meeting and convened shortly thereafter. Board Clerk Susan Herron took notes at this meeting. It is not known if this meeting had an audio recording.

Note: The District's long range calendar in the January 18th, 2017 Board Packet does not indicate a date or time for this Board Training Session. It is listed as "to be determined." (Exhibit Attached) Notice of this meeting was not posted on the District website or at any physical location. In addition, I and others who have requested email Notice of all Board meetings did not receive any email Notice of the Board training session.

THE SECOND OML VIOLATION

On March 8, 2017 the second Board training session took place at 3 PM prior to a regularly scheduled and publicly noticed Board Meeting. All five Trustees attended with legal counsel Guinasso conducting the session and District Clerk Herron taking meeting notes. No member of the public was in attendance. It is not known if this meeting was recorded.

Once again, this meeting was not posted on the District's website nor was it visible on any of the regular physical locations. I and others who have requested email notification of all Board meetings did not receive notice.

COMMENTS:

According to Trustees in attendance, these meetings centered around limiting individual Trustee initiatives as it relates to requesting an item be placed on a Board agenda as well as requesting information on the District's finances or public records. In contradiction of NRS Statutes and the District's own written policies, legal counsel directly stated or implied that information and public records provided by Staff to an individual Trustee was a courtesy. Staff apparently only had a responsibility to comply if the majority of Trustees requested the information or public records at a public meeting. Similar misinformation on requesting an item on the Board agenda was also provided by counsel.

As there was no proper NOTICE and no AGENDA provided, there was no opportunity for all interested citizens to hear firsthand the topics discussed. One can only speculate on whether or not Trustees were properly counseled, or if they were counseled at all, on open meeting law, ethics law and providing public records to the public –or any other matter. Public access to government actions and information is fundamental to accountability. Without transparency and accountability there is a breakdown in public confidence.

THE THIRD OML VIOLATION (?)

On March 8' 2017 after the second Board training session convened, all five Trustees participated in a closed session to discuss pending litigation. The Public received no Notice on the website, at physical locations or requested email notice that a Closed Session would be taking place.

After learning that two Trustee training sessions had been held without public notice, I asked if confidential matters requiring a closed session such as pending District litigation had been discussed. I was told that confidential matters were not discussed at the training sessions, and a closed session to discuss pending litigation occurred after the second board training session.

MATTERS OF CONCERN:

1. Violations of the Open Meeting Laws of the State of Nevada! Denying the Public Access to how their elected officials are trained to serve their constituents.

2. District Legal Counsel, responsible for the District's compliance with Open Meeting Laws holds two Board Trustee Training Sessions that violate the OML by failing to provide Public Notice. Behind closed doors, District Legal Counsel working with Senior Staff and the Board Chair improperly instructs other Trustees on the rules governing the placement of items on the Board agenda and provides false information to justify the denial of requested information and public records to elected Trustees. Providing false and misleading information to the Board only serves to undermine Trustees' statutory oversight authority and their ability to exercise their fiduciary responsibilities to the citizens they are elected to serve. This damages the public interest and creates a complete breakdown in public confidence.

3. Holding unnoticed meetings of the IVGID Board with all five members present and the matters discussed were issues of public interest.

CONCLUSION:

I am alleging the IVGID Board committed two very clear and distinct Open Meeting Law Violations.

I also believe that during the investigation of these allegations other serious violations of Nevada law will be discovered.

I believe that IVGID legal counsel is violating professional conduct and committing attorney malpractice by giving false and misleading instructions to elected Trustees.

There appears to be collusion among the IVGID General Manager, the IVGID Director of Finance, the Board Chair and legal counsel to undermine the authority of Trustees and control the activity of the Board.

Frank Wright
P.O. Box 186
Crystal Bay, Nevada 89402

3-22-17

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS STATED FOR CONSIDERATION
				JANUARY 2017	
TO BE DETERMINED				Training	Swearing In Training by Jason Guinasso
				FEBRUARY 2017	
02/08/2017 (first packet mail due date/time 02/30/2017 8 a.m.)	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Award of Golf Cart Lease Pump Track MOU First exposure to 2017/2018 Operating Budget Legacy Projects (General Business Item) Utility Rate Study (Pomroy)
02/15/2017	Wednesday	5 to 8 p.m.	Chateau	1st Quarter Community Meeting	Topic: Face-to-Face with your Board of Trustees Format: Similar to Community Services Plan Event/Community Fair style
02/22/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
02/22/2017 (first packet mail due date time 02/13/2017 5 p.m.)	Wednesday	6 p.m.	Chateau	Regular Board Meeting	10-1-2016 to 12-30-16 Quarterly Dashboard Report Debrief on 1st Quarterly Community Meeting Beach/Parks Service Options (2017/2018 Budget)

Item L - Long Range Calendar
Jan. 18, 2017 Board Packet

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				MARCH 2017	
03/08/2017	Wednesday	3 p.m.	Chateau	Complete training given by J. Guinasso	So you are now a Trustee.....
03/08/2017 *(distribution target (firm packet mail due date/time 02/22/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Incline Beach House Project - Conceptual Design Presentation Operating Budget (2017/2018) Board Work Plan Action Item (?) Pump Track MOU
03/17/2017	Friday	9 a.m. - 4 p.m.	Start at Public Works	Noticed Event	Capital Improvement Program Tour
03/23/2017	Thursday	11:30 a.m.	Chateau	Meet and Greet	
03/23/2017 *(distribution target (firm packet mail due date/time 03/13/2017; 8 a.m.)*	Thursday	12 noon	Chateau	Regular Board Meeting	First exposure to 2017/2018 Capital Budget Procurement Award for Diamond Peak Uniforms Washoe County School District and IVGID Joint Use Agreement Amendment Waterman Construction Award (Johnson) Set the public hearing dates for the Recreation Roll and 2017/2018 budget
				APRIL 2017	
04/12/2017 *(distribution target 04/05/2017) (firm packet mail due date/time 04/03/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approve preliminary Fiscal Year 2017-2018 budget Public Works Storage Building Award (Johnson) Preliminary Recreation Roll approval
04/25/2017	Tuesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
04/25/2017 *(distribution target 04/18/2017) (firm packet mail due date/time 04/14/2017; 8 a.m.)*	Tuesday	6 p.m.	Chateau	Regular Board Meeting	Approval of RWTB Memo of Understanding for 2017 Event(s) WRRF Access Contract Award Ordinances 2 and 4 Public Hearing

137

Item L - Long Range Calendar
Feb. 22, 2017

4/3/17
10:39 am
TM

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT – ONE TEAM

NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **6:00 p.m.** on Wednesday, January 18, 2017 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

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

"Presentation of Award by the Incline Village/Crystal Bay Historical Society"

A. PLEDGE OF ALLEGIANCE*

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

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

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

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

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

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

4/3/17
10:40 am
TW

INCLINE VILLAGE

NOTICE OF MEETING

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Thursday, February 2, 2017 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of February 8, 2017) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

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

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

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

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

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

-OR-

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

E. PRESENTATIONS*

1. Director of Community Services Sharon Heider – Verbal Update on Community Services activities

F. GENERAL BUSINESS *(for possible action)*

1. Review, discuss, and possibly award a procurement contract, in the amount of $448,000.00, to Club Car, LLC for eighty (80) electric golf carts to be located at the Championship Golf Course and review, discuss, and possibly authorize a four year municipal lease agreement, to finance the procurement of eighty (80) electric golf carts to be located at the Championship Golf Course, with California First National Bank in the amount of $484,713.60 (Requesting Staff Members: Director of Community Services Sharon Heider and Director of Golf Michael McCloskey)

2. Utility Rate Study Presentation - 2017: review, discussion and possible direction (Requesting Staff Member: Director of Public Works Joe Pomroy)

3. 2017/2018 Capital Improvement Budget District "Legacy" Project Presentation - review, discussion and possible direction/action (Requesting Staff Member: Director of Asset Management Brad Johnson)

4. 2017/2018 Budget Review Process - review, discussion and possible direction/action (Requesting Staff Member: General Manager Steve Pinkerton)

5. 2017 Board of Trustees Work Plan - review and discussion with next action tentatively slated for the next Board of Trustees meeting (Requesting Trustee: Chairwoman Kendra Wong)

4/3/17
10:40 am
TW

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7. The Chateau at Incline Village

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

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

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G. DISTRICT STAFF UPDATE

1. General Manager Steve Pinkerton
   - Monthly Financials
   - Information Technology
   - Washoe County Community Area Plan
   - Washoe County Snow Removal

2. Diamond Peak Ski Resort General Manager Mike Bandelin - Verbal update on the Diamond Peak Ski Resort ski season

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

1. Regular Meeting of December 14, 2016

2. Regular Meeting of January 18, 2017

I. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. District General Counsel Jason Guinasso

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

K. CORRESPONDENCE RECEIVED BY THE DISTRICT*

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

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

N. ADJOURNMENT *(for possible action)*

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

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-OR-

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GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT ~ ONE TEAM

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A. PLEDGE OF ALLEGIANCE*

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

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

4/3/17
10:39 am
TM

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT – ONE TEAM

NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **6:00 p.m.** on Wednesday, January 18, 2017 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

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

"Presentation of Award by the Incline Village/Crystal Bay Historical Society"

A. PLEDGE OF ALLEGIANCE*

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

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

acquiescence or agreement just professional behavior on their part. IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open.

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

E. PRESENTATIONS*

1. Director of Community Services Sharon Heider – Update on Community Services activities which may include an update on Incline Park Field #3

F. GENERAL BUSINESS *(for possible action)*

1. Election of Board of Trustees Officers for 2017 - Positions are Chair, Vice Chair, Treasurer and Secretary (Election process to be conducted by District Susan Herron)

2. Presentation of the First Annual Community Survey results; survey was conducted in October 2016 (Presented by Stephen Bohnet of Finn Consulting)

3. Review, discuss and possibly award a Procurement Contract for Sewer Pump Station #6 Replacement – 2016/2017 Capital Improvement Project: Fund: Utilities; Division: Sewer; Project # 2599DI1104; Vendor: Smith and Loveless, Inc. in the amount of $63,345 (Requesting Staff Member: Director of Asset Management Brad Johnson)

G. DISTRICT STAFF UPDATE

1. General Manager Steve Pinkerton
   - ❖ Mid-Year 2016/2017 Budget
   - ❖ 2017/2018 Budget Preparation
   - ❖ Washoe County Community Area Plan
   - ❖ Information Technology
   - ❖ Report on Storm Event - January 2017 - Washoe County State of Emergency

2. Diamond Peak Ski Resort General Manager Mike Bandelin - Verbal update on the Diamond Peak Ski Resort ski season

H. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. District General Counsel Jason Guinasso
   a. Discussion about the upcoming 2017 Legislative Session and matters that could be relevant or of interest to IVGID

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

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

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

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

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

J. CORRESPONDENCE RECEIVED BY THE DISTRICT*

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

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

M. ADJOURNMENT *(for possible action)*

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Thursday, January 12, 2017 at 11:00 a.m.*, a copy of this agenda (IVGID Board of Trustees Session of January 18, 2017) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

1. IVGID Anne Vorderbruggen Building (Administrative Offices)
2. ~~Incline Village Post Office~~ (will be posted as weather conditions permit)
3. ~~Crystal Bay Post Office~~ (will be posted as weather conditions permit)
4. ~~Raley's Shopping Center~~ (will be posted as weather conditions permit)
5. ~~Incline Village Branch of Washoe County Library~~ (will be posted as weather conditions permit)
6. IVGID's Recreation Center
7. The Chateau at Incline Village

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

RESPONSE

RKG LAW
REPSE · KINTZ · GUINASSO

DEVON T. REPSE*
SUSANNA TRUAX KINTZ§◊
JASON D. GUINASSO§
JEFFREY S. SPENCER§
D. GENO MENCHETTI*Ω
KIMBERLY M. GUINASSO*Ω
MICHAEL B. SPRINGER*Ω
ALAN R. WECHSLER§
ERIC C. WERNER§
MATTHEW J. CURTI§
CHRISTINE M. STEARNS#

⌘YVONNE L. MURPHY

§ Licensed in Nevada & California
*Licensed in Nevada
◊ Licensed in Illinois
Ω Of Counsel
Licensed in California & Oregon
⌘ Non-Attorney / Government Affairs Director

April 28, 2017

VIA E-MAIL & HAND DELIVERY:

Brent Kandt
Chief Deputy Attorney General
Boards and Open Government Division
100 North Carson Street
Carson City, NV 89701
bkandt@ag.nv.gov

Re: Response of Incline Village General Improvement District Board of Trustees Open Meeting Law Complaint, O.A.G. File No. 13897-226

Dear Mr. Kandt:

We received your April 4, 2017, correspondence notifying the Incline Village General Improvement District (herein referenced as "IVGID" or "District") of the above referenced complaint by Frank Wright alleging that IVGID has violated the Nevada Open Meeting Law ("OML"). Please accept this correspondence and the referenced enclosures as IVGID's response.

Issues Presented

1. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate, and Trustee Peter Morris violated the Open Meeting Law by holding a Board Training Session on January 18, 2017.

2. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate, and Trustee Peter Morris violated the Open Meeting Law by holding a Board Training Session on March 8, 2017 at 3:00p.m.

3. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate and Trustee Peter Morris violated the Open Meeting Law by holding and noticing a closed session on March 8, 2017, after holding the training session, to discuss pending litigation.

4. Whether IVGID General Counsel's actions constitute a violation of the OML.

IVGID's Position

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

A. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate, and Trustee Peter Morris violated the Open Meeting Law by holding a Board training session on January 18, 2017.

NRS 241.015 (3) states:

> As used in this chapter, unless the context otherwise requires:
>
> 3. "Meeting":
>
> (a) Except as otherwise provided in paragraph (b), means:
>
> (1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.
>
> (2) Any series of gatherings of members of a public body at which:
>
> (I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;
>
> (II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and
>
> (III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.
>
> (b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present, whether in person or by means of electronic communication:
>
> (1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter

> over which the public body has supervision, control, jurisdiction or advisory power.
>
> (2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both. Nev. Rev. Stat. Ann. § 241.015 (West)

The Nevada Supreme Court has further elaborated on the definition of a meeting by explaining that a "meeting" is a gathering of a public body quorum at which it acquires information, discusses the information, or makes decisions regarding that information within its jurisdiction. Chanos v. Nevada Tax Com'n, 124 Nev. 232 (2008).

Finally, Section 4.05 of the Attorney General's Nevada Open Meeting Law Manual States:

> 4.04 Seminars, conferences, conventions
>
> When a majority of the members of a public body attend a state or national seminar, conference, or convention to hear speakers on general subjects of interest to public officials or to participate in workshops with their counterparts from around the state or nation, it usually may be assumed they are there for the purpose of general education and social interaction and not to conduct meetings to deliberate toward a decision or to take action on any matter over which their public body has supervision, control, jurisdiction, or advisory power, even if presentations at the seminar touch on subjects within the ambit of the public body's jurisdiction or advisory power. Thus, such seminars, conferences and conventions do not fall under the definition of "meeting" found in NRS 241.015(3). However, should the gathering have the purpose of or in fact exhibit the characteristics of a "meeting" as defined in NRS 241.015(3), then the provisions of the Open Meeting Law apply. See Op. Nev. Att'y Gen. 2001-05 (March 14, 2001).

Here, the training titled, "So, You Were Elected an IVGID Trustee, Now What?" conducted on January 18, 2017, was not a "Meeting" as defined by NRS 241.015(3). The training was provided by the IVGID District General Counsel to the Board of Trustees. It was essentially a local seminar conducted for the purpose of providing Trustees with general education. **Exhibit "1" (PowerPoint of material taught during the training).** During the training, the Board did not deliberate toward a decision or take action on any matter over which their public body has supervision, control, jurisdiction or advisory power and the training did not otherwise result in any deliberation or any decision that either impacted, positively or negatively, the citizens of Incline Village and/or Crystal Bay.

In his Complaint, Mr. Wright alleges that a notice of the training was not posted at any physical location. However, because the training sessions in question are not "meetings" under the Nevada Open Meeting Law, IVGID was not required to provide notice of the trainings. Nevertheless, IVGID, in an effort to be transparent, did in fact provide notice of

the training.[1] The notice was posted, for this training, at both the Administration offices (the evening of January 17, 2017) of IVGID and at the Chateau (the evening of January 17, 2017 or the morning of January 18, 2017) where the training was to be held. **Exhibit "3" (Notice of Training on *"So, You Were Elected an IVGID Trustee, Now What?")*.**

Additionally, the trainings were open to the public as supported by the fact that the room was set up with space for the public to be seated. If any member of the public chose to attend, they would have been welcome to attend and observe. Immediately following the regular Board meeting of January 18, 2017, which was adjourned at 8:05 p.m., the Board of Trustees went into their training session. **Exhibit "4" (Minutes of Regular Meeting of January 18, 2017)**. Notably, the minutes of the January 18, 2017 meeting, do not reflect that Mr. Wright attended the start of the meeting nor did he make any public comments in either of the two periods open for public comment. As Mr. Wright is a regular attendee at the IVGID Board meetings, and his presence is generally noted, it is assumed he was not present and would not have first-hand knowledge about what happened at the meeting and the subsequent training session. That being said, contrary to Mr. Wright's assertions, upon adjournment of the Board meeting, there was no clearing of the room to exclude the public. As set forth in her statement, District Clerk Susan Herron's recollection is that Board Chairwoman Wong stated that any member of the public was welcome to stay for their training if they so desired. **Exhibit "5" (Statement of Incline Village General Improvement District's District Clerk Susan Herron in Response to the Open Meeting Law Complaint 13897-226 by Frank Wright dated March 22, 2017.)**

In conclusion, IVGID did not violate the Nevada Open Meeting Law by holding a Board training session on January 18, 2017.

B. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate, and Trustee Peter Morris violated the Open Meeting Law by holding a Board training session on March 8, 2017 at 3:00p.m.

Similar to the Training session held on January 18, 2017, the March 8, 2017, training titled, "So, You Were Elected an IVGID Trustee, Now What?" conducted on January 18, 2017, was not a "meeting" as defined by NRS 241.015(3). The training was provided by the IVGID District General Counsel to the Board of Trustees. It was essentially a local seminar conducted for the purpose of providing Trustees with general education. **Exhibit "1" (PowerPoint of material taught during the training)**. During the training, the Board did not deliberate toward a decision or take action on any matter over which their public body has supervision, control, jurisdiction or advisory power and the training did not otherwise result in any deliberation or any decision that either impacted, positively or negatively, the citizens of Incline Village and/or Crystal Bay.

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[1] The Minutes of the December 14, 2016, Board of Trustees meeting reflect that the training was eminent. **Exhibit "2" (page 25 of the Minutes of Regular Meeting of December 14, 2016)**. Though the training originally was scheduled to take place January 11, 2017, the training was moved to January 18, 2017, due to weather. Regardless of this fact, the training had been discussed and scheduled in a public meeting far in advance of the training. Mr. Wright was present at the December 14, 2016, regular meeting as evidenced by the notes of his public comments and Written Statement attached to the Minutes. Mr. Wright did not however raise any issue or objection regarding the training during his attendance at the December 14, 2016, meeting.

The presentation given by District General Counsel on March 8, 2017, was merely a continuation of the presentation held on January 18, 2017. At the previous training session, the IVGID Board chose to end the training on January 18, 2017, when nearing the time in which the Notice of the Training stated the training would end to maintain integrity and accuracy of the Notice that was provided as a courtesy to the public. The Notice for the March 8, 2017 training was posted at both the administration offices of IVGID and at the Chateau on February 27, 2017. **Exhibit "6" (Notice of March 8, 2017, Training).** The long-range calendar, included in the packets of the materials for the meeting of February 22, 2017, very clearly states that a training is scheduled and provides the date, time and location which is consistent with the Notice. **Exhibit "7" (long range calendar pages 137-139 of February 22, 2017).**

Mr. Wright alleges in his Complaint he did not receive notice of this "meeting" via e-mail as he and others have requested email notification of all Board **meetings**. Mr. Wright does in fact receive e-mail notifications as requested with other individuals, of all IVGID **meetings,** however, the training is not a "meeting" as previously discussed in this response, which is why a notification was only posted in the locations referenced above and provided in the long-range calendar.

Mr. Wright makes several assertions about topics covered at the training despite the fact that he did not attend the trainings and has not provided any evidence to support his bald assertion. The contents of the trainings have been fully disclosed with supporting documentation attached as exhibits to this response. The materials speak for themselves. If the Attorney General has any further questions about what was discussed at the training, IVGID General Counsel is willing and available to address any such questions.

In conclusion, IVGID did not violate the Nevada Open Meeting Law by holding a Board Training Session on January 18, 2017.

C. Whether Chairwoman Wong, Vice Chairman Philip Horan, Treasurer Matthew Dent, Secretary Tim Callicrate and, Trustee Peter Morris violated the Open Meeting Law by holding a closed session on March 8, 2017, after holding the training session, to discuss pending litigation.

NRS 241.015 (3)(b) states:

> As used in this chapter, unless the context otherwise requires:
>
> 3. "Meeting":
>
> (a) Except as otherwise provided in paragraph (b), means:
>
> (1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present, whether in person or by means of electronic communication:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both. Nev. Rev. Stat. Ann. § 241.015 (West)

Section 3.05 of the Open Meeting Law Manual Attorney-client conference exceptions which, in part, states:

"A meeting held for the purpose of having an attorney-client discussion of potential and existing litigation pursuant to NRS 241.015(3)(b)(2) is not a meeting for purposes of the Open Meeting Law and does not have to be open to the public. In fact, no agenda is required to be posted and no notice is required to be provided to any member of the public. See OMLO 2002-21 (May 20, 2002)."

Here, the closed session, referred to as such in the Complaint of Mr. Wright, was a litigation non-meeting wherein the IVGID Trustees gathered, to receive information from the

IVGID District Counsel regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter. The meeting was held in accordance with NRS 241.015 (3)(b) and Section 3.05 of the Open Meeting Law Manual. Counsel is not at liberty to discuss the matters discussed during the litigation non-meeting. Everything discussed during the litigation non-meeting is confidential and protected by the attorney-client privilege. Further, no agenda is required to be posted and notices are not required to be provided to any member of the public.

No violation of the Nevada Open Meeting law occurred by the IVGID Trustees attending a litigation non-meeting.

D. Whether IVGID General Counsel's actions constitute a violation of the OML.

Mr. Wright states District General Counsel violated the Nevada Open Meeting Law; however, reading his Complaint thoroughly, it is not clear what violation of the Nevada Open Meeting Law was committed by District General Counsel. If the Attorney General finds that there is an alleged violation of the Nevada Open Meeting Law to which the District General Counsel has not already responded to in this response, Counsel would welcome the opportunity to respond further.

E. IVGID Did Not Violate the Open Meeting Law.

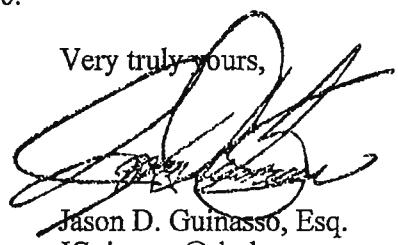
In the event that this memorandum has failed to address an alleged violation of the Nevada Open Meeting Law due to the vagueness and ambiguity of Mr. Wright's Complaint, IVGID denies that any such violation has occurred. IVGID has a stellar record of abiding by the provisions of NRS Chapter 241 and has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

Concluding Remarks

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

Thank you for the opportunity to respond to the Open Meeting Law Complaint of Frank Wright, A.G. File No. 113897-226.

Very truly yours,



Jason D. Guinasso, Esq.
JGuinasso@rkglawyers.com

Encl.
cc: Chairman Kendra Wong
General Manager Steve Pinkerton
District Clerk Susan Herron

EXHIBIT 1

EXHIBIT 1

So, You Were Elected an IVGID Trustee, Now What?

Top Ten Questions Trustees Must Consider If They Want To Effectively Serve

Overview

10) What powers, duties/responsibilities and obligations do I have?

9) What powers, duties/responsibilities and obligations does General Manager have?

8) What are the priorities of the District?

7) When I have priorities and ideas, how do they become IVGID priorities?

6) How do I fund priorities and ideas I support and defund priorities and ideas that I do not support?

Overview (continued)

5) If I don't like the way an IVGID employee executes policy, manages a venue, and/or an employee of the District's performance, how do address such issues?

4) When a constituent or group of constituents want me to address an issue, what is the process for addressing their concerns?

3) How do I get something I care about onto an agenda?

2) What happens when legal issues arise that impact me or the District?

1) Who are the people I am serving with, what are their priorities and ideas, and how can I work with them to accomplish my goals and serve the public well?

10.

What powers, duties/responsibilities and obligations do I have?

10.

1) Power is limited to Nevada Revised Statutes 318 and Washoe County Enabling Ordinance
2) Duties and Responsibilities flow from purpose(s) for which IVGID was created
3) Duties, Responsibilities and Obligations can be self imposed by Board as a whole through Ordinance, Resolution or Policy

9.

What powers, duties/responsibilities and obligations does the District's General Manager have?

9.

1) Board has delegated its statutory authority over day to day operations of District to General Manager in (Resolution 1480)

2) General Manager is the only employee of the District who directly reports to Board (Contract)

3) General Manager executes the policies and priorities of the District as a whole.

8.

What are the priorities of the District?

8.

1) Priorities are largely driven by statute and enabling ordinance
2) Priorities are also driven by decisions of past Boards (i.e. decisions made regarding Budget, Capital Planning, Strategic Plan, Ordinances, Resolutions and Policies)
3) Priorities of District can only be changed by actions of the Legislature (change in law) or actions of the Board as a majority (Rule of 3)

7.

When I have priorities and ideas, ***how*** do they become IVGID Priorities?

7.

1) Trustee ideas and priorities do not become the District's unless and until 3 Trustees agree and vote to approve an idea or a priority
2) There is a process (Policy 3.1.0) for raising issues, discussing and debating ideas and reaching a conclusion
3) Trustees cannot act on their own; Trustees do not have power to act on their own to implement ideas and establish District priorities

6.

How do I fund priorities and ideas I support and defund priorities and ideas that I do not support?

6.

1) In order for a priority and idea to be implemented, it must be funded (budget is a reflection of what the District values and places priority on).
2) The budgeting process provides ample opportunity to develop consensus on priorities and plan to implement priorities.
3) Budgeting is heavily regulated by Statute.

5.

If I don't like the way an IVGID employee executes policy, manages a venue and/or a employee of the District's performance, ***how*** do I address such issues?

5.

TRUSTEES HAVE ONE AND ONLY ONE EMPLOYEE - THE GENERAL MANAGER. ALL EMPLOYEE ISSUES MUST BE DIRECTED TO HIM. WHY?

1) Employees of District report the General Manager, not Trustees.
2) District has Personnel Policies
3) State and Federal Laws, as well as Union Contracts, govern employee rights and responsibilities; Trustees should avoid taking any actions or making any statements that could expose District to liability.

4.

When a constituent or group of constituents want me to address an issue, ***what*** is the process for addressing their concerns?

4.

1) There is a process for receiving and addressing concerns of the public

2) Effective communication has been an important focus over the last few years (Communications Committee; hiring of Communications Coordinator; other District Communications efforts)

3) Issues that need to be addressed by the Board as a whole must be addressed at a properly agendized meeting.

3.

How do I get something I care about onto an agenda?

3.

1) Chair and General Manager control and manage what get's agendized

2) Be sure to meet with General Manager regularly regarding issues, ideas and concerns so that he can direct staff to provide assistance to help you vet and develop the issue, idea or concern for a Board level discussion.

3) Understand role of the District Clerk regarding meetings and agendas and what to takes to assemble and produce a meeting agenda and packet.

2.

What happens when legal issues arise that impact me or the District?

2.

1) District General Counsel represents the District - not individual Trustees or District employees

2) District Counsel reports directly to General Manager as provided by Resolution 1480, but serves at the pleasure of the Board (Contract)

3) Overview of how legal issues are addressed by District Counsel

1.

Who are the people I am serving with, *what* are their priorities and ideas, and ***how*** can I work with them to accomplish my goals and serve the public well?

1.

1) Your success as a Trustee will rest in large part on how well you work with your fellow Trustees (Rule of 3).

2) Remember the Open Meeting Law constraints on how and when you can communicate with other Trustees.

3) Remember that, even if you do not get your priorities and ideas included as an IVGID priority, you were elected to a public body to serve the public. After an issue is decided, it is important to respect the democratic process.

Now, your work begins . . .

So, You Were Elected an IVGID Trustee, Now What?
Top Ten Questions Trustees Must Consider If They Want to Effectively Serve

Training began on January 18, 2017 (Questions 8-10 were covered)

10. What powers, duties/responsibilities and obligations do I have?

Trustee responses during training:

A. NRS 318
B. Approve a budget within statutory deadline
C. I versus We = It's Us
D. Moral/Ethical plus compliance with laws, etc.
E. Response to constituents
F. Resources are scarce/taxed
G. Duty to be informed and also knowing where answers reside i.e. IVGID website

District General Counsel's answers:

1. Power is limited to Nevada Revised Statutes 318 and Washoe County enabling ordinance.
2. Duties and responsibilities flow from purpose(s) for which IVGID was created.
3. Duties, responsibilities, and obligations can be self imposed by the Board as a whole through Ordinance, Resolution, or Policy.

9. What powers, duties/responsibilities and obligations does General Manager have?

Trustees responses during training:

A. Managing employees
B. Day-to-day operations
C. Responding to the Board of Trustees as a whole
D. Agendizing items
E. Policies, practices, resolutions - delegated by the Board - Resolution 1480
F. Bringing forward issues, to the Board of Trustees, that needs attention
G. General Manager's Contract and Annual Performance Evaluation

District General Counsel's answers:

1. Board has delegated its statutory authority over day to day operations of District to General Manager in Resolution 1480.

Training began on January 18, 2017 (Questions 8-10 were covered)

2. General Manager is the only employee of the District who reports directly to Board (contract).
3. General Manager executes the policies and procedures of the District as a whole.

8. What are the priorities of the District?

Trustees responses during training:

A. Water, sewer, trash and recreation (enabling ordinance)
B. Financial responsibility
C. Strategic Plan: road map, established path; changes require resources, may have good reason to change course in Strategic Plan
D. Community wants higher, broader vision - how does the Board respond? Put Strategic Plan in context - move it along.
E. Private funding dictating what we are doing - don't want to turn down private dollars especially seed money while ensuring fit/gap in process.
F. Recognize government versus private business - make decisions in public
G. Adopting more business like practices; really, really diligent with money
H. Challenge with Board retention; long period of time to feel comfortable as a Board of Trustees member.
I. IVGID is looked upon as an example; gold standard.
J. Needs to know how much it costs, by venue, to run this place; actual costs and revenues, concerned about carryover projects.
K. Team (Board of Trustees) building to work as a cohesive group - what are the Board of Trustees opportunities to do this?
L. Do a couple of training on how to approach certain fictitious issues.
M. What am I going to influence?

District General Counsel's answers:

1. Priorities are largely driven by statute and enabling ordinance.
2. Priorities are also driven by decisions of past Boards (i.e. decisions made regarding Budget, Capital Planning, Strategic Plan, Ordinances, Resolutions, and Policies).
3. Priorities of District can only be changed by actions of the Legislature (change in law) or actions of the Board as a majority (Rule of 3).

Training began on January 18, 2017 (Questions 8-10 were covered)

7. When I have priorities and ideas, how do they become IVGID priorities?

Trustee responses during training:

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

6. How do I fund priorities and ideas I support and defund priorities and ideas that I do not support?

Trustee responses during training:

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

5. If I don't like the way an IVGID employee executes policy, manages venue, and/or an employee of the District's performance, how do I address such issues?

Trustee responses during training:

A.
B.
C.

So, You Were Elected an IVGID Trustee, Now What?
Top Ten Questions Trustees Must Consider If They Want to Effectively Serve

Training began on January 18, 2017 (Questions 8-10 were covered)

District General Counsel's answers:

1.
2.
3.

4. When a constituent or group of constituents wants me to address an issue, what is the process for addressing their concern?

Trustee responses during training:

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

3. How do I get something I care about onto an agenda?

Trustee responses during training:

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

2. What happens when legal issues arise that impact me or the District?

Trustee responses during training:

So, You Were Elected an IVGID Trustee, Now What?
Top Ten Questions Trustees Must Consider If They Want to Effectively Serve

Training began on January 18, 2017 (Questions 8-10 were covered)

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

1. **Who are the people I am serving with, what are their priorities and ideas, and how can I work with them to accomplish my goals and serve the public well?**

Trustee responses during training:

A.
B.
C.

District General Counsel's answers:

1.
2.
3.

EXHIBIT 2

EXHIBIT 2

MINUTES

REGULAR MEETING OF DECEMBER 14, 2016
Incline Village General Improvement District

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairwoman Kendra Wong on Wednesday, December 14, 2016 at 6:15 p.m. at the Chateau located at 955 Fairway Boulevard, Incline Village, Nevada.

RECOGNITION OF THE INCLINE VILLAGE GIRLS HIGH SCHOOL GOLF TEAM FOR THEIR ACHIEVEMENT IN THE 2016/2017 GIRLS HIGH SCHOOL STATE TOURNAMENT - FIRST PLACE, TEAM TITLE; INDIVIDUAL STATE RUNNER-UP; AND OVERALL, STATE OF NEVADA 2A GOLF CHAMPION
Christine Schwartz, Kennedy Cohn, Haley Carlson, Karyss Thompson, Scarlet Ramos, Coaches: Joe Humasti and Chuck Jensen

Coach Joe Humasti thanked the community and District Staff at the golf course for their continuous support. This year's team won their ninth title and this win ties them for most titles since the association that they belong to has been keeping records. These students work hard to play the sport of golf.

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 Tim Callicrate, Matthew Dent, Jim Hammerel, Phil Horan, and Kendra Wong.

Also present were District Staff Members Director of Finance Gerry Eick, Director of Public Works Joe Pomroy, Director of Community Services Sharon Heider, Parks and Recreation Director Indra Winquest, Director of Human Resources Dee Carey, Director of Golf Michael McCloskey, Sales and Events Manager Cathy Becker, and Director of Asset Management Brad Johnson.

Members of the public present were Gayle Holderer, Pete Todoroff, Gene Brockman, Joe Shackford, Kaye Shackford, Steve Dolan, Howard Beckerman, Jean Eick, Frank Wright, Aaron Katz, Margaret Martini, Judith Miller, John Eppolito, Steve Sidells, Craig Olson, and others.

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

C. ROLL CALL OF THE IVGID BOARD OF TRUSTEES-ELECT*

On roll call, present were Matthew Dent and Phil Horan. Trustee-Elect Peter Morris advised Staff that he is unable to attend but is watching the Livestream.

At 6:14 p.m., Chairwoman Wong called for a break until 6:30 p.m. as our public hearing is time certain for 6:30 p.m. Chairwoman Wong reconvened the meeting at 6:30 p.m.

D. PUBLIC HEARING (TIME CERTAIN FOR 6:30 P.M.) - Proposed amendments to IVGID Solid Waste Ordinance No. 1, entitled "An Ordinance Regulating Solid Waste Matter and the Collection, Removal and Disposal Thereof"

Trustee Hammerel made a motion to open the public hearing; Trustee Horan seconded the motion. Chairwoman Wong called the question and the motion was passed unanimously.

Director of Public Works Joe Pomroy confirmed that the District is in compliance with noticing requirements and gave the presentation that was included in the Board packet. District Clerk Susan Herron said that four e-mails had been received, post Board packet production, from R. Caviness, F. Voltz, Jeffrey A. Poindexter, and Stephen Endicott and that they have all been distributed to the Board of Trustees.

Chairwoman Wong asked for public comment.

Frank Wright said we have a trash ordinance before us that we are going to vote upon and in looking at the public comment form he wants to ask questions about the people speaking. Earlier, he spoke at the Audit Committee meeting and stated that Trustee Hammerel doesn't live here and that he can't believe he is here at this meeting. Washoe County Commissioner Marsha Berkbigler just got a letter from the District Attorney that stated that he is a registered voter and that he was wrong. Trustee Hammerel kept the information secret and just sat up there and smiled but that he will be voting on this ordinance but he has no interest as he is living in Jackson, Wyoming so let's make it known that his vote really has no best interest in it and that he should have resigned from this Board and that he has no right being here and no right in voting on this ordinance. This

is a real interesting dilemma - where is the ethics here and where is the ethics for the State. He knows where the ethics are with our legal beagle but Trustee Hammerel doesn't even live in this state. He owes us an apology and he should leave the room as this is not fair to us and he is sticking us with this and more money being spent.

Aaron Katz said this is a good review process to see how IVGID doesn't comply with the law. We all heard Staff get up here and say that they complied with NRS 318.199 but it doesn't apply. Accordingly, District General Counsel said it doesn't apply to trash. It is his contention that it applies anytime the District is increasing rates. He wants to have a public hearing on the Recreation Fee but we never have it. What is a public hearing - Staff comes forth and makes a case but they never present any justification and this Board can't pass this because there is no evidence to support it. Washoe County just passed a modification for the entire unincorporated portion except for IVGID and he finds that interesting and he has a written statement. He made a little spreadsheet and guess what, they have the same type of service and they can do twenty five cans at no extra charge and we do ninety six yards and there is a difference in the rates. So his question is why are we paying extra with the IVGID contract with Waste Management when in Washoe County they can do it at no cost. We don't need IVGID except for maybe water and sewer; we don't need it for recreation.

Hearing no further public comments, Chairwoman Wong asked for a motion to close the public hearing.

> Trustee Hammerel made a motion to close the public hearing. Trustee Horan seconded the motion. Chairwoman Wong called the question and the motion was passed unanimously.

E. PUBLIC COMMENTS*

Margaret Martini said, regarding item H.7., are we looking at the possibility of getting more land and if so let's look at getting the land for a dog park and keeping the dogs off of Village Green as this would be a good use of any property. As you would be able to find the money by taking it out of the money for the Diamond Peak Disneyland as there are more dogs then usage at Diamond Peak Disneyland.

Jim Nowlin apologized as he has been out of town so he hasn't really seen the changes that the Board is looking at. One change that has to be made is that we used to get up to seven containers, which he rarely needed, but now we are

paying more and getting significantly less. In the fall, we get wind storms and with a large Ponderosa pine, the windblown debris can fill up the container thus he has no place to put this matter. He is not the only one and he hopes that the District has looked at it.

Aaron Katz said, as a follow up on trash, he has two comments. If you look at the Washoe County ordinance and at what is the fine provision, they have no fine. We have a fine - force you to buy a bear box and fine up to one thousand dollars which is a violation of the statutes. What kind of entity would vote to fine its citizens when Washoe County won't? On the pump track, what started out as a twenty thousand dollar survey has mushroomed into $270,000 for a dirt track between tennis and the Recreation Center thus they should pay for it. We went through this with the disc golf course - got sponsors, they do the maintenance and all we are doing is providing the land which is fine. Here we have another minority group that hasn't paid for a study and now we learn, for the first time, that it is going to be $270,000. When he sees stuff like this it reminds him of Trustee Hammerel. Let's not expand our footprint as we did a survey of the property owners and we were asked if we wanted to spend money on maintaining or spend more on new stuff and the people said maintain not expand and this is exactly what this is so vote no on it. The promoters should do all the plans like the disc golf group did and just ask for the land. Mr. Katz said that he had a written statement and that he doesn't agree with the District Attorney as Trustee Hammerel's presence is jeopardizing every decision the Board makes tonight.

Frank Wright said that you took a survey of what's going on and you have a list of everything going on. The Deputy Attorney General is looking at Trustee Hammerel and his situation and you have a Trustee, to this point, that has not provided his citizenship documentation. If you are listening, Mr. Morris, he hopes that you provide the paperwork to us documenting your citizenship because he has been asking for the documentation, and he asked Staff and they said they have no documentation but that there is an ongoing question about his capabilities to be a Trustee and if he isn't capable, then we have had a screwed up election. Now, let's go back to Trustee Hammerel - why are you here and why are you doing this to our community. It is arrogance, nah, he is here to help the other two Trustees who pass everything and to destroy the community before he leaves. Not one promise was met and Trustee Horan does nothing and Trustee Wong hasn't even come close and you being a CPA and what comes through is that our financials are disgusting. Mr. Wright continued that he wanted to make a statement about the Board and the employees - just because the employees pass items to you, you think it is okay to vote on them which doesn't take away

the culpability because things are illegal. You need to study what is going to be taking place because things are going to happen and questions are going to be asked and he hopes that the Board members have good answers. You are the stewards and you should be looking at everything that is coming before you. We have probably the worst Board in the history of Incline.

Judith Miller said that we have a new Legislative session that will be gearing up in the next few months and one of the bills is to clear up our residency laws and qualifications for office thus we won't have this in the future. Ms. Miller congratulated the candidates and noted that every candidate changes the way the Board operates and that all expressed a desire for better financial reporting and a zero based budget. The changes have resulted in confusion so let's return to enterprise funds. Zero based budgeting clearly states all the costs and expenses which would be a complete shift from the past budget workshops which don't talk about costs. Thank you to the voters that voted for her; there might have been more if she hadn't talked about dogs at the beaches. There is not a focus on the bottom line by the District General Manager and we deserve a bottom line statement. She looks forward to working with the new Board and hopes that you meant what you said - fiscally responsible GID that responds to the needs of our community.

Steve Dolan said that he is here to throw his support behind Resolution 1853; he likes that it is free, understands the maintenance, and in the long run, not sure what parcels gain by having them in our inventory but we might be able to apply them to the larger demographic and help our community straighten out items. He is also glad about the language for public use as he likes taking out the development aspect. He urges the Board to adopt Resolution 1852 and if any of the lots apply towards a park for dogs only that would be great as this is the second largest demographic underneath the beachgoers and something that needs to be addressed.

Val Bates said that he respects everything the Staff and Board does as they come in, day in and day out, and take a beating from people. He is in favor of the pump track/bike park as it is good for kids, a good hub for the community, and if parents work late it would be a nice place for the kids to hang out. The majority of the kids are up on the hill and they can't work or bike up there so we need something closer to our schools as well as it is a plus for the community.

Rob Holman said he came out to express a different view of what a community should be. He and his wife Robin think that a community should have a menu of options that should allow everyone to experience Incline Village. With the

Bonanza theme park gone, we are seeing what happens to a community that doesn't grow. He is grateful to have the bike park as the volunteer work has been tremendous so let's see what they can offer. He drives by the bike park in Truckee in the summer and he sees people picnicking so it is a great way to form community and to meet other kids. Having an option like this is extremely important as it gives us a place to go and something to do. This is an opportunity to create the vision which is similar to what he and his wife did with the Holman Arts Building. We see people bringing their kids and taking classes and the bike park is the same thing as it is about learning skills, etc. It is what makes Incline Village great because we have a menu of options to allow children to form friendships, offers a place for the community to go, and it offers something they didn't have before which is wonderful. Mr. Holman concluded by stating that he strongly encourages the Board to have a positive vote.

Pete Todoroff said he is the Chairman of the Citizen Advisory Board and that he went to a Washoe County Commissioners meeting because one of his clients wasn't able to make it and he talked to Washoe County Commissioner Marsha Berkbigler, who he took cookies and scones, and that he talked to Washoe County Manager John Slaughter and Washoe County Assistant County Manager Kevin Schiller and that, as of today at 2:43 p.m., the Washoe County Commissioners approved money for the Incline Village seniors by transferring $75,000 to expand several amenities such as a Senior Center at 855 Alder and to assist older adults in a variety of ways. There is a significant need for this in Incline Village because so many are seniors and that these services are effective immediately with more funds to come later on.

Aaron James said that he looks forward to hopefully seeing a strong presence for the bike park. It has been a long four years and a lot of volunteer hours on this project. There are a ton of younger families where biking is a gigantic part of their life because this is a wonderful place for kids to be outside which is a part of our life up here. There have been many who have done a lot of work and volunteered their time and we have almost matched the $20,000 and we are striving to raise the $270,000. This is something that the community wants and it got started via a grassroots effort but it needs a lot more volunteer work so please move this forward as it is a great asset to both kids and adults. Many people are looking forward to having an additional park for all so please see this through as it will be a great asset. Mr. James concluded by stating that he appreciates all the time and effort that has gone into this project.

Craig Olson said happy holidays to IVGID Trustees and Staff and said that he does appreciate the hard work and efforts that all of you do. To Trustee

Hammerel, regardless of if you are moving or not, you work hard as a resident and even though you are moving on to a bright new future, he hopes that you will continue serving us and thank you for that service. He is in support of the pump track as we need to have things that serve many and we need to have many different things. We have wonderful venues that serve the community but will also serve the tourists that come to visit so he fully supports it. A lot of volunteer hours have been expended so please vote for this item. Mr. Olson continued that he is also here in support of the letter about the Incline Flume Trail. We have worked on this for four years and done a lot during that time so we need IVGID's support to get a fully authorized trail which would be fantastic. FIT spent two months of intense work and it was all volunteer work, along with TAMBA and the Tahoe Rim Trail, and we got a lot done and it is a lot of volunteer hours. Mr. Olson concluded by stating he approves of everything the Board does and that he doesn't approve of the attacks that come from others.

Travis Garrison said that he is in support of the pump track and as a new coach in town, he sees it as a good asset for the kids in the community. A lot of practice is held at Village Green so biking to practice is a good option. The Incline Flume Trail would also be a good thing for the kids so he is in support of both of these projects.

Dwayne Elwood said that one of the draws was the golf courses that are here and he considers it a really excellent course especially for everyday golfers. Since moving here, he hasn't been disappointed. Staff is courteous and, as a member of TIGC, we have had our best year ever. He found the Chateau to be a great place to eat and drink beer and you have made it easy to spend between three and four thousand dollars here and that is just playing golf and eating at the Chateau. The only con is the increase of golf rates as his income hasn't gone up so consider no increase as there is a limit. Thanks to the Staff for making the year at TIGC the best ever.

Frank Shipman wished the Board a Merry Christmas and a Happy New Year. Another year for his club and he hopes it was another successful year for the District. Staff is diligent in accepting change as we have been given room for scheduling changes. Staff asked us to move for a Hyatt group and we gladly did that and they accommodated us the next day. Staff has also done an excellent job of growing grass, keeping it green, smooth and fast and it works very well. We, at TIGC, have one bit of constructive criticism and that would be in the marking. We toured the golf course and made some quality suggestions and volunteered but Staff doesn't like to put white paint on the golf course. It wasn't until the Nevada Women's Championships that white paint went onto the golf

course. He hopes that for this next season that there is no white paint but rather rope it off and flag it as ground under repair. We know it is tough in some places and sunshine doesn't get through there but that is what we would like to see and we would be happy to help.

Chairwoman Wong called upon MJ Stein; MJ Stein was not present to make comments.

John Eppolito wished the Board happy holidays and thanked them for the opportunity to share his thoughts. On trash, he is going from seven containers to one container and it isn't enough as there are six people in his household. He also didn't realize the rates went up. Resolution 1853 is a very good idea and he hopes that we can find a dog park just for the dogs; the bike park is also an excellent idea.

Bret Hansen is the District Manager for Incline Sanitation and he wanted to update the Board that Waste Management is working on wildlife carts that are arriving tomorrow with delivery on Friday. The 32-gallon trash carts are currently being distributed and effective next week, customers will be able to drop two 32-gallon bags for $7.50 and still have the option to dump. He is working on a more flexible schedule for spring and fall. He is also monitoring customer service and responding to customers via e-mail and working on signage, stripping, etc. at the transfer station for 2017.

Andrew Ellis said he is here to comment on the bike track/park/pump track and he knows that a lot of people think this is a retirement community but there are young people here who are unhappy with the status quo. If you look at other communities, around the lake, they have more amenities. Young people can't come to the meetings as they are busy getting kids ready and he would state that there is a great amount of support for things that the kids can do outside. He would ask that the Board support any initiative that gets kids off the couch and outside.

Chairwoman Wong moved the Approval of the Agenda up to item F. from Item G.

F. APPROVAL OF AGENDA *(for possible action) (was Agenda Item G.)*

Chairwoman Wong asked for a motion to have a flexible agenda; Trustee Callicrate made a motion to have a flexible agenda and Trustee Hammerel seconded the motion. Hearing no comments, Chairwoman Wong called the question and the motion was passed unanimously.

Chairwoman Wong asked if there were any changes to the agenda. Trustee Callicrate asked if it would be possible to move item H.2., H.3. and H.7 to H.1., H.2. and H.3. and then put item H.1. as item H.4.

G. **PRESENTATIONS*** ***(was Agenda Item F.)***

G.1. Director of Community Services Sharon Heider – Update on Community Services activities

Director of Community Services Sharon Heider gave a brief PowerPoint presentation, which is incorporated herewith by reference.

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

H.1. Review, discuss and receive a presentation on Pump Track conceptual plan and review, discuss and possibly direct Staff to prepare a Memorandum of Understanding (MOU) for partnership with Incline Bike Project (IBP), and review, discuss and possibly continue this item to a future Board of Trustees meeting to allow public review and comment (Requesting Staff Member: Director of Community Services Sharon Heider) ***(was Agenda Item H.2)***

Director of Community Services Heider gave an overview of the submitted materials.

Trustee Callicrate said great job on putting this together. He has been in contact with folks from Incline Bike Project and this is a great opportunity and he has been in support of this since he heard about it. What is the annual maintenance and who will it be contracted out to. Director of Community Services Sharon Heider said Staff doesn't have an estimate on the annual maintenance and that the estimated cost for construction is $250,000. Staff will get the costs and develop a memorandum of understanding and then bring back those points of detail. What we think will happen is there will be some nuances as Incline Bike Project has offered to help with maintenance such that they maintain the track and we would maintain the landscape around it. Trustee Callicrate said, regarding the skate park, that he would like Staff to move forward on that and see if there is an organization that wants to raise the money as we have only completed Phase 1 of three phases and that there might be people out

there that want to work on it. Trustee Callicrate concluded by stating that he definitely wants to move forward on the pump track.

Trustee Horan asked how this fits into the master plan. Director of Community Services Heider said that it is anticipated in the master plan and that the Board's decision will guide. When we did the last master plan, the pump track wasn't in it as this is a new sport that has bubbled up. We would incorporate it into the master plan if approved and if not approved, the land would be available for other uses. Trustee Horan asked if the space was really adequate for what we are considering and is it limiting future growth. Director of Asset Management Brad Johnson said of the inventory of existing lands, this is a good fit for this type of park. It is 1.5 acres which is a squeeze size and it would limit future growth but that the limit is at very advanced features i.e. double black diamond which is available elsewhere. The proposal is a wide ranging bike park where a progression of skills would be a good fit. It complements our Recreation campus and there are no sacrifices as it is a quality park and the land and space work very well.

Trustee Hammerel thanked Staff for the presentation. Mr. James approached him and he has worked really hard on this program and has gathered a lot of donations. One of the intriguing elements is being able to move the dirt, wipe it clean, and then start over again. Just by the sheer interest and dollars raised and the number of volunteers, it would be foolish to turn this down. Personally, this is the family skate park of 2017 and he can't wait to see it done.

Trustee Horan said he can get very supportive of this project and he understands that activities are going to change. The supporters have said there is a large young population and with the support that has already been given, he would be in support of the development of a memorandum of understanding to get more facts and additional community input.

Trustee Dent said that moving forward with the memorandum of understanding would be the logical next step and allow us to be able to have a better understanding of it. He didn't find the $270,000 amount but he did find the material about Incline Bike Proejct paying for the design; he is in support of moving forward.

Chairwoman Wong thanked Staff for bringing this item forward and thanked Incline Bike Project for their hard work and for working on this project; she appreciates everyone's work.

> Trustee Hammerel made a motion to receive a presentation on the pump track conceptual plan, direct Staff to prepare a Memorandum of Understanding (MOU) for partnership with Incline Bike Project (IBP), and continue this item to a future Board of Trustees meeting to allow public review and comment. Trustee Callicrate seconded the motion. Chairwoman Wong asked for comments, hearing none, called the question and the motion was unanimously passed.

H.2. Review, discuss and possibly approve a letter of support for the Incline Flume Trail (Requesting Staff Member: Director of Community Services Sharon Heider) ***(was Agenda Item H.3)***

Director of Community Services Heider gave an overview of the submitted materials.

Trustee Callicrate thanked Staff for this presentation and said that this is a phenomenal trail and that he is in full support of this item.

Trustee Horan asked about the financial impact. Director of Community Services Heider said a portion of the trail runs through Diamond Peak so she assumes there would be an access easement but that there are no anticipated costs for IVGID.

Trustee Dent thanked Staff for working on this and that he knows that a lot of time and effort has gone into this. Director of Community Services Heider said it was just a matter of timing and it took a bit of time to get us here.

> Trustee Hammerel made a motion to approve the letter of support included in the packet for the Incline Flume Trail. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, hearing none, she called the question and the motion was unanimously passed.

H.3. Review, discuss and possibly approve Resolution No. 1853 in Support of Comprehensive Federal Public Lands Legislation and review, discuss and possibly approve the list and map of Public Lands Identified for Transfer to District Ownership (Requesting Staff Member: Director of Asset Management Brad Johnson) ***(was Agenda Item H.7)***

Director of Asset Management Johnson gave an overview of the submitted materials.

Trustee Callicrate said, to answer a couple of concerns about a dog park, that parcel number four, which is right across from the high school, has been scoped out as one of those parcels and if not that one then there might be another one that could be a great opportunity. This is a great opportunity to have control so he is in full support of this transfer.

Trustee Horan said he supports this as well and that one of the important items is that one of the parcels that is now leased might come back to us. Director of Asset Management Johnson said that is correct and they are parcels number six and eight and that the District does write an annual check in the amount of $30,000 for the special use permit.

Trustee Hammerel said that he loves all this stuff in theory and that he is fully onboard with this but on agenda packet page 170, he doesn't like the third paragraph and the words "economic development" because is not what IVGID should be in charge of rather it is recreation and conservation. He noted that economic development is repeated again on page 171 and that he would feel more comfortable if economic development could be struck from the resolution as it is not in accord with the mandate of a general improvement district. District General Counsel Guinasso said that economic development may not have the broad meaning so he would caution on striking it from a legal perspective. Trustee Hammerel said he may be nitpicking here but that he is extremely sensitive to economic development.

Trustee Horan asked if the acquisition comes with conditions. Director of Asset Management Johnson said in our case the land would be transferred for public use but that the language hasn't been released. Our understanding is where direct land transfer occurs from the United States Forest Service to IVGID it would be limited for public use and that if that public use were to defray from that public use then the United States

Forest Service may have a claw back clause. The broader language is contained within because this is much larger and that IVGID is a very small component as the economic development part is with Reno, Sparks and Washoe County. Trustee Horan said so this is boilerplate. Director of Asset Management Johnson said yes. Trustee Horan said we will have a say with the use so we really are not locked into what it is to be used for so this language doesn't bother him.

Chairwoman Wong thanked our Staff as well as our Congressional Leaders Heller, Reid, and Amodei and our Legislative Advocate Marcus Faust for their work. When we went back to Washington D.C., this was a high item on the list of items discussed. This is well beyond us at IVGID as this is being worked on at a national level so she would like to recognize them for their work.

Trustee Horan made a motion to:

1. Approve Resolution No. 1853 in support of comprehensive federal public lands legislation and participate in the Washoe County Economic Development and Conservation Act process.

2. Approve the list and map of federally managed public lands identified for transfer to District ownership.

Trustee Callicrate seconded the motion. Chairwoman Wong asked for comments, hearing none, she called the question and the motion was unanimously passed.

At 8:00 p.m., Chairwoman Wong called for a break; the Board reconvened at 8:10 p.m.

H.4. Review, discuss and possibly approve Resolution No. 1852 for Proposed Amendments to IVGID Solid Waste Ordinance No. 1, entitled "An Ordinance Regulating Solid Waste Matter and the Collection, Removal and Disposal Thereof" (Requesting Staff Member: Director of Public Works Joe Pomroy) ***(was Agenda Item H.1)***

Director of Public Works Joe Pomroy gave an overview of the submitted materials.

Chairwoman Wong said, as a Board, we have discussed Ordinance 1 at five meetings.

Trustee Callicrate said he is the odd man out. We have discussed offense costs and he is not great with the fines; he knows that we have already discussed that and it has moved forward. He is not sure if he is going to vote for or against this. We need to distinguish, for the community, the difference between the ordinance and the franchise agreement and that they are two separate items. It would behoove the community, in every single communication, that we include a friendly reminder that the ordinance regulates how we do this and that the franchise agreement is the day to day. We need to get that out in a more concise way to say that these are the changes and get that out to the community. The franchise agreement is in the tweaking stage and we are working with Waste Management on it. He doesn't know how to better do this but that there has to be a way to get these changes out and how this is different from the franchise agreement.

Chairwoman Wong said that the franchise agreement and the ordinance are two separate things and the two can't conflict with each because we will get into trouble. There is a lot of language updating in the ordinances and changes in the franchise agreement; these two documents work in tandem but are two separate documents.

Trustee Callicrate said it is more customary to have the ordinance first and then the franchise agreement which is what should have been done because the whole circular argument is what got us in trouble.

District General Counsel Guinasso said that the ordinance sets the framework for the work. The District made substantial revisions to the ordinance a year ago and during that period of time the franchise agreement was in negotiation. Those negotiations resulted in more day to day operations being taken on by Waste Management and there is no perfect world for these things. For the franchise agreement, taking a couple of extra months to negotiate was appropriate.

Trustee Callicrate said since we have another very pressing situation with Ordinance 7, let's make sure we take care of the ordinance first before we do anything if we are able. District General Counsel Guinasso said that

Trustee Callicrate's points are well taken and we will try and choreograph that better.

Chairwoman Wong said that trash is dealt with on a weekly basis so we are always in a cyclical basis.

Trustee Dent said that earlier this evening someone mentioned that Washoe County was doing something with Waste Management so are we allowed to join that agreement and could that be a better route. District General Counsel Guinasso said that one of the purposes which IVGID was created for, through the enabling ordinance, was to deal with garbage so that rests solely with IVGID who has the independent responsibility to deliver so it is not appropriate to join. Trustee Dent said but is this a better opportunity. District General Manager Pinkerton said that the District has a separate franchise agreement as our circumstances are completely different to others who are not thirty five miles away and located in a mountain region with completely different conditions. It is not the same as down the hill and the use of equipment is different - there are no bear proof containers nor weekly recycling; it is an apples and oranges comparison. To compare us with others around the lake is analogous for comparing us. Trustee Dent said has anyone talked to Washoe County because just because we are handling our own trash doesn't mean we don't have the ability. District General Counsel Guinasso said that Washoe County doesn't want us and that's why the enabling ordinance. Trustee Dent said that he sees this as not playing by the rules - reference Policy 3.6 and he will be voting against this item.

Chairwoman Wong said that we are revising the ordinance, negotiating, and then revising the ordinance and that Mr. Hansen came to us with the additional services that Waste Management is looking into and that it is a consistent perpetual cycle and of making the ordinance better.

Director of Public Works Pomroy said that we did a change in service and then an ordinance match.

District General Counsel Guinasso said that we are always making tweaks and revisions and always reviewing and that the District hired specific legal counsel to make sure we are paying attention to various items and that we have a policy to address this so it is more of a dance than a march and we are learning the rhythm of the dance rather than the order of the march.

Trustee Callicrate said that Trustee Dent brought up an interesting point and that is that we need to buckle down, from a Board level, on all of our ordinances. We have rules and regulations that we ascribe to and we need to get back to following our own rules and be a little more diligent. He understands that we can't control the cyclical activities but that we do have rules to follow. We can't go off on a tangent by picking and choosing as it sends a vague message to the community. The rules apply across the board and he thinks that was what Trustee Dent was referring to. He came in as opposing but we will be more adherent to our own policies, etc. therefore he would be more in tune to support this and move forward.

Chairwoman Wong said that she recalls the discussion at the last meeting and that was that we need more discussion to happen so let's approve this ordinance and then address the items. This all speaks to the process and the dance to all of our ordinances and policies. She has never been part of an organization where all the policies have been set and not changed and that is dangerous because that means they are not addressing the needs of our community, etc.

District General Counsel Guinasso said so it is clear and for the record, the District is in no violation of any rule or statute in arriving at this point of decision today with Ordinance 1.

Trustee Horan said that he has received copies of the e-mails about fines and that the position on fines is we don't want to have Staff making their budget by fining people rather we want to move to containerization and be reasonable with working with the community. He has received objections about decision making but someone has to make the decision so he is ready to move forward.

Trustee Hammerel said that the Director has a lot of power and last time we included an appeal process so he would underline what has already been said and that is that this ordinance has been through multiple meetings and that it is not 100% but it is 99.99% so he is happy to vote on this tonight as it has been a long time coming.

> Trustee Hammerel made a motion to approve Resolution No. 1852 amending IVGID Solid Waste Ordinance No. 1, entitled "An Ordinance Regulating Solid Waste Matter and the Collection, Removal and Disposal Thereof". Trustee Horan seconded the motion. Chairwoman Wong asked for comments, receiving none,

called the question - Trustee Dent voted opposed and Trustees Hammerel, Horan, Callicrate and Wong voted in favor; the motion passed.

H.5. Presentation: Golf Courses: 2016 Wrap Up and Review, discuss and possibly approve Golf Courses 2017 Key Rates (Requesting Staff Member: Director of Community Services Sharon Heider; presented by Director of Golf Michael McCloskey) ***(was Agenda Item H.4)***

Director of Golf Michael McCloskey gave the PowerPoint presentation that was included in the packet.

Trustee Dent said that we have round versus revenue which is half of the picture so where we with are expenses and why aren't they included. Director of Golf McCloskey said that we are presenting this from a strategic viewpoint and setting our rates and that Staff is always looking at expenses which we will dive much further into in the budget presentation in the spring. Trustee Dent said having this be all revenue based, in a way, is incomplete. When we get to the budget meeting, we need to have the expenses plugged in here. Director of Golf McCloskey said we will match our revenue to rounds so he will elaborate a little more then.

Chairwoman Wong asked what was included in the cost per round. Director of Golf McCloskey said all the uses and that Staff has excluded capital and things we don't control at an operational level.

Trustee Dent said when it comes to overall strategy is it our strategy to drive rounds. Director of Golf McCloskey responded yes, in part. Trustee Dent said so once we find all the rounds and are maxed out on rounds and dynamic pricing strategy what are we going to do - focus on expenses. Director of Golf McCloskey said the golf industry fluctuates so much so we stay on top of the industry standards and our strategy changes as golf goes on. We are doing as much as we can in revenue while maintaining service levels for our customers and scalable expenses is something we look at and as an example if it is raining we scale back and don't use as much labor. The transition of golf and the challenge of how golf is growing may not be as great as other items like bocce, etc. so we stay consistent and make it equal because years ago it was the other way around. Trustee Dent said he knows you are looking at your costs so he just wanted to throw it out there.

Trustee Callicrate said that he has to echo what Trustee Dent brought up and that he knows it is going to come out in the budget but we have to know what the bottom line costs are and we have talked about this before. Staff has done an incredible amount of work and he is hopeful that in the future we will get to an executive summary situation for all of our reports as this is a lot of information to digest and while it is very thorough, he would appreciate a very concise one to one and a half page summary that contains both written and visuals as he learns better that way. Trustee Callicrate continued that this will help with the community but that Staff did a great job but there is a lot of information and this is the last meeting before this goes to press so let's tighten it up for next year. It is a lot of information to absorb and, for the future, we have to get the costs into the mix to give a truer picture; he appreciates all the hard work that has been done.

Trustee Dent asked where we are with our expenses, in 2016, for the Mountain Golf Course. Director of Golf McCloskey said we are slightly higher than where we were in 2015 and that it is mainly in the food and beverage area. Trustee Dent said and that is where the revenue increase occurred. Director of Golf McCloskey said he doesn't have the exact information but he will get it to the Board.

Trustee Hammerel said that Staff has done a great job at the applicable courses. In looking at the Championship Golf Course and removing the seasonality and the weather, it looks like apart from the residents, with the new point-of-sale Staff has the capability to market locally especially to those looking for the last minute deal. Thus, where is the breakeven versus wear and tear on the course and can you send out a blast with an amazing rate to get the numbers back up while generating a little bit of revenue. We all understand the aging demographic but this is a huge opportunity and we know that Staff is striving to do everything they can but that he thought he would share the ideas he came up with. Director of Golf McCloskey said that the new software will have CRM and push notifications and that there are floors and ceilings to yield management but that the new software has a good analytic tool to help us with all of this.

Trustee Horan said that he echoes a little bit of Trustee Dent's concern about expenses and he understands about wanting to get pricing set but that as we go through the budget process Staff has to make the expenses a bigger part of the equation and look very hard at the expense area but

that he understand why is not included now but as we move through the budget process it must be included.

Trustee Hammerel made a motion to receive the presentation: Golf Courses: 2016 Wrap Up **and** approve Golf Courses 2017 Key Rates. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, hearing none, called the question and Trustee Dent voted opposed and Trustees Callicrate, Wong, Horan and Hammerel voted in favor; the motion passed.

H.6. Presentation: Facilities: 2016 Wrap Up and Review, discuss and possibly approve Facilities 2017 Key Rates (Requesting Staff Member: Director of Community Services Sharon Helder; presented by Event Manager Cathy Becker) ***(was Agenda Item H.5.)***

Event Manager Cathy Becker gave the PowerPoint presentation of the submitted materials.

Trustee Callicrate commended Staff as they have done a tremendous job especially with all the difficulties. We have a tremendous bang for the buck because when they go two miles down the road they will pay an arm and leg. He has been concerned with the picture pass holder charges but he knows that Staff has been making it more viable for those that book late, etc. so congratulations on a tremendous job.

Trustee Hammerel said mike drop; this is great to have a model of having the visitors pay for venues that locals use and it is a model we strive to have District wide so congratulations on all the great stuff.

Chairwoman Wong said that she has heard nothing but positive feedback for the events Staff puts on so she wanted to pass that along.

Trustee Horan asked what was the basis for the venue fees paid by the community groups. Events Manager Becker said it was based on better yield management as we are listening to the fact that the community wants to use it more. Trustee Horan said so usage is going up, revenue went down and is that a result of decreasing the charges and how much is that bringing it down. Events Manager Becker said it is a result of yield management and as an example when there is a celebration of life we open our doors more.

Trustee Dent asked about the 84% increase in food and beverage and why is that. Events Manager Becker said the number of guests coming to weddings has been growing and the hosts have been going for higher priced items; we did a lot of taco bars in 2010. Trustee Dent said that the guests are up 36% which is up two and half times. Events Manager Becker said we do more appetizers, more bars, and the wedding business is going up. Trustee Dent said what about expenses; Event Manager Becker said we did come in under budget and we will share that in our next presentation. Trustee Dent said congratulations on your hospitality awards as they will go a long way in driving business in the future.

Trustee Horan asked if availability of lodging has an impact. Event Manager Becker said yes, absolutely, and she would love it if the District would build her a few small houses as lodging is one of her biggest challenges and if she loses a wedding it is because of accommodations or not being on the lake.

General Manager Pinkerton said that this relates to the rates we are charging and that it forces higher food minimums and that the community events are a mix from sit downs to popcorn like we had tonight.

Trustee Callicrate said he too would also like to see the expenses and do so all across the board to get a clear picture; Staff is doing a stellar job.

> Trustee Callicrate made a motion to receive the Presentation: Facilities: 2016 Wrap Up **and** approve Facilities 2017 Key Rates. Trustee Hammerel seconded the motion. Chairwoman Wong asked for comments, receiving none, she called the question and the motion was passed unanimously.

H.7. Review, discuss and possibly authorize an Engineering Services Contract for the Effluent Export Project – Phase II – 2016/2017 Capital Improvement Program Budget: Fund: Utilities; Division: Sewer; Project # 2524SS1010; Vendors: HDR Engineering in the Amount of $85,000 (Requesting Staff Member: Director of Asset Management Brad Johnson) ***(was Agenda Item H.6)***

Director of Asset Management Brad Johnson gave an overview of the submitted material.

Trustee Dent said we already have $7.9 million dollars in carryover projects so why are we continuing to spend funds that aren't being spent. Director of Asset Management Johnson said that this will come from that current budget and that the plan is to pre-collect funds for a comprehensive pipeline replacement. In order to collect for a fifteen to twenty million dollar project, the District will be collecting over an extended period of time and continue to build towards a construction contract. Trustee Dent asked so how do we know, as Trustees, what has been expended. Director of Asset Management Johnson said that we can discuss this at our budget meeting and Staff can break it into smaller multi-year tracking that goes into our annual capital reports. This contract is ultimately dwarfed by the long term for construction.

Chairwoman Wong asked what is the status of the long term goal to co-locate under the bike path project. Director of Asset Management Johnson said we went through a series of condition assessments in 2015 and we would have to do individual runs based on the thickness of the pipe because of multiple wall thicknesses so recalibration is needed. The equipment, when pulled out, was so damaged that we couldn't do those additional runs. The next section to move forward is at the thicker walls so we can understand about the replacement amount with the ultimate goal to see how much we can keep. We are hoping to do the data collection in the fall of 2017. The PICA tool is being modified so that we can do the scoping and designing. The immediate repairs is to buy us some time and one route for additional funding is the United States Army Corps of Engineers who is now allowed to talk with us and we are starting those talks immediately. As to the co-location, we are working with those agencies to pursue transportation funding and then hopefully to reduce construction costs. This is moving through the planning process and the upfront work is focused on reducing costs for the project.

Trustee Hammerel made a motion to:

1. Authorize an additional services addendum with HDR Engineering totaling $85,000 for engineering services associated with the Effluent Export Project – Phase II.

2. Authorize Staff to execute the necessary contract documents.

Trustee Horan seconded the motion. Chairwoman Wong asked for comments, receiving none, called the question - the motion was unanimously passed.

Chairwoman Wong, at 9:45 p.m. called for a five minute break; the Board reconvened at 9:50 p.m.

H.8. Review, discuss and possibly accept the presentation of and the acceptance of June 30, 2016 Comprehensive Annual Financial Report including an Unmodified Report by the District's Auditor including the Change in Accounting Principle (Requesting Staff Member: Director of Finance Gerry Eick)

Director of Finance Gerry Eick gave an overview of the packet materials and stated that the Audit Committee reviewed the report and accepted same.

Trustee Horan said that the Audit Committee met at 4 p.m., for about an hour, and talked about the Audit Reports and financial reports. He then provided the following summary for Trustees Callicrate and Dent:

- ✓ The discussion was about financial condition;
- ✓ The report complies with the State of Nevada in content and form;
- ✓ Our auditor acknowledged the correspondence received and he addressed those items;
- ✓ The information provided to the State is different than that provided to the public;
- ✓ GASB 33, 34 and 54 has applicability for items such as special funding, exchange versus non-exchange, and punch cards;
- ✓ Build up has evolved over time with different auditors;
- ✓ The District has gone to the State of Nevada Local Government Finance Committee and the State of Nevada Department of Taxation and we are in compliance and this has been validated in the report included in the Board Packet;
- ✓ We talked about the report being not easily understood but that the items can be reconciled;
- ✓ Asked the General Manager if he has met with the community and he acknowledged that he has;
- ✓ Asked Mr. Carter if the questions that were asked, by members of public, were considered in the review of the unmodified opinion and he answered in the affirmative;

- ✓ We have a Director of Finance who is very knowledgeable and an audit firm that is in the top 25;
- ✓ This audit firm has given us an unmodified report, we got validation, and it is his assumption that we will get the same from the State of Nevada; and
- ✓ He is recommending approval of the June 30, 2016 Comprehensive Annual Financial Report including an Unmodified Report by the District's Auditor including the Change in Accounting Principle.

Trustee Hammerel made a motion to accept the June 30, 2016 unmodified audit report, including the Change in Accounting Principle, and direct Staff to file the Comprehensive Annual Financial Report (CAFR) with the State of Nevada and make it generally available for public use. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, receiving none, called the question - Trustees Callicrate and Dent voted opposed and Trustees Hammerel, Horan and Wong voted in favor - the motion passed.

H.9. Review, discuss and possibly select Eide Bailly, LLP as the District's Audit Firm for Audit Services for Fiscal Year Ending June 30, 2017; Cost would be $54,000 (Requesting Staff Member: Director of Finance Gerry Eick)

Director of Finance Eick gave an overview of the submitted materials and said that this was brought to the Audit Committee where it was discussed and is now being brought to the Board because the Board requested it and that March 31, 2017 is the deadline but that the Board asked to look at doing this at an earlier date thus this agenda item.

Trustee Horan said that he supports the recommendation and that the question was asked about the additional costs that might have been required due to requests by the community. Director of Finance Eick said yes that was brought up and that the fee was for the basic audit and that they have provisions that if they encounter additional work they will bill for that. This past year's bill included just over $4,000 in additional costs and those additional costs relate directly to the correspondence submitted by members of the public and those requests needed to go over the local office to their national offices.

Trustee Hammerel said that he has made this request before; are there any Trustees who will be voting against any kind of proposed motion and if so can they make their opinions known now to both the Board and the public.

Trustee Callicrate said he is not going to vote in favor of continuing with this audit firm as we need to go out and look at another auditing firm as he would like one that is more thorough and does an in depth look at our books like a forensic audit.

Trustee Dent said that he agrees and that this is a limited audit. We have a new Board coming in and thus he doesn't understand what the sense of urgency is so he would like to wait until January and then discuss expanding the scope of work as well as interviewing other auditors.

Trustee Hammerel said that this Board approved a five year contract with Eide Bailly and that he wanted to hear the concerns. The contract allows us to opt out in any year so we are not committed to it but that he feels this is appropriate today.

> Trustee Hammerel made a motion to designate Eide Bailly, LLP as the District's audit firm for the fiscal year ending June 30, 2017, under their multiyear contract as outlined under the financial section. Trustee Horan seconded the motion.

Chairwoman Wong said no matter what auditing firm we use, there are standards they have to meet. Eide Bailly is held to a standard and have peer reviews so she is not sure the service would be any different. We did agree to a five year contract, Mr. Carter is a fairly new partner as this is his second year so it is like having a new auditor and switching would be an added cost to the District when she doesn't see anything that is wrong. Eide Bailly has done a great job, met her expectations, and answered all her questions so she will be voting in favor.

> Chairwoman Wong asked for any further comments, receiving none, called the question - Trustees Callicrate and Dent voted opposed; Trustees Hammerel, Horan and Wong voted in favor; the motion passed.

I. **REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR** ***(for possible action) (was Agenda Item O.)***

General Manager Pinkerton went over the long range calendar and the Board agreed to do the training they weren't able to do in December on January 11 along with swearing and then do a regular meeting on January 18.

Trustee Callicrate left the meeting at 10:05 p.m.

J. **DISTRICT STAFF UPDATE** ***(was Agenda Item I.)***

J.1. General Manager Steve Pinkerton

- Budget and Finance
- Information Technology
- Washoe County Community Area Plan
- Federal Legislation: Lake Tahoe Restoration Act

General Manager Pinkerton gave an overview of all the above items.

K. **APPROVAL OF MINUTES** ***(for possible action) (was Agenda Item J.)***

K.1. Regular Meeting of November 16, 2016

Chairwoman Wong asked the Board for changes, no changes were offered by the Board, and the minutes were approved as submitted.

L. **REPORTS TO THE IVGID BOARD OF TRUSTEES*** ***(was Agenda Item K.)***

L.1. District General Counsel Jason Guinasso

District General Counsel Guinasso said, regarding the Katz litigation, that an opening brief on the original appeal was filed by Mr. Katz who is representing himself. It contended that the District exceeded its power as did the Judge. The opening brief is voluminous and the Nevada Supreme Court has ordered our attorneys to not respond. Mr. Katz also appealed the attorney fees and costs and he is being represented by Mr. Cornwell who filed a motion for a stay to prevent enforcement, the motion was opposed, and we are awaiting that decision. If Mr. Katz prevails, he must post a bond. If Mr. Katz fails, then he is immediately responsible for the

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fees and there is an entire array of discovery tools that would be available to us.

Trustee Hammerel asked if the discovery tools included making these public meetings. District General Counsel Guinasso said yes and that he would recommend we post the deposition. Trustee Hammerel said he agreed.

Chairwoman Wong said on the first item is it unusual that the Nevada Supreme Court tell us not to respond. District General Counsel Guinasso said that he has never had a court say that and that we have to wait for the court to review the brief. It really telegraphs to us that the Nevada Supreme Court is struggling with the merits and that there are two likely outcomes - appeal is denied or court finds some merit and then will ask our legal counsel to argue one particular point. Chairwoman Wong said on the second item, is Mr. Katz going to have to come up with the funds either way - bond or pay us. District General Counsel Guinasso said yes as he can't get a stay without posting a bond and we will either get our money with the bond or by pursuing Mr. Katz.

District General Counsel Guinasso said, regarding Government Sciences Group (GSG) aka Flashvote, that he received a note that they are terminating their contract with the District. It is his duty to inform members of the public that we are taking all the appropriate actions to protect the data in accordance with the contract and that GSG must deliver the electronic and paper copy within thirty days. The public should know that GSG is prohibited from using the IVGID logo or database and that if they are doing so it is without permission.

District General Counsel Guinasso said that he wanted to assure the Board that is working on codifying the District's ordinances, etc. in order to create an IVGID General Code that is a comprehensive body of law and that we will discuss it in more detail at a later date.

M. <u>BOARD OF TRUSTEES UPDATE</u> *(NO DISCUSSION OR ACTION)* ON ANY MATTER REGARDING THE DISTRICT AND/OR COMMUNITIES OF CRYSTAL BAY AND INCLINE VILLAGE, NEVADA* *(was Agenda Item L.)*

Chairwoman Wong presented a Proclamation to Trustee Hammerel thanking him for his service on this Board. Trustee Hammerel said thank you to all the Staff

who does an incredible job with a lot of criticism which is unnecessary, thanked the Trustees on the Board, both current and past, and said that this has been a great learning experience. Tonight is bittersweet and that he has made tons of mistakes but it is all part of the process. He also thanked Mrs. Eick and Mr. Dolan for staying late and said that we have a great thing going on here.

N. CORRESPONDENCE RECEIVED BY THE DISTRICT* ***(was Agenda Item M.)***

District Clerk Susan Herron reported that correspondence had been received from Linda Newman and Dick Warren and that it had been distributed and will be included, in hard copy, in the next Board packet.

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

Steve Dolan said that he wanted to talk about golf - the graphs showed something which really seemed counterintuitive and that is that the usage is going down and the cost is going up. We have two industries here that are identical and have opposite seasons - ski and golf. Both have the same demographic problem and weather and that made him think that during the height of the drought, Diamond Peak really flourished and that it didn't flourish because of dynamic pricing. They flourished because they kept their prices low and used industry standards to identify that price. They went in at $35 when others were at $90 and they flourished because of the lower price situation. It seems to him that reevaluating the structure to get the lines together would be more helpful. The Championship Golf Course has high prices and they lost 20% or something like that and then the Mountain Golf Course lost 1% or somewhere in that range. So dynamic pricing should be focused around that lower price. The Mountain Golf Course has lower prices that brought in customers, grew their customer base, and brought in young people so he thinks the price structure matters. Mr. Dolan concluded by wishing everyone a Merry Christmas.

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

The meeting was adjourned at 10:27 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 (8 pages): - Written Statement to be included in the written minutes of this December 14, 2016 Regular IVGID Board Meeting - Agenda Items D and H(1) - Public Hearing and Board Action re: Proposed Modifications to Solid Waste Ordinance No. 1

Submitted by Jeffry A Poindexter (1 page): - Input to 14 Dec 2016 Public Hearing on Ordinance 1

Submitted by Aaron Katz (4 pages): - Written Statement to be included in the written minutes of this December 14, 2016 Regular IVGID Board Meeting - Agenda Item H(2) - Approval of MOU with Incline Bike Project which puts IVGID on track to spend $270K or more on a mountain bike pump track

Submitted by Aaron Katz (2 pages): - Written Statement to be included in the written minutes of this December 14, 2016 Regular IVGID Board Meeting - Agenda Items D - Public Comment - Trustee Hammerel has disqualified himself from voting on any IVGID matter

Submitted by Aaron Katz (3 pages): - Written Statement to be included in the written minutes of this December 14, 2016 Regular IVGID Board Meeting - Agenda Item E - Public Comments - Pinkerton misstates the truth because he has an agenda to make local property owners think they are the cause of Staff's massive overspending

Submitted by Judith Miller (1 page): - Public Comment IVGID Boards of Trustees Meeting 12/14/2016

Submitted by Pete Todoroff (6 pages): - Washoe County Announcement - Top 5 things to know from the Washoe County Board of Commissioners meeting (12/13/2016)

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS DECEMBER 14, 2016 REGULAR IVGID BOARD MEETING – AGENDA ITEMS D AND H(1) – PUBLIC HEARING AND BOARD ACTION RE: PROPOSED MODIFICATIONS TO SOLID WASTE ORDINANCE NO. 1

Introduction: Here staff proposes modifications to Solid Waste Ordinance No. 1. For the reasons which follow, I protest and object to the adoption of those modifications. Moreover, if the recently modified solid waste franchise agreement is not in accord with the current version of Solid Waste Ordinance No. 1 and the subject proposed modifications are not approved, I ask that the recently modified solid waste franchise agreement be rescinded. And these are the purposes of this written statement.

Notice: Please explain to the community why this matter is subject to thirty days' notice by means of publication as if it involved modification to IVGID's Ordinance Nos. 2 (sewer) and 4 (water). NRS 318.199(2) declares that "whenever the board of trustees proposes to change *any* individual or joint rate, toll, charge, service or product, or any individual or joint practice which will affect any rate, toll, charge, service or product[1], the board of trustees shall hold public hearings *after 30 days' notice* has been given to all users of the service or product within the district." Yet according to staff and Mr. Guinasso, these notice provisions *only* apply to water or sewer resolutions/ordinances because of the NRS 318.199 description: "rates, tolls and charges for *sewerage or water* services or products." *Why then is staff providing the notice required by NRS 318.199 for solid waste rates/tolls*? Or stated differently, *why doesn't the Board implement these same procedures for changes to the Recreation ("RFF") and/or Beach ("BFF") Facility Fees*?

Although I do not object to 30 days' notice being given for changes to Solid Waste Ordinance No. 1, I do object to the fact staff exercises jurisdiction to pick and choose which matters will be the subject of 30 days' notice and publication, and which will not.

Objection to Trustee Hammerel's Ability to Vote: Mr. Hammerel is not qualified to vote on this matter because he is no longer qualified to serve as IVGID trustee. I incorporate my written statement on this subject which is submitted contemporaneously with this written statement.

We Don't Need IVGID to Contract for Solid Waste Disposal: Last month Washoe County approved a new trash franchise rate/service agreement with Waste-Management for the unincorporated portions of the county but for IVGID. In other words, if IVGID were not contracting for solid waste disposal services in Incline Village/Crystal Bay, we would be covered by the county's franchise with Waste-Management.

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[1] Here the proposed modifications represent practices which will affect rates, tolls, charges, services or products.

I have prepared a spreadsheet which compares the key features of the county's franchise with Waste-Management to IVGID's, and it is attached to this written statement as Exhibit "A." As the reader can see, but for fees, the services provided are fairly comparable. Why then do we rely upon IVGID to contract for solid waste removal? Is the collector better than the county's? Is the service more expansive than the county's? Are the costs lower? The answers are no, no and no.

All this talk of how great a job of negotiating staff did with Waste-Management is just that; *talk*. The time has come for IVGID to get out of the Incline Village/Crystal Bay solid waste disposal contracting business. If it did, we would be paying considerably less than we are currently paying.

"The Laws of this State:" Addressing the substance of the subject proposed modifications, here they represent another example of IVGID acting as if it were a full-fledged municipality with the power to provide for the health, safety and welfare of its inhabitants. But it *isn't*. General improvement districts ("GIDs") are *limited* forms of local government. Their powers are *restricted* to those expressly "authorized in NRS 318.116" [NRS 318.055(4)(b)] "as supplemented by...sections of...chapter" 318 [NRS 318.077]. As such, a GID Board's exercise of powers is pre-conditioned upon express grant by their County Board of Commissioners ("the County Board").

"Although IVGID's initiating ordinance granted it the basic power [NRS 318.055(4)(b)] to furnish facilities for sewer disposal and water supply, because Nevada has adopted *Dillon's Rule*[2] [*Ronnow v. City of Las Vegas* (1937) 57 Nev. 332, 341-43, 65 P.2d 133], it may *only* exercise those powers expressly granted or necessarily implied, *and none others* [A.G.O. 63-61, p.103 (August 12, 1963)].

When Chairperson Wong announced at the Board's regular October 26, 2016 meeting that she had attended a League of Cities' meeting where she learned the difference between "home" and "*Dillon's*" Rule, one would have expected she understood the limitations on IVGID's powers. But apparently she does not. For this reason those limitations will be discussed.

NRS 318.170(1)(e): states that "the board may, in connection with a district with basic powers relating to storm drainage facilities, sanitary sewer facilities, refuse collection and disposal facilities, and water facilities, or any combination of such facilities...make all other *sanitary regulations not in conflict with the Constitution or laws of this State*, and provide that any person who violates these regulations or ordinances shall be punished by *a fine not to exceed $100* or by imprisonment not to exceed 1 month, or by both fine and imprisonment. Thus to the extent staff assert the Board may pass refuse collection and disposal regulations, let alone regulations providing for fines, let alone in excess of $100, such regulations are in conflict with the Constitution and the laws of this State. *Why then is there an IVGID Ordinance No. 1*?

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[2] "Any fair, reasonable (or) substantial doubt concerning the existence of power is (to be) resolved... *against* the (municipal) corporation...the power is denied...(and) all acts beyond the scope of...powers granted are void" (*Ronnow, supra,* at 57 Nev. 343).

The Power to Legislate: Notably, nowhere in NRS 318 in general, nor NRS 318.116 specifically, are GIDS granted the power to pass laws or to legislate. And since IVGID is not a form of government with general powers, it may not pass laws which declare conduct to be unlawful, nor provide for imprisonment for their violation. Thus to the extent staff assert the Board may pass resolutions or ordinances declaring conduct to be criminal and provide incarceration as a penalty, those acts are in conflict with the Constitution and the laws of this State and I object.

The Power to Make Solid Waste Regulations: Although IVGID may have the power under NRS 318.170(1)(e) to make "*sanitary regulations* not in conflict with the...laws of this State," it has no power to make regulations "relating to...refuse collection and disposal facilities." Yet that's exactly what is being proposed by this proposed ordinance. Thus to the extent staff assert the Board may pass resolutions or ordinances regulating conduct related to refuse collection and disposal, those acts are in conflict with the Constitution and the laws of this State and I object.

Proposed Sewer Ordinance No. 1: For the reasons which follow, I expressly protest and object to the adoption of the following provisions of proposed modified Ordinance No. 1 I assert are beyond IVGID's jurisdiction and authority:

¶7.1 - which declares "it shall be *unlawful* for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, or maintain any waste container...in violation of this Ordinance."

Objection: IVGID has no power to declare *any* conduct to be unlawful.

¶7.2H - which declares "one or more of the following remedies are available to the District for failure of any person to comply with any provisions of this Ordinance...referring violations that may involve criminal conduct to the Washoe County Sheriff."

Objection: Although IVGID may refer criminal conduct to the Sheriff, it has no power to refer any conduct it has declared to be unlawful to anyone.

¶7.1.B.7 - which declares "a residential service violation shall include but not be limited to... *anything in the judgement of the Director of Public Works which constitutes a violation of the General Provisions of this Ordinance.*"

Objection: Putting aside the fact IVGID has no power to declare any conduct to be unlawful, to the extent its Director of Public Works has the power to unilaterally determine what does and does constitute a violation of the proposed modified ordinance and thus becomes unlawful, this provision becomes unconstitutionally vague and unenforceable. And Mr. Guinasso knows this!

¶7.1.C.7 - which declares "a Commercial Service violation shall include but not be limited to... *anything in the judgement of the Director of Public Works which constitutes a violation of the General Provisions of this Ordinance.*"

Objection: Putting aside the fact IVGID has no power to declare any conduct to be unlawful, to the extent its Director of Public Works has the power to unilaterally determine what does and does constitute a violation of the proposed modified ordinance and thus becomes unlawful, this provision becomes unconstitutionally vague and unenforceable. And Mr. Guinasso knows this!

¶7.2.B.5 - **Fee schedule for residential noncompliance:** 1st offence: mandatory enhanced wildlife resistant cart service. 2nd offence: $100-$999[3]. 3rd and beyond offence(s): $500-$999[3].

Objection: There is nothing in NRS 318.170(1) which allows a GID to impose penalties for refuse collection and disposal ordinance violations. NRS 318.170(1)(e) declares that penalties are only authorized for sanitary sewer facility violations.

Notwithstanding and assuming *arguendo* NRS 318.170(1) allows for the imposition of penalties for refuse collection and disposal violations, the *only* permissible penalties are: "*a fine not to exceed $100* or by imprisonment not to exceed 1 month, or by both fine and imprisonment." Nothing permits IVGID to compel a violator to involuntarily pay for enhanced wildlife resistant cart service or bear shed. Moreover, although a monetary fine may be permissible, it may "not...exceed $100." And nothing allows IVGID to compel a violator to install a bear shed in lieu of a financial penalty.

Disingenuously, Mr. Guinasso has declared IVGID may pass any regulation of its choosing as long as it is expressly *NOT* prohibited by the Constitution or the laws of the State of Nevada. What he espouses is the notion of "home rule" which is the exact *opposite* of *Dillon's Rule*. As stated above[2], *Dillon's Rule* declares that a local government may *only* exercise those powers expressly granted or necessarily implied, *and nothing more*. 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 granted are void."

Moreover, even if Mr. Guinasso were correct, here the Board proposes taking action expressly *prohibited* by NRS 318.170(1). The *only* financial penalty permissible is one that does *not* exceed $100.

Fee schedule for commercial noncompliance: 1st offence: up to $999[4]. 2nd and beyond offence(s): $500-$999[4].

Objection: Again, there is nothing in NRS 318.170(1) which allows a GID to impose a penalties for refuse collection and disposal violations. Penalties are only authorized for sanitary sewer facility violations.

Notwithstanding and assuming *arguendo* NRS 318.170(1) allows for penalties for refuse collection and disposal violations, the *only* permissible penalties are: "*a fine not to exceed $100* or by

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[3] With the *proviso* any financial penalty will be waived if the violator installs a bear shed within 60 days or some other mutually agreed time frame of being billed the penalty.

[4] With the *proviso* any financial penalty will be waived if the violator installs a wildlife resistant dumpster within 60 days or some other mutually agreed time frame of being billed the penalty.

imprisonment not to exceed 1 month, or by both fine and imprisonment." Although a monetary fine may be permissible, it may "not...exceed $100." And nothing allows IVGID to compel a violator to pay for a wildlife resistant dumpster in lieu of a financial penalty.

Again, Mr. Guinasso has declared IVGID may pass any regulation of its choosing as long as it is expressly NOT prohibited by the Constitution or the laws of the State of Nevada which is the exact *opposite* of *Dillon's Rule*. And again, even if Mr. Guinasso were correct, here the Board proposes taking action *prohibited* by NRS 318.170(1). The only financial penalty permissible is one that does *not* exceed $100.

Preemption: occurs when a higher level of government removes regulatory power from a lower level of government. Intrastate preemption is where a municipality's authority in a particular area has been supplanted by State law [87 BLR 1113, 1114, *Intrastate Preemption* (2007)]. And that is another issue insofar as the subject proposed ordinance is concerned.

It is from the State's inherent police power that local governments derive their authority from the State Constitution[5]. Therefore local authority to regulate must be delegated (*Id.*). And when the Legislature has given no clear guidance regarding preemption, courts ask whether local authority has nonetheless been impliedly delegated (*Id.*, at 1114-15)? Which again returns us to *Dillon's Rule*[2].

Because preemption only occurs when two levels of government operate within the same sphere (*Id.*, at 1122), Nevada is a *Dillon's Rule* regime, GIDs are *limited* forms of government *not* vested with general powers, and express grants of authority to GIDs from the Legislature are virtually nonexistent[6], GIDs are effectively precluded from engaging in *any* substantive policymaking. Yet that hasn't stopped IVGID.

Uniformity: represents the reason for preemption. NRS 318.170 is a general law because it operates "alike upon all persons similarly situated" statewide. Proposed modified Ordinance No. 1 is a local law because "it operates over a particular locality instead of over the whole territory of the State" [*City of Fernley v. State Dep't of Taxation* (2016) 132 Nev. Adv. Op. 4, 366 P.3d 699, 708]. Thus proposed Ordinance No. 1 represents "special legislation" because it "imposes peculiar disabilities, or burdensome conditions in the exercise of a common right" [*Clean Water Coalition v. The M Resort, LLC* (2011) 127 Nev. 301, 255 P.3d 247, 254]. Where a statute is local or represents "special legislation" and it does not come within any of the cases enumerated in Article 4, §20 of the Constitution (and here Ordinance No. 1 does not), its constitutionality depends upon whether a general law can be made applicable (*Id.*). Stated differently, "all laws shall be general and of uniform operation throughout the State...in all...cases where a general law can be made applicable" [Article 4,

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[5] Article 8, §8 of the Constitution declares it shall be the Legislature which provides for the organization of general purpose governments, and restricts their powers. Since the Legislature has provided for the organization of GIDs, their powers are similarly restricted.

[6] Nowhere in NRS 318.116 can a GID be granted the basic power to legislate or pass laws.

§21 of the Constitution]. Because proposed modified Ordinance No. 1 is applicable only to solid waste disposal within IVGID boundaries (*Id.*, at 255 P.3d 250), it cannot be made applicable throughout the State.

Conclusion: Please understand what's really going on in our community. People like Chairperson Wong and Trustees (former) Hammerel and Horan have this philosophy that "the ends justify the means," regardless of what our laws declare. Their positions are to support and "rubber stamp" staff's "social engineering" initiatives which by-and-large[7] place members of the public in the position of being forced to file lawsuits if they don't like what the Board has done (and then look at the chilling consequences). This is wrong. I urge all trustees to exercise their considerable power to think for themselves and reject the portions of proposed Ordinance No. 1 identified above as acts in conflict with the Constitution and the laws of this State.

Respectfully submitted, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

[7] Since staff reports that nearly two-thirds of local property owners are either non-citizens, non-natural persons, nonresidents, or they own more than one property within IVGID's boundaries (and thus because of the "one man, one vote principle" they are disenfranchised to the extent they are limited to a single vote), the overwhelming majority of persons with the greatest interest in matters such as Ordinance No. 1 are disenfranchised from voting for/against trustees.

EXHIBIT "A"

Solid Waste Franchise Comparison - Unincorporated Portions of Washoe County to IVGID

2017 - 2027

Description	County	IVGID	Monthly County Rate	Monthly IVGID Rate	IVGID Surcharge	Monthly County Franchise Fee	Monthly IVGID Franchise Fee
Collector Supplied 32 Gallon Residential Waste Container		√	-	$ 22.71			$ 2.06
Collector Supplied 64 Gallon Residential Waste Container	√	√	$ 19.84	$ 23.01	15.98%	$ 0.94	$ 2.09
Collector Supplied 64 Gallon Senior Residential Waste Container			$ 19.00				
Collector Supplied 96 Gallon Residential Waste Container	√	√	$ 23.93	$ 25.43	6.27%	$ 1.14	$ 2.31
Collector Supplied 64 Gallon Residential Recycle Container		√					
Collector Supplied 96 Gallon Residential Recycle Container	√		$ 107.58			$ 5.12	
Collector Supplied 1 Yard Commercial Dumpster Once/Week	√		$ 152.90			$ 7.28	
Collector Supplied 2 Yard Commercial Dumpster Once/Week	√						
Collector Supplied 3 Yard Commercial Dumpster Once/Week		√		$ 217.11			$ 19.74
Collector Supplied 4 Yard Commercial Dumpster Once/Week	√	√	$ 215.23	$ 284.94	32.39%	$ 10.25	$ 25.90
Collector Supplied 6 Yard Commercial Dumpster Once/Week	√	√	$ 313.52	$ 427.57	36.38%	$ 14.93	$ 38.87
Excess 32 Gallon Waste Stickers	25						
Excess 32 Gallon Yard Waste Only Stickers		96					
Free Transfer Station Drop Offs	4	4					
Free Senior/Disabled Side/Rear Yard Service	√	√					

Jeffry A Poindexter
615 Woodridge Circle
Incline Village, NV 89451
14 Dec 2016

Kendra Wong

Subject: Input to 14 Dec 2016 Public Hearing on Ordinance 1

I strongly object to the proposed changes to Ordinance 1 and provide the following specific changes, and request for change.

Reference 3.5: Waste Management should have no access to anything but the exterior of a residence.

Reference 5.5: add "....but shall be published."

Reference 6.1: Customer should be able to discontinue service – provide words to that effect.

Reference 7.1.B.2: Delete in its entirety. Waste Management should have no authority manage waste left outside a building, only waste left outside a container.

Reference 7.1.B.7: Delete in its entirety. If Waste Management thinks of anything else specific they can hold another public hearing.

Reference 7.2.B.5: Delete and replace with something that:

1. Differentiates between a problem with an Animal and a problem with other issue with waste. This is Nevada, not California and we should not have an Ordinance focused on going after owners who are violating waste management rules rather than revenue generation. Recommend the following:

Animal Infractions	Waste Infractions
1st Violation: Provide the owner a notice with specifics on the violation	1st Violation: Provide the owner a notice with specifics on the violation
2nd Violation: Require the owner to use an Enhanced Wildlife Container	2nd Violation: Provide the owner a notice that service will be suspended upon the 3rd violation
3rd Violation: Suspend service until owner has worked with Waste Management to remedy the base problem	3rd Violation: Suspend service until owner has worked with Waste Management to remedy the base problem

Jeffry A Poindexter

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS DECEMBER 14, 2016 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(2) – APPROVAL OF MOU WITH INCLINE BIKE PROJECT WHICH PUTS IVGID ON TRACK TO SPEND $270K OR MORE ON A MOUNTAIN BIKE PUMP TRACK

Introduction: Former Trustee Hammerel has been a proponent for NOT increasing IVGID's recreation "footprint" because inevitably, it results in more capital expenditures requiring subsidization by the Recreation Facility Fee ("RFF"). Yet here staff is presenting more; a continuous loop of dirt berms and rollers at for the very first time revealed $270K or more! With a five year capital improvement plan calling for nearly $30M in expenditures over the next five years, where is the money going to come from? Moreover, since promoters do not propose that user fees will be assessed, where are the administrative, maintenance and improvement costs going to come from? And that's the purpose of this written statement.

For the Very First Time Staff Reveals a Cost of *Over* $270K: Each year at staff's urging, the Board approves a five year capital improvement project plan. Although the current Plan[1] calls for $20K in preliminary expenditures associated with this pump track (of which $9,700 has been spent to date[2]), and another possible $50K this fiscal year, it does *not* reveal the total contemplated costs[3]. Now for the first time that total cost is revealed, and it is a massive $270K or more!

This would be what Mr. Pinkerspin calls "nice-to-haves" except this time we know the cost. Where is the money is going to come from to pay for their cost? And is this what the community had in mind when the previous budget was passed?

Why Isn't This Possible Project Part of the Community Services Master Plan? Where is the money going to come from to pay for it?

The Disc Golf Course: When a minor portion of our community wanted the land to construct and maintain a disc golf course, *at their expense*, they made a presentation which represented no cost to local property owners. Why hasn't this minor portion of our community done the same thing? Unless/until they do, this agenda item should be rejected.

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[1] See https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016-Five_Year_Project_Summary.pdf ("the Plan").

[2] See page 84 of the packet of materials prepared by staff in anticipation of this regular December 14, 2016 meeting ["the 12/14/2016 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Regular_Packet_12-14-16.pdf)].

[3] To prove this point I have attached page 3 to the Plan as Exhibit "A" to this written statement, and I have placed an asterisk next to the project.

Conclusion: To have agreed to spend up to $70K now with another $200K on the horizon is irresponsible. Especially with another $30M in proposed recreation capital improvement project ("CIP") expenses over the next five years. Moreover, the community has spoken in recent surveys that they don't want new CIPs that will increase their RFF. Instead, they want the money spent on maintaining our existing recreation facilities. Is anyone listening?

And You Wonder Why the RFF and Beach Facility Fees Are Out of Control? I've now provided more answers.

Respectfully submitted, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

EXHIBIT "A"

2016 - 5 Year Project Summary Totals

Division	Project Number	Project Title	2015 - 2016	2016 - 2017	2017 - 2018	2018 - 2019	2019 - 2020	Total
Facilities	3350BD1301	Repair/Replace Front Entrance Concrete	40,000					40,000
	3350BD1302	Resurface Patio Deck - Chateau		8,500				8,500
	3350BD1505	Paint Interior of Chateau		20,740				20,740
	3350FF1204	Catering Kitchen Equipment		27,600				27,600
	3350FF1303	Catering Kitchen Ice Machine	7,500					7,500
	3350FF1501	Enclose Chateau Exterior Storage Area	10,000					10,000
	3350FF1603	Portable Bars	17,500					17,500
	3351BD1602	Replace Aspen Grove Facility					60,000	60,000
	3352FF1003	Chateau - Catering Equipment Chairs		12,000				12,000
	3352FF1104	Replace Banquet Silverware		10,000				10,000
	Total		75,000	78,840			60,000	213,840
SW	3453CO1501	Food & Beverage Shared POS	49,500					49,500
	3453FF1106	Diamond Peak Lodge Chairs			29,926			29,926
	3453FF1108	Diamond Peak Main Kitchen Equip.		12,600			63,025	75,625
	3453FF1403	Diamond Peak Loft Bar Kitchen Equip.		5,600			53,000	58,600
	3453FF2002	Main Lodge Barbeque		15,000				15,000
	3453HE1610	SW Main Lodge Loft Bar Heating System	15,000					15,000
	3462HE1602	School House Lift Major Component Replacement	52,830					52,830
	3462HE1603	Ridge Lift Major Component Replacement	94,116					94,116
	3462HE1702	Lakeview Lift Major Component Replacement		95,000				95,000
	3462LE1606	4 Pitt pic control modules Crystal Express Lift	16,500					16,500
	3462LE1608	Redfox & Ridge Lift Restraining Bar Upgrade	50,000					50,000
	3462SE1601	Lift Operations Service Vehicle	20,000					20,000
	3463AT747	Loader Tire Chains (1-Set)		9,300			9,750	19,050
	3463NL476	2002 Caterpillar 950G Loader #524			251,000			251,000
	3463NL492	Replace 2006 Pisten Bully 300 Snowcat #595			336,000			336,000
	3463NL493	Replace 2008 Grooming vehicle # 628					356,000	356,000
	3464AT736	Snowplow #304A		18,000				18,000
	3464BD1302	Vehicle Shop/ Snowmaking Pumphouse Roof			36,122			36,122
	3464BD1403	Resurface Main Lodge Deck		30,710				30,710
	3464CO1701	Fuel Management Program		50,000				50,000
	3464HE1901	Snowmaking Compressor House (C-45)				350,000		350,000
	3464LI1501	Diamond Peak Base Facilities Maintenance and Improvements	40,000					40,000
	3464NL430	2013 SW Resort Snowmobile #672			12,000			12,000
	3464NL431	2013 SW Resort Snowmobile #673					12,000	12,000
	3464NL432	2013 SW Resort Snowmobile #688				15,000		15,000
	3464NL433	2010 SW Resort Snowmobile #701				12,700		12,700
	3464NL434	2011 SW Resort Snowmobile #644	11,500					11,500
	3464NL435	2011 SW Resort Snowmobile #626		11,200				11,200
	3464NL441	2005 Suzuki ATV #695					10,000	10,000
	3464NL442	2012 Yamaha ATV #683					16,000	16,000
	3464NL443	2006 Yamaha Rhino (ATV) #585		14,800				14,800
	3464NL444	2008 Yamaha Rhino (ATV) #639		14,000				14,000
	3464SE1601	SW Resort Snowmobile	11,500					11,500
	3464SE1602	Mountain Operations Service Vehicle	20,000					20,000
	3464SI1002	Fan Guns Purchase and Refurbishment		200,000				200,000
	3464SI1104	Snowmaking Infrastructure Evaluation and Enhancement	50,000					50,000
	3464SI1604	Low Energy Snowmaking Gun	50,000					50,000
	3468RE1102	Replace SW Rental Equipment	115,000	290,000	160,000	135,000	340,000	1,040,000
	3468RE1609	Replace SW Rental Machinery		175,000				175,000
	3469LI1105	Pavement Maintenance, Diamond Peak and SW Way				1,500,000		1,500,000
	3469PM365	2007 Chevy 1-Ton Pick-Up #596			30,440			30,440
	3469PM366	2007 Chevy 1-Ton Pick-Up #597			30,440			30,440
	3469TR104	Replace 2010 Shuttle Bus #635					128,000	128,000
	3469TR105	Replace 2010 Shuttle Bus #636					128,000	128,000
	3499BD1605	Main lodge floor/carpet replacement	45,000					45,000
	3499FF1607	Skier Services Building Customer Service Counter	20,000					20,000
	3499LI1101	Incline Creek Culvert Rehabilitation at Diamond Peak			1,987,500	1,362,500		3,350,000
	3499OE1205	Replace Staff Uniforms		113,500				113,500
	3499OE1502	SW Copier Replacement					15,000	15,000
	3499RS1501	SW Business Operations Software System	215,000					215,000
	Total		879,946	1,055,510	2,873,528	3,375,200	1,130,775	9,210,959
SW Master Plan Implementation	3653BD1501	SW Area Master Plan Implementation - Phase 1	150,000	2,175,000	1,825,000			4,150,000
	3653BD1502	SW Area Master Plan Implementation - Phase 2		50,000	250,000	3,275,000	2,925,000	6,500,000
	Total		150,000	2,225,000	2,075,000	3,275,000	2,925,000	10,650,000
Parks	4378AT727	2000 JD 1500 Aerocore Aerator #456 - Shared			13,675			13,675
	4378AT728	2001 Toro Rake-O-Vac #485		30,500				30,500
	4378AT729	1996 Ldy Fertilizer Spreader #498		5,800				5,800
	4378AT730	2005 Shaltertine Aerifier					8,100	8,100
	4378AT732	2008 LandPride Overseeder #622			15,850			15,850
	4378BD1502	Stairs Replacement Incline Park	40,000					40,000
	4378BD1603	Resurface and Coat Incline Park Bathroom Floors	8,500					8,500
	4378BD1604	Resurface and Coat Preston Park Ballroom and Mechanical Room Floors	14,200				10,200	18,700
	4378BD1605	Village Green/Aspen Grove Flatscape and Retaining Wall Enhancement and Replacement	15,000	125,000			17,100	31,100
	4378BD1801	Preston Field Retaining Wall Replacement						140,000
	4378LI1207	Pavement Maintenance, East & West End Parks				286,000		286,000
	4378LI1303	Pavement Maintenance, Aspen Grove			10,000			10,000
	4378LI1403	Pavement Maintenance, Preston Field			20,000			20,000
	4378LI1503	Bocce Courts at Rec Center	26,000					26,000
	4378LI1504	Incline and Third Creeks Restoration Phase V					26,000	52,000
	4378LI1602	Pavement Maintenance, Overflow Parking Lot	1,133,000			300,000		300,000
	4378LI1604	Pump Track Demonstration		22,000				1,133,000
	4378NL440	2008 Suzuki ATV #617	20,000	50,000				22,000
	4378NL456	2002 John Deere Pro Gator #516			8,100			70,000
	4378NL457	2005 John Deere Pro Gator #572	29,500					8,100
	4378NL458	2007John Deere Pro Gator #604			31,425			29,500
	4378P2250	2001 Pick-up Truck 4x4 (1/2-Ton) #474				32,000		31,425
	4378P2251	2000 Flatbed 4X4 (1/2 ton) #356		26,000				32,000
	4378P3301	2005 Pick-up Truck 4x4 (3/4-Ton) #594			27,000			26,000
	4378P4354	2003 1-Ton Service Truck #520		27,000				27,000
	4378P4355	2004 Pick-up Truck 4x4 (1-Ton) #541		27,000				27,000
	4378RS1501	Replace Previous Incline Park Playground			25,100			27,000
	4378RS1601	Replace Preston Park Playgrounds		40,000				25,100
	4378SV528	2013 Ball Field Groomer #681			50,000	27,800		40,000
	4378SV529	2013 Ball Field Mower / Toro 3500D Groundsmaster #682					17,100	77,800
	4378SV530	2002 Ditch Witch Trencher #518					35,400	17,100
	4378SV531	2005 Ball Field Groomer #557			15,000			35,400
	4378SV532	2007 Toro 3500D Rotary Mower #605	18,000					15,000
	4378SV731	2005 Diamond Master Groomer #563			33,700			18,000
	4378TC07	2010 JD 4120 Tractor #643		39,700		9,000		33,700
	Total		1,304,200	389,000	249,850	654,800	113,900	9,000

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS DECEMBER 14, 2016 REGULAR IVGID BOARD MEETING – AGENDA ITEM D – PUBLIC COMMENT – TRUSTEE HAMMEREL HAS DISQUAIFIED HIMSELF FROM VOTING ON ANY IVGID MATTER

Introduction: At the Board's regular October 24, 2016 meeting Mr. Hammerel announced he would be permanently moving from Incline Village with no intent of returning other than making a visit expressly for the purpose of voting at this December 14, 2016 meeting. Given the facts evidence that Mr. Hammerel is no longer qualified to serve as IVGID Trustee, I and others I know object to his voting on any IVGID matter. And that's the purpose of this written statement.

Former Trustee Hammerel is No Longer Qualified to Vote: on any IVGID matter because he is no longer qualified to serve as IVGID trustee because he no longer maintains actual as opposed to constructive residency[1]. At or before the Board's regular October 24, 2016 meeting, Mr. Hammerel formed the intent to abandon his Incline Village residency prior to November 18, 2016. In support of this assertion I point to his advertisement on craigslist (posting Id: 5755535440) for the rental of his former Incline Village townhouse condominium[2]; "available Nov. 18." I am informed and believe Mr. Hammerel rented his former Incline Village domicile because he and his family have vacated that domicile with the intent their domicile be someplace other than Incline Village (i.e., Jackson, Wyoming), and it is currently occupied by others. I also point to an admission on his facebook that as of November 19, 2016 at 9:16 P.M. that he had "just moved in(to his Jackson, Wyoming home)...full time...today."[3]

NRS 281.050(1) declares that "the residence of a person with reference to eligibility to (hold) office is the person's *actual residence* within the State or county or district...during *all the period* for which residence is claimed by the person." NRS 281.050(4) declares that "actual residence means the place where a person is *legally domiciled* and maintains *a permanent habitation*." Although "if any person absents himself or herself from the jurisdiction of that person's residence with the *intention in*

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[1] NRS 283.040(1)(f) states that "every office becomes vacant upon the occurring of any of the following events before the expiration of (an incumbent's)...term...the ceasing of the incumbent to be an actual, as opposed to constructive, resident of the State, district, county, city, ward or other unit prescribed by law in which the duties of the incumbent's office are to be exercised, or from which the incumbent was elected or appointed, or in which the incumbent was required to reside to be a candidate for office or appointed to office." Mr. Hammerel has lost his residence in this State because he has "remove(d himself) to another state (i.e., Wyoming), territory or foreign country, with the intention of establishing his or her domicile there" (NRS 293.493).

[2] A copy of that advertisement appears at page 199 of the packet of materials prepared by staff in anticipation of this regular December 14, 2016 meeting ["the 12/14/2016 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Regular_Packet_12-14-16.pdf)].

[3] See page 200 of the 12/14/2016 Board packet.

good faith to return without delay and continue such residence, the period of absence must not be considered in determining the question of residence," here Mr. Hammerel's return to vote at this meeting is expressly *not* "with the *intention in good faith to...continue such residence*" because he is legally domiciled elsewhere.

Should Mr. Hammerel Refuse to Relinquish His Trusteeship, I and others will ask the District Attorney to "commence and prosecute, in a court of competent jurisdiction...proceedings for (a) judgment and decree declaring (his) office vacant" as NRS 283.040(2) provides. On December 6, 2016 at 9:39 A.M. Judy Miller asked Mr. Hammerel to resign as IVGID trustee for the domicile/residency reasons outlined above[4]. Although he did not respond to Ms. Miller's request, chairperson Wong did. And her response was that Mr. Hammerel intended to "serve out his term through the end of the year" because he "still owns property in Incline Village."[5]

Whether or Not the District Attorney Has/Will Commence Action to Declare Mr. Hammerel's Office Vacant, There is Now a Vacancy on the IVGID Board: NRS 281.050(2) declares that "if a person who has filed as a candidate for elective office *moves the person's residence out of the State*, county, district, ward, subdistrict or any other unit prescribed by law for which the person is a candidate and in which *the person is required actually, as opposed to constructively, to reside*, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. A person shall be deemed to have moved the person's residence for the purposes of this section if: (a) The person has acted affirmatively to remove himself or herself from one place; and, (b) The person has an intention to remain in another place." Given here Mr. Hammerel has voluntarily removed himself from Incline Village with the intention to hereafter be domiciled in and remain in another place, a vacancy has been created. If anyone should know what this means, it should be Mr. Guinasso!

Conclusion: If Mr. Hammerel appears at this evening's or any other IVGID Board/Committee meeting and votes as a trustee, for the reasons stated above the Board's action will be voidable. Please do not allow this to occur. Instead, please ask Mr. Hammerel to formally resign as he is required to do.

Respectfully submitted, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

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[4] See page 198 of the 12/14/2016 Board packet.

[5] See page 197 of the 12/14/2016 Board packet.

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS DECEMBER 14, 2016 REGULAR IVGID BOARD MEETING – AGENDA ITEM E – PUBLIC COMMENTS – PINKERTON MISSTATES THE TRUTH BECAUSE HE HAS AN AGENDA TO MAKE LOCAL PROPERTY OWNERS THINK THEY ARE THE CAUSE OF STAFF'S MASSIVE OVERSPENDING

Introduction: For some time our General Manager Steve Pinkerton aka "Pinkerspin" has been spouting mistruths about IVGID's history to support his "tax and spend" agenda. Unfortunately, many who hear these mistruths believe them to be factual solely because they come from him. Well I and a growing number of local residents know otherwise. And since nearly everything Pinkerspin and his band of merry men (and women) cost local property owners, I for one am not going to sit back and not challenge his mistruths. No one likes to call his/her President a crook, and no one likes to call Pinkerspin an accessory, but if the shoe fits, it's about time it be worn. And that's the purpose of this written statement.

Pinkerspin's December 8, 2016 GM Column: in the North Lake Tahoe Bonanza ("Bonanza") Newspaper (see http://www.sierrasun.com/news/opinion/ivgid-gms-corner-working-to-plan-our-future/) is the source of his latest batch of mistruths; mistruths intended to place the blame insofar as IVGID staff's loss of $7 Million/annually on you and me rather than IVGID staff.

Mistruth 1 - It Wasn't IVGID Who Requested Beach Ownership. Allegedly it Was You and I: Pinkerspin represents that because the private sector wanted to sell off the beaches, our predecessors insisted IVGID come to the rescue.

The Truth: Whoever the "private sector" was, never sought to sell off the beaches to anyone other than IVGID. Incline Village was initially developed by Crystal Bay Development Co. ("CBD"). As parcels were sold to the public, CBD's principles represented that as part of their purchase price, purchasers would receive a fractionalized ownership interest in an homeowners' association ("HOA") which would own and operate four Lake Tahoe beaches consisting of approximately 15 acres and 2,620 lineal feet abutting the northeastern shore of Lake Tahoe ("the beaches"). But when it came time to deliver on their promises, CBD was unable. So its principals concocted a plan where HOA members would pay to purchase the very amenities they represented were included within their purchase price(s).

But since the HOA had no means of enforcing payment upon its members, CBD and the IVGID Board[1] conspired amongst themselves to dissolve the HOA and sell the beaches to IVGID. And the money to fund IVGID's purchase would come from a bond IVGID could issue, whose servicing costs could come from HOA members through what Mr. Pinkerspin admits was the Recreation Facility Fee[2]

[1] Comprised of the principals of CBD.

[2] "In fact, the original Facilities Fee was created in order to finance and maintain our beaches."

notwithstanding this was the product of another misrepresentation to the County Board[3]. CBD's principals represented that if the requested power (to furnish facilities for public recreation) were granted, IVGID's *ad valorem* taxes "together with (their) expected growth, w(ould) readily finance the acquisition and operation of the...beaches."

So no, IVGID did not purchase the beaches at the behest of the community. And no it did not use the *ad valorem* taxes local property owners paid to finance their acquisition and operation.

Mistruth 2 - It Wasn't IVGID Who Sought to Purchase Our Golf Courses, Diamond Peak and Incline Bowl. Allegedly it Was You and I: Pinkerspin represents that because the private sector was not operating our local golf courses and ski area at a level commensurate with the values of our community, our predecessors insisted IVGID again come to the rescue.

The Truth: Back in 1975 the IVGID Board was comprised of local business persons. They had a view that IVGID should be used as a tool to furnish amenities that would attract tourists who in turn would become their personal businesses' customers. So just like CBD, they used IVGID to purchase and operate these amenities notwithstanding the fact that when IVGID first acquired the power to furnish facilities for public recreation in 1965, its Board represented to the County Board that if the requested power were granted, the *only* recreational facilities to be acquired would be "park properties (including two beaches)...All (other envisioned)...recreational facilities[4]...w(ould) be *privately owned...operated*" and financed.

And since the RFF had worked so well to pay the servicing costs on bonds used to purchase the beaches, rather than its *ad valorem* taxes, the IVGID Board issued another round of bonds whose servicing costs were paid by a RFF twice the amount of the original RFF.

So no, IVGID did not purchase the golf courses and Diamond Peak at the behest of the community.

Conclusion: Whenever Pinkerspin asks you what "nice-to-haves" you'd like to have, does he share with you their cost? Or the cost incurred with consultants to come up with a list to present? Or where the money is going to come from to pay for their cost? The answer is a resounding "no" because if you had any idea, you would likely emphatically voice your opposition.

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[3] That if the requested power (to furnish facilities for public recreation) were granted, IVGID's *ad valorem* taxes "together with (their) expected growth, w(ould) readily finance the acquisition and operation of the...beaches."

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

So the next time Pinkerspin presents a "doctored survey" which asks you how important it is to have his "nice-to-haves" of the month, refuse to participate unless/until he shares their projected cost. Like $200K or more[5] in addition to the $70K which has already been budgeted to spend[6] for an unpaved mountain bike "pump track" between the Tennis and Recreation Centers.

And You Wonder Why the RFF and Beach Facility Fees Are Out of Control? I've now provided more answers.

Respectfully submitted, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

[5] "The project is estimated to cost $200K [see page 104 of the packet of materials prepared by staff in anticipation of this regular December 14, 2016 meeting ["the 12/14/2016 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Regular_Packet_12-14-16.pdf)].

[6] See page 103 of the 12/14/2016 Board packet.

Public Comment IVGID Boards of Trustees Meeting 12/14/2016

I want to congratulate the 3 candidates who've been elected to serve on the IVGID Board. I was encouraged by the Candidate Forum held on October 21 because every candidate in attendance expressly supported significant changes in the way this Board operates.

All expressed the opinion that the Board is ultimately responsible for the direction of our GID.

All expressed a general desire for better financial reporting and in particular a zero based budget.

The legality of the move to Special Revenue funds is questionable, but it has unquestionably resulted in reporting that is less transparent and more confusing, contrary to Mr. Eick's stated purpose of the change. We need to return to enterprise funds.

A zero based budget looks at every program and service and clearly states all costs, both direct and indirect, together with all sources of revenue. This is a complete shift from past budget workshops that only focused on projected revenues and seldom, if ever, discussed costs.

I also want to thank the 1570 voters in the district who supported me in the November election. I'm not a member of any large special interest group, just an ordinary resident/homeowner. I pledge to support your interests in the future by my attendance at these meetings and acting when your interests are jeopardized.

Recently Mr. Pinkerton has been promoting the concept that we should not focus on the bottom line. That is never a valid reason for hiding the costs of the individual programs/services IVGID provides. Since every expenditure IVGID makes has an impact on fees charged to property owners (according to former Trustee Weinberger), we deserve a detailed accounting of what each and every one of IVGID's dazzling array of programs and services cost. Without that, we open the door for waste; we have no idea if we even want those services; we have no idea if those services can be provided better/more economically by others.

I look forward to working with our new Board in the coming months; if you meant what you said as candidates, we will finally have a fiscally responsible GID that responds to the needs of the community.

Judith Miller

Washoe County Announcement

Top 5 things to know from the Washoe County Board of Commissioners meeting

County Commission approves expansion of senior services programs to Incline Village.

Media Release Contact: Chris Ciarlo
For Immediate Releasecciarlo@washoecounty.us
www.washoecounty.us775.328.2070

Reno, Nevada. Dec. 13, 2016. The following report highlights several important agenda items from the Washoe County Board of Commissioners meeting on Tuesday, Dec. 13, 2016. You can watch videos on-demand online.

1. County Commission approves money for a senior center in Incline Village. County Commissioners approved a General Fund Contingency transfer of $75,000 to the Senior Services Fund to pay for the expansion of Washoe County senior services programs to Incline Village.

The expansion will include a new senior center in Incline Village, nutrition, caregiver support, community programs, clinical services and innovative initiatives to benefit indigent seniors living within Washoe County. The senior center will be located at 855 Alder Ave., on Washoe County property near the current Incline Village Library.

The expansion will help older adults through caregivers maintain independence, dignity and quality in their lives by providing direct and indirect social and health services.

There is a significant need to enhance senior service resources in Incline Village to include a congregate meal site, increase in social activities, case management services and homemaker services for seniors in that area.

"This is just the beginning when it comes to supporting our valued seniors within Washoe County," said Assistant County Manager Kevin Schiller. "The 60-plus population is the fastest growing age group in Washoe County, so plenty still remains to be done and will get done as County leadership prepares for the influx of seniors anticipated in the near future."

Commissioner Marsha Berkbigler (Dist. 1) said the Commission is dedicated to helping the senior population.

"Our aging community is affecting everyone," Berkbigler said. "The goal of Washoe County Senior Services is to make sure that as the number of seniors living within Washoe County increases, we continue to make improvements in our ability to meet the unique needs of the senior population and this senior center in Incline Village is a good start."

2. County Commission approves a contract with Bell-Men Golf to manage Washoe Golf Course. County Commissioners approved a professional services agreement to Bell-Men Golf, 3-2 (Hartung, Lucey dissent), to manage Washoe Golf Course beginning Jan. 1, 2017, through

June 30, 2021.

Additionally, County Commissioners agreed to accept $120,000 immediate payment by Bell-Men Golf, 3-2 (Hartung, Lucey dissent), to resolve outstanding payments. Both Washoe County and Bell-Men agreed to forego any future plans of litigation regarding the dispute over the amount of money owed.

Washoe Golf Course is owned by Washoe County. The course, founded in the early 1930s, is the oldest golf course in Reno.

3. County Commission approves transfer of water rights to the Pyramid Lake Paiute Tribe. Following Tuesday's public hearing, County Commissioners approved the purchase and sale of 362 acre feet of Truckee River Water Rights (claim DTR-014) to the Pyramid Lake Paiute Tribe.

The County believes the $2,896,000 sale of water rights will enhance the water quality in the lower Truckee River by allowing the water to stay in the river for the benefit of the river's ecosystem.

According to Nevada Revised Statute, the money from the sale of water rights must be used for capital projects within the County. The money will be put in the Capital Improvement Fund.

"We feel fortunate that the Pyramid Lake Paiute Tribe is in a position to work with Washoe County on this purchase to benefit all residents of Washoe County not only economically, but to help preserve the natural environment leading to and including Pyramid Lake," said Washoe County Director of

Community Services Dave Solaro.

4. County Commission proclaims January 2017 as National Radon Action Month. The University of Nevada Cooperative Extension, the Nevada Division of Public and Behavioral Health and the U.S. Environmental Protection Agency are encouraging all Washoe County residents to test their homes for radon for National Radon Action Month. Radon is a naturally-occurring radioactive gas in the ground that is colorless and odorless.

The Environmental Protection Agency estimates 21,000 people in the United States die each year from lung cancer caused by indoor radon exposure.

Testing is the only way to find out what the level of radon is within a home. During the months of January and February, free radon test kits will be available at Cooperative Extension and partner offices statewide. In Washoe County, educational programs will be offered at several libraries and partner locations, where free kits will also be offered.

- Jan. 7 – Northwest Reno Library, 2325 Robb Dr., Reno, at 1 p.m.
- Jan. 12 – Sparks Library, 1125 12th St., Sparks, at 6 p.m.
- Jan. 24 – Spanish Springs Library, 7100 Pyramid Way, Sparks, 5:30 p.m.
- Feb. 1 – Incline Village Public Works, 1220 Sweetwater Rd., Incline Village, at 6 p.m.
- Feb. 8 – South Valleys Library, 15650A Wedge Pkwy., at 6 p.m.
- Feb. 12 – Sierra View Library, 4001 S. Virginia St., at 2 p.m.

For other locations offering free radon test kits in January and February, visit

the Cooperative Extension radon website or contact the Radon Hotline at 888-Radon10 (888-723-6610).

"The work the folks at UNR have been doing to raise awareness about the dangers of high levels of radon within the home is extremely important," said Washoe County Commissioner Hartung (Dist. 4). "I thank them and the Commission supports them in their efforts to keep this community safe."

5. County Commissioners praise County Manager John Slaughter during annual review. At Tuesday's meeting, the County Commission conducted their annual performance evaluation of County Manager Slaughter. The Commission extended Slaughter's contract two more years through the year 2021.

The Commission approved a five percent salary increase. The Commission also approved a 10 percent bonus of his base salary. Slaughter requested that 10 percent of that bonus be deferred to the Employee Scholarship Program.

The Commission praised Slaughter for his leadership over the past year.

"Mr. Slaughter, you display an incredible calm, patience and control in the midst of crisis," said Commission Chair Kitty Jung (Dist. 3). "I thank you for always being responsive to the staff and Commission's needs. We are honored to have you as our Washoe County Manager."

"Mr. Slaughter, I want to commend you for going through a review process publicly as challenging as it is," said Commission Vice Chair Bob Lucey (Dist.

2). "You have done a phenomenal job with leadership and providing access to information for commissioners and the staff. I have heard from the community and how much they appreciate your humble nature."

Slaughter thanked the County Commission for their support.

"I feel very blessed every day that I have the opportunity to work for this organization and this community for 30 years," Slaughter said. "I'm blessed with a great executive team, department directors and most importantly, the employees of Washoe County."

In addition, County Commissioners accepted the following donations:

$750 from the Reno Air Racing Association, Inc., National Championship Air Races to the Washoe County Sheriff's Office for the Citizen Corps Program.

$300 donation from the Fire Shows West to the Washoe County Sheriff's Office for the Citizen Corps Program (CCP).

All photos from Tuesday's Board of County Commissioners meetings can be seen online.

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EXHIBIT 3

EXHIBIT 3

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT – ONE TEAM

NOTICE

The Incline Village General Improvement District Board of Trustees, starting at approximately 7:00 p.m. and concluding at approximately 9:00 p.m., on Wednesday, January 18, 2017 may be attending a training on "*So, You Were Elected an IVGID Trustee, Now What?*" presented by District General Counsel Jason Guinasso with assistance from IVGID General Manager Steve Pinkerton at the Chateau in the Grille, 955 Fairway Boulevard, Incline Village, Nevada, 89451.

No action will be taken by the IVGID Board of Trustees at any time during this event.

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

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***Notice posted at*: IVGID Anne Vorderbruggen Administration Building and the Chateau**

Incline Village General Improvement District

Incline Village General Improvement District is a fiscally responsible community partner which provides superior utility services and community oriented recreation programs and facilities with passion for the quality of life and our environment while investing in the Tahoe basin.

893 Southwood Boulevard, Incline Village, Nevada 89451 • (775)832-1100 • FAX (775)832-1122

www.ivgid.org

EXHIBIT 4

EXHIBIT 4

MINUTES

REGULAR MEETING OF JANUARY 18, 2017
Incline Village General Improvement District

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairwoman Kendra Wong on Wednesday, January 18, 2017 at 6:00 p.m. at the Chateau located at 955 Fairway Boulevard, Incline Village, Nevada.

Presentation of Award by the Incline Village/Crystal Bay Historical Society

Richard Miner read from a prepared statement which is attached hereto.

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 Tim Callicrate, Matthew Dent, Peter Morris, Phil Horan, and Kendra Wong.

Also present were District Staff Members Director of Finance Gerry Eick, Communications Coordinator Misty Moga, Information Technology Manager James Russell, Diamond Park Ski Resort Manager Mike Bandelin, Director of Human Resources Dee Carey, Principal Engineer Charley Miller, Director of Public Works Joe Pomroy, Parks and Recreation Director Indra Winquest, and Director of Asset Management Brad Johnson.

Members of the public present were Pete Todoroff, Kathleen Watty, Steve Dolan, Bill Watson, Richard Miner, McAvoy Layne, Craig Olson, Kayla Anderson, and others.

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

C. PUBLIC COMMENTS*

Bret Hansen read from a prepared statement which is attached hereto.

Pete Todoroff said he is the Chairman of the Citizen Advisory Board and that on December 29, 2016 he was sent an eviction notice from the place where he has

lived for thirty years. He contacted Washoe County Commissioner Marsha Berkbigler who got him an attorney right away. He has lived there for thirty years and this is the second owner that has taken him to court. He saw the attorney yesterday and he can't thank Washoe County Commissioner Berkbigler enough for what she did for him.

D. APPROVAL OF AGENDA *(for possible action) (moved up by Chairwoman Wong)*

Trustee Dent made a motion to have a flexible agenda; Trustee Horan seconded the motion. Chairwoman Wong, receiving no comments, called the question and the motion was passed unanimously.

Chairwoman Wong moved Item E. to Item F. after General Business and moved Item F.1. to F.3.

E. GENERAL BUSINESS *(for possible action)*

E.1. Presentation of the First Annual Community Survey results; survey was conducted in October 2016 (Presented by Stephen Bohnet of Finn Consulting) *(was Agenda Item F.2.)*

Mr. Bohnet gave a PowerPoint presentation which is incorporated herewith by reference.

Chairwoman Wong asked about the Net Promoter Score. Mr. Bohnet said you want it to be in the positive.

Trustee Dent said, regarding the skateboard park, that the rank is so low and he guesses it is because the responders were old thus we shouldn't be surprised. Mr. Bohnet said that he has plotted the users. Trustee Dent said because the sample size is so small it is probably irrelevant; Mr. Bohnet agreed. Trustee Dent said so it is an outlier. Mr. Bohnet said that 96% of the respondents didn't use it so it is not a statistically solid data point because it only had 4% of the respondents.

Trustee Callicrate said that the pickleball courts are a hot button issue for the tennis complex and the sport is wildly popular as well as the fastest growing sport so he doesn't want to send the wrong message to anyone opening this document and he is curious about how to deal with those

numbers. Mr. Bohnet said it is one set of data and you can't look at just one data point. You also don't want to cherry pick data to support and discount those that do not rather take that point and comb through it and see if anyone is saying anything about the pickleball courts and use it as guidance.

Trustee Morris asked if we had all the comments; Mr. Bohnet said they are forthcoming.

Chairwoman Wong thanked Mr. Bohnet and noted that this feels very consistent with our community meeting that we had in the past and it is a good reminder about value in this community.

General Manager Steve Pinkerton said this is very consistent with other surveys and it has the same percentages so it is reinforcing what we already know. Staff is looking forward to looking at it more and making it a part of our strategic process. Staff will get all this information online and all the accompanying data as it does deserve additional review. As to Village Green, and its negative score, it is consistent with what we are hearing especially about conflict of use so this is a good starting point for Staff.

Trustee Morris said, as a user of the Net Promoter Score, when we publish it we need to counsel that explanation that anything about a zero is pretty good.

E.2. Review, discuss and possibly award a Procurement Contract for Sewer Pump Station #6 Replacement – 2016/2017 Capital Improvement Project: Fund: Utilities; Division: Sewer; Project # 2599DI1104; Vendor: Smith and Loveless, Inc. in the amount of $63,345 (Requesting Staff Member: Director of Asset Management Brad Johnson) ***(was Agenda Item F.3.)***

Principal Engineer Charley Miller gave an overview of the submitted memorandum.

Trustee Dent asked, of the eighteen sewer pump stations in town, how many have been replaced. Director of Asset Management Brad Johnson said ten or eleven of the eighteen are package stations and about half of those have had the guts replaced. In some of the larger stations, we have replaced multiple pumps, etc. and same thing on half of the package ones and some of the larger stations.

Chairwoman Wong said that this was the only bid as part of our process. Director of Asset Management Johnson said we had one other very interested bidder and that they went through the due diligence but they ultimately couldn't meet the requirements so they opted not to bid.

Trustee Morris said so with one bidder, and as we go forward to replace the others, is there concern with only one bidder. Director of Asset Management Johnson said that at the other stations the hydraulics are not as specific. Smith and Loveless is a reputable firm and they were not aware, until bid opening, that they were the only bidder.

Trustee Morris made a motion to:

1. Award a procurement contract to Smith and Loveless, Inc. totaling $63,345 for a packaged sewer pump station for the replacement of Sewer Pump Station #6.

2. Authorize Staff to execute all purchase documents based on a review by General Counsel and Staff.

Trustee Callicrate seconded the motion. Chairwoman Wong asked for comments, hearing none, she called the question and the motion was unanimously passed.

E.3. Election of Board of Trustees Officers for 2017 - Positions are Chair, Vice Chair, Treasurer and Secretary (Election process to be conducted by District Clerk Susan Herron) ***(was Agenda Item F.1.)***

District Clerk Susan Herron announced that all of the newly elected positions will be effective tomorrow, Thursday, January 19, 2017.

District Clerk Herron opened the nominations for the position of Chair. Trustee Horan nominated Trustee Wong. Trustee Dent nominated Trustee Callicrate. Hearing no further nominations, District Clerk Herron closed the nominations for the position of Chair. District Clerk Herron did a roll call vote for all those in favor of Trustee Wong as Chair - Trustees Dent and Callicrate voted no and Trustees Horan, Morris, and Wong voted yes. Trustee Wong is Board Chair.

District Clerk Herron opened the nominations for the position of Vice Chair. Trustee Wong nominated Trustee Horan. Hearing no further nominations, District Clerk Herron closed the nominations for the position of Vice Chair. District Clerk Herron announced that with only one nomination, and confirmed same with District General Counsel, that a roll call vote was not necessary and that Trustee Horan is Vice Chair.

District Clerk Herron opened the nominations for the position of Treasurer. Trustee Callicrate nominated Trustee Dent. Trustee Wong nominated Trustee Morris. Hearing no further nominations, District Clerk Herron closed the nominations for the position of Treasurer. District Clerk Herron did a roll call vote for all those in favor of Trustee Dent as Treasurer - Trustees Wong and Morris voted no and Trustees Horan, Callicrate and Dent voted yes. Trustee Dent is Treasurer.

District Clerk Herron opened the nominations for the position of Secretary. Trustee Dent nominated Trustee Callicrate. Hearing no further nominations, District Clerk Herron closed the nominations for the position of Secretary. District Clerk Herron announced that with only one nomination that Trustee Callicrate is Secretary.

At 7:15 p.m., Chairwoman Wong called for a ten minute break; the Board reconvened at 7:25 p.m.

F. PRESENTATIONS*

F.1. Director of Community Services Sharon Heider – Update on Community Services activities which may include an update on Incline Park Field #3 *(was Agenda Item E.)*

Parks and Recreation Director Indra Winquest said, due to the illness of the Director of Community Services, he would give a brief PowerPoint presentation, which is incorporated herewith by reference. Following the presentation, he read from a prepared statement, which is attached hereto, about Incline Park Field #3.

Trustee Horan said that he had a call from a parcel owner that a tree was down in her lawn and that she got a great response from Staff so he appreciates that quick response.

Parks and Recreation Director Winquest said kudos to Public Works and Parks Staff for snow removal.

G. DISTRICT STAFF UPDATE

G.1. General Manager Steve Pinkerton

- Mid-Year 2016/2017 Budget
- 2017/2018 Budget Preparation
- Washoe County Community Area Plan
- Information Technology
- Report on Storm Event - January 2017 - Washoe County State of Emergency

District General Manager Pinkerton went over each item.

Trustee Callicrate said during the last two year cycles we have had for the District's budget that he has been pushing for a zero based budget process and that it be an in depth process. Two candidates campaigned on this issue so where are we and if not this year then when because we need to seriously address this item. General Manager Pinkerton said that he will be providing lots of information on February 8 and that the Board will get further information at that time.

Trustee Callicrate asked how many Washoe County plows are in town. General Manager Pinkerton said that is a good question to ask Washoe County Manager John Slaughter and that he will also ask about ongoing deployment. Trustee Callicrate said that he recalls Washoe County agreeing to have the walking path clearing equipment available so he would appreciate the reach out. General Manager Pinkerton said he will reach out and that Staff is reaching out more.

G.2. Diamond Peak Ski Resort General Manager Mike Bandelin - Verbal update on the Diamond Peak Ski Resort ski season

Diamond Peak Ski Resort General Manager Mike Bandelin gave the following report:

Diamond Peak opened on December 15, our projected date, with 30% of the terrain open with machine made snow. On December 16, we hosted our 50th Anniversary season pass holder party including appetizers and movie premiers. December 19, snowmaking efforts on Ridge, Popular and

Penguin were completed allowing us to operate Lakeview lift and Snowflake Lodge with 55% of developed terrain open for skiing. On December 25, we opened the Great Flume trail for skiing with machine made snow. With the help of the storms in the first week of January, we were able to open 100% of the developed terrain. Some December statistics - the skier visit count for the month was 34,112, a 32% increase for the 10 year average. The final skier visit count for the holiday break was 35,000, although we were 8,000 skier visits behind last season's holiday break, we were 7% better than the 10 year average. During the period we saw one 4,000 plus day as well as three 3,000 plus days which is the average for days with those skier counts for the season; last season was 43,189. Christmas week, December 26 through January 1, we saw 21,679 visits, down 15% or 4,000 visits from last season while an increase of 20% over the 5 year average. During the week, on December 27, we set a record for ski and snowboard rental units rented at 824 and topped the record on the December 28 with 836 units rented; approximately 22% of the visitors for the week used our rental equipment. Immediately following the holiday break, we offered Community Appreciation Week. It was very much like last season - a successful week of community participation with almost 2,300 tickets provided to picture pass and punch card holders. This compares to 600 tickets in 2014 and 800 tickets in 2015 (so nearly triple the participation of the past few seasons). The following week, we offered Learn to Ski and Ride week (January 9 through the 13). Although we were closed two days, the weeklong event had a total of 260 people took advantage of Diamond Peak's learn to ski and ride week which is actually part of a national Learn to Ski and Ride month which encourages new skiers and riders to give the sport a try by taking a lesson from a certified instructor. After Learn to Ski and Ride week, we entered into MLK weekend with very nice conditions and in full operation including Solitude Canyon and Golden Eagle Bowl where we set a record for the three day weekend with approximately 9,000 skier visits; last season, we had approximately 8,000 skier visits. Overall, season pass sales continue to be strong as they were last season. Season to date, we have issued 3,900 season passes with 1,766 of those being resident passes. Last season, for the same period, 3,010 passes with 1,089 being resident passes. Our Ski and Ride schools have been enjoying teaching our guests to ski and snowboard with over 5,600 lessons taught in December and 8,500 lessons season to date. Approximately 15% of our visitors are taking lessons with our ski schools. The ski resort just finished our thirty fifth operating day of the season with just over 59,000 skier visits to date. We are scheduled to be open for 88 more days this year and typically we

would see about half of our visits for the season come by end of January. Please be sure to view our event calendar at Diamond Peak.com for information on lots of fun events going on and coming up in February and March.

Trustee Callicrate said that he has heard nothing but raves from those in the community and that this is one of those winters we have been dying for and that your Staff has done a tremendous job so huge kudos to you as the person in charge. He had visitors here and of all the places they went they said that Diamond Peak was the best time and the value was great.

H. REPORTS TO THE IVGID BOARD OF TRUSTEES*

H.1. District General Counsel Jason Guinasso

H.1.a. Discussion about the upcoming 2017 Legislative Session and matters that could be relevant or of interest to IVGID

District General Counsel Jason Guinasso said their law firm is actively engaged monitoring legislative activity and that they have added issues that may impact the District. Right now there is not a ton to talk about as everything is in the form of bill draft requests (BDRs) and thus they are one sentence descriptions with no language. They have created a number of tags for the BDRs, next month we will have a narrowed scope of monitoring, and will have pieces of legislation to look at. It is really important for the Board to consider having some representation down at the Legislature because if they are having a meeting or testimony it is important to have a voice and in order to have that voice, the Board should review the BDRs and give direction. Board Policy 3.1.0 is a guide and he is looking forward to condensing this list. He wanted to flag the fact that we are monitoring the legislation that might affect the District and that includes things we are hearing about or are pertinent to make sure we are monitoring and then they will add this to their list.

Trustee Morris said in his experience in working with the Legislature that things come up pretty quickly so we should collaborate and decide, as a Board, what we are going to do to be able to have a rapid response. District General Counsel Guinasso said he will screen what we do and that Policy 3.1.0, specifically paragraph 0.17, dictates. The Board might want to retain them at a flat fee and use the resources that are already in place.

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

Chairwoman Wong said that she has a Nevada League of Cities meeting on January 30 and the only topic is BDRs and that she will be in attendance. Trustee Dent said he will also be attending.

J. CORRESPONDENCE RECEIVED BY THE DISTRICT*

District Clerk Susan Herron reported that correspondence had been received from Dick Warren and Stan Wolken, it has been distributed, and will be included, in hard copy, in the next Board packet.

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

None made at this time.

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

General Manager Pinkerton went over the long range calendar and asked District Clerk Herron to briefly go over the February 15 event – Face to Face with IVGID Trustees. General Manager Pinkerton said that he understands that the second meeting in March needs to be rescheduled so Staff will work with you individually on that challenge. Trustee Morris said that he has a problem with the meeting on April 26. General Manager Pinkerton said that the June 17 date may move to June 24 for second Community Meeting and then look at another one in August and then one in the fall.

M. ADJOURNMENT *(for possible action)*

The meeting was adjourned at 8:05 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 Richard Miner (3 pages): Introductory Remarks to IVGID Board and Audience, 6:00 p.m. January 18, 2017 at the Chateau in Incline Village, NV.

Submitted by Bret Hansen, 6 pages

INTRODUCTORY REMARKS TO IVGID BOARD AND AUDIENCE

6:00 PM, JANUARY 18, 2017 AT THE CHATEAU IN INCLINE VILLAGE, NV

Good Evening. My name is Richard Miner and I am president of the Incline Village & Crystal Bay Historical Society. I want to thank the IVGID Board of Trustees for giving me the opportunity to address all of you this evening. I realize I have but three minutes so my remarks will be brief.

First of all, I want to announce that the Incline Village & Crystal Bay Historical Society has entered into an agreement with Thunderbird Lodge Preservation Society which will result in the closing of our 501 (C) (3) organization and the transfer of all of our archives, collections, and records to Thunderbird with immediate effect. This agreement has been under discussion for some time, and was accelerated by the recent loss of our leases within a month of each other for our Museum space in the Starbucks building and our office space in the Village Center. We are pleased and very fortunate to be able to work with Chief Executive and Curator Bill Watson, his Board of Directors, and the Thunderbird staff in the months ahead to ensure that these valuable, and indeed irreplaceable materials will safely and securely remain in our community for public viewing and historical research for years to come. The museum, for instance, is planned to reopen before the summer season in a space refurbished by Thunderbird in the Visitor's Bureau building here in Incline. More details about these developments will be forthcoming in the days ahead.

Secondly, it is with great pleasure that I announce that in one of our last official acts, the Board of Directors of the Incline Village and Crystal Bay Historical Society created and funded an award that we have been discussing for several years. And tonight with all you present, I would like to make the first, and as you can now well understand, the only such award we will ever make.

Will McAvoy Layne please come forward to join me and our Vice President, Craig Olson, as we make the presentation.

(While McAvoy is approaching the microphone)

As already mentioned, the IV&CBHS has been considering for some time the creation of an award that would recognize members of our community for outstanding contribution to the cause of historical preservation here on the north shore of Lake Tahoe. One could well argue that any or all of the founders of our society itself could be worthy candidates for such honors, but hey, they knew what they were signing up for when in 2006 Chuck Greene pulled together Michelle Schmitter, Manny Sylvester, Joe Bourdeau and Bill Horn to form the first board of directors of our society. But in the end, our current board agreed that through thirty or so years of incredible perseverance, no one in our community is more deserving of this commendation than our friend and neighbor McAvoy Layne.

Let me now read the inscription:

THE INCLINE VILLAGE & CRYSTAL BAY HISTORICAL SOCIETY

AWARD

FOR DISTINGUISHED CONTRIBUTION

TO THE CAUSE OF HISTORICAL PRESERVATION

PRESENTED TO

McAVOY LAYNE, *THE GHOST OF MARK TWAIN*

FOR RECALLING AND PRESERVING MARK TWAIN'S HISTORIC LEGACY FROM VIRGINIA CITY, NEVADA TO THE SHORES OF LAKE TAHOE AND BEYOND;

AND FOR PROMOTING TO YOUNG AND OLD ALIKE ACROSS THE UNITED STATES AND AROUND THE WORLD

THE WIT AND WISDOM OF ONE OF NEVADA'S AND AMERICA'S GREATIST WRITERS AND ORATORS OF ALL TIME.

INCLINE VILLAGE, NEVADA

JANUARY 2017

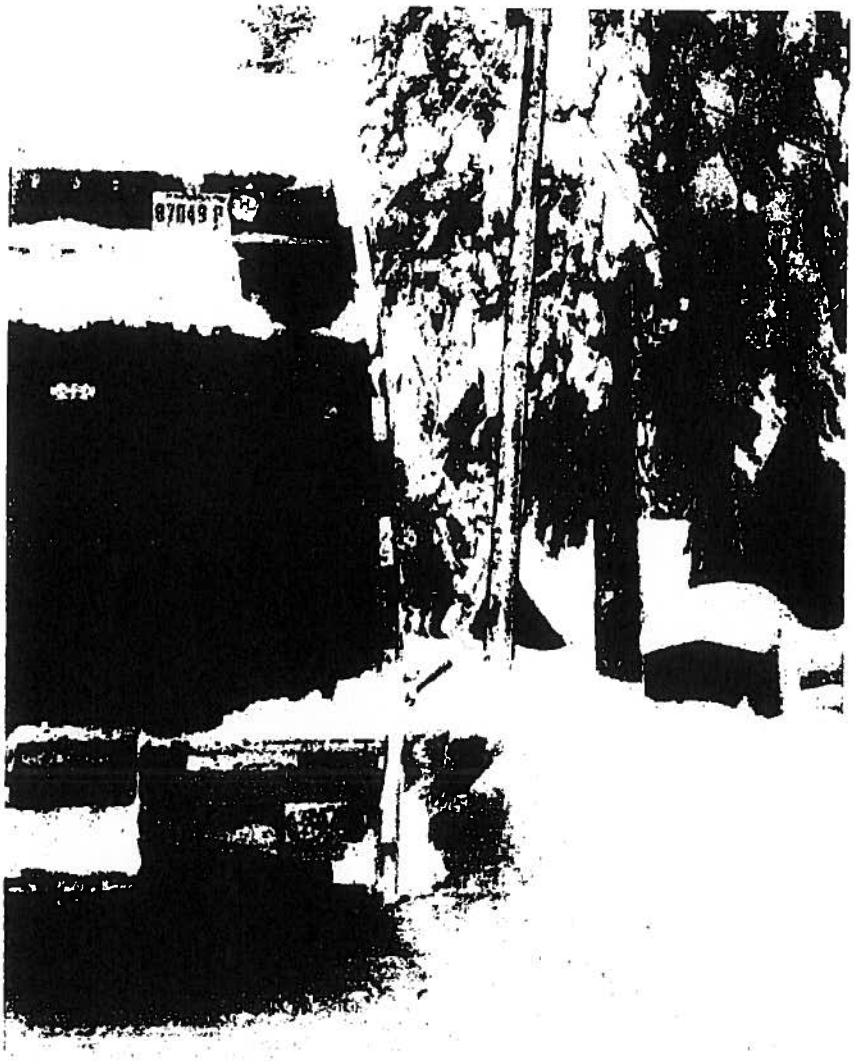
Submitted by
Bret Hansen

The drivers of our 50,000 pounds trucks must slow down to operate safely in storm conditions. Carefully stopping and starting these large trucks on slick streets can slow a route which normally takes 8 hours to 12 hours or more. Some customers have expressed concern that we did not continue make-up routes on Sunday. The answer is simply a matter of Department of Transportation regulations. Our drivers are restricted to a total of 60-hours per week. Extending their hours on Sunday, would result in a shortage of drivers later in the week.

I cannot express strongly enough that Safety is the top priority for Waste Management. If we deem a specific area of a route unsafe for the operation of one of our trucks, we will wait until it becomes clear. Similarly, if bins or bear sheds are blocked and could cause injury to our drivers, we encourage them to err on the side of caution. – I've included some pictures to demonstrate some of the conditions they are currently facing. The public is welcome to look at these pictures as well – you'll find them near the door.

We sincerely apologize for any inconvenience to our customers, and appreciate their patience and understanding as we are do our best to mitigate the situation created by this unusual series of storms.

IN WORKING W/ PUBLIC WORKS WE WILL BE IMPLEMENTING A 12 WEEK PINK NEEDLE PROGRAM FOR SPRING + 4 WEEKS IN FALL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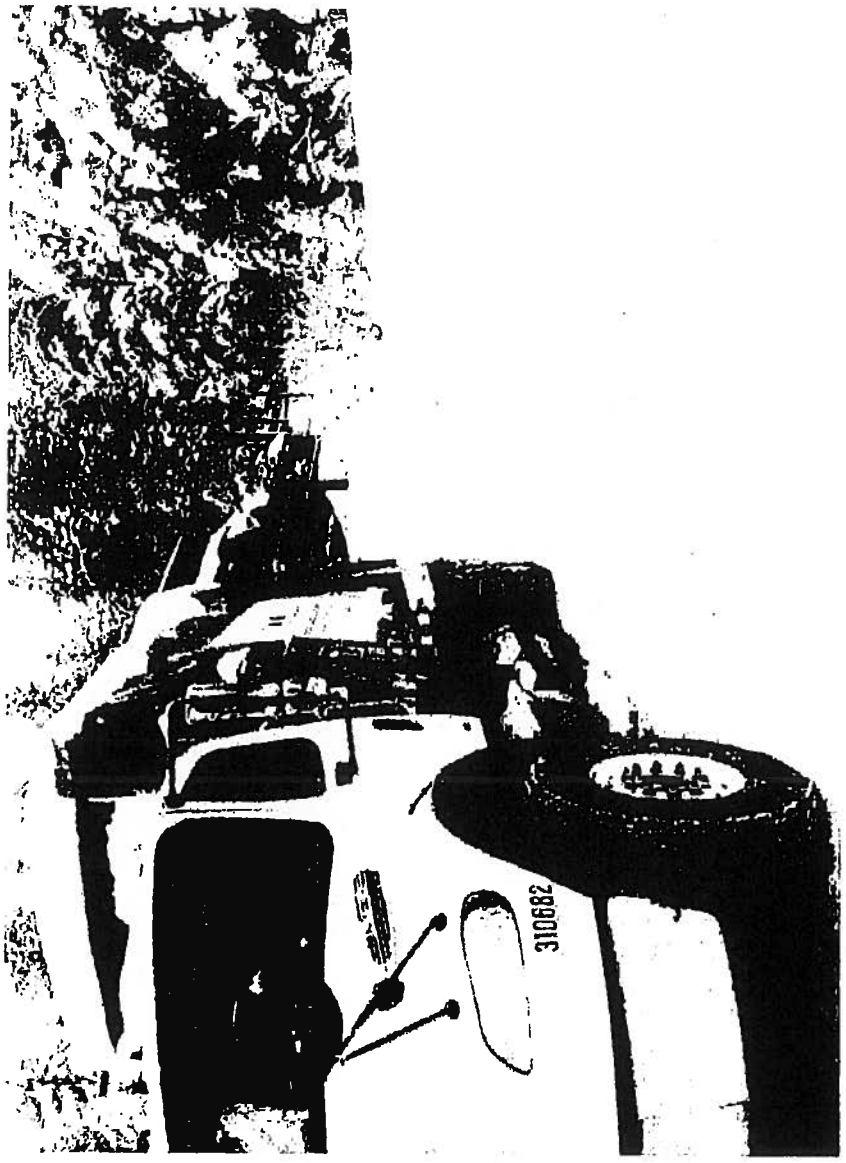
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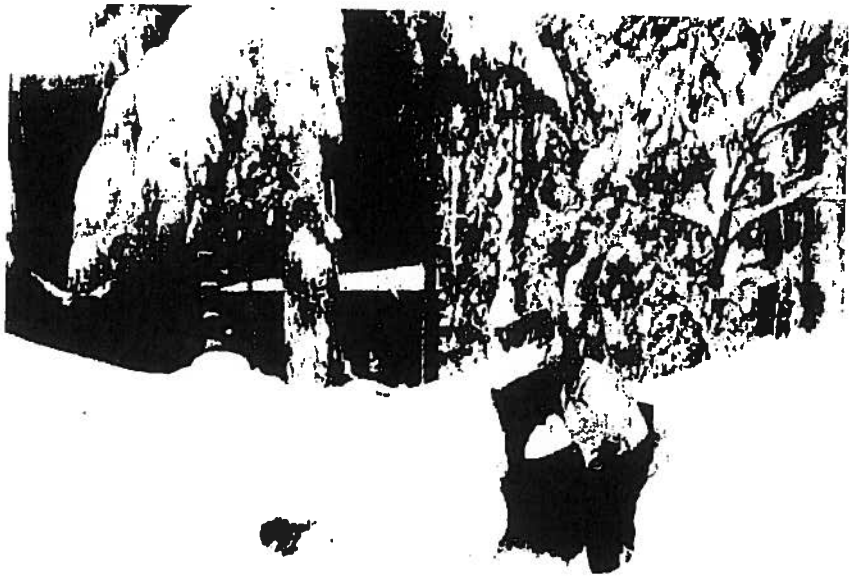

EXHIBIT 5

EXHIBIT 5

Statement of Incline Village General Improvement District's District Clerk Susan Herron in response to the Open Meeting Law Complaint 13897-226 by Mr. Frank Wright dated March 22, 2017

I confirm that Mr. Wright is included on the e-mail list of those individuals who have requested e-mail copies of the agenda only for the Incline Village General Improvement District's Board of Trustees meetings. Mr. Wright is not on the list of those persons who have asked for mailing/pick up of the Board of Trustees meeting packets. Incline Village General Improvement District does post its Board of Trustees meeting agendas and packet material on its website ivgid.org.

The January 18, 2017 packet was distributed electronically on Thursday, January 12, 2017 at 11:52 a.m., due to unusual heavy snow (weather) conditions. The packet included 23 pages and the long range calendar was included as represented in the filed complaint. Again, due to weather conditions, it was determined, on or about January 17, 2017, that the training would be held after the regular meeting of January 18, 2017. The notice was posted, for this training, at both the Administration offices (the evening of January 17, 2017) of IVGID and at the Chateau (the evening of January 17, 2017 or the morning of January 18, 2017) where the training was to be held. Immediately following the regular Board meeting of January 18, 2017, which was adjourned at 8:05 p.m. *(see attached minutes of the meeting)*, the Board of Trustees went into their training session. The minutes of the January 18, 2017 do not reflect that Mr. Wright was in attendance at the start of the meeting nor did he make any public comments in either of the two periods thus, as he is a regular attendee at the meetings and his presence is generally noted, it is assumed he was not present. Upon adjournment, there was no clearing of the room as it is my recollection that the Board Chairwoman Wong stated that any member of the public was welcome to stay for their training if they so desired. As this was after the meeting, this statement was not included in the meeting minutes. The posted notice *(attached hereto)* was noticed for 7 p.m. to approximately 9 p.m. When the end time of the notice approached, the Board Chairwoman called an end to the training session and asked that its conclusion be scheduled, at a future date that worked for all members of the Board, to complete the training.

Part 4 "What Gatherings must be conducted in compliance with the Open Meeting Law?" Section 4.01, General; statutory definitions, states:

NRS 241.015(3(a)(1) and (2) define "meeting" as:

> *(1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.*
> *(2) (III) The series of gathers was held with the specific intent to avoid the provisions of this chapter.*

This gathering did have a quorum as all members of the Board of Trustees were present. It was a training (the PowerPoint is attached hereto) and there was no deliberation nor action taken/required of this assembled body. Further, the training was given by the District's General Counsel as it did not qualify as an "Attorney-Client Meeting" therefore it was noticed in an abundance of caution. Had Mr. Wright been in attendance at the January 18, 2017 Board meeting, upon entering the building, he might have been aware of the Notice that was posted in a conspicuous place at the entry to the building where all meeting notices are posted.

Further, Section 4.05, Seminars, conferences, conventions states:

> *When a majority of the members of a public body attend a state or national seminar, conference, or convention to hear speakers on general subjects of interest to public officials or to participate in workshops with their counterparts from around the state or nation, it usually may be assumed they are there for the purpose of general education and social interaction and not conduct meetings to deliberate toward a decision or to take action on any matter over which their public body has supervision, control, jurisdiction, or advisory power, even if presentations at the seminar touch on subjects with the ambit of the public body's jurisdiction or advisory power. Thus, such seminars, conferences and conventions do not fall under the definition of "meeting" found in NRS 241.015(3). However, should the gather have the purpose of or in fact exhibit the characteristics of a "Meeting" as defined in NRS 241.015(3), then the provisions of the Open Meeting Law apply.*

Again, this was a training conducted by District General Counsel and while not a state or national seminar, it was a local seminar conducted for the purpose of general education and did not result in any deliberation or decision that either impacted, positively or negatively, the citizens of Crystal Bay and/or Incline Village.

At the December 14, 2016 Board of Trustees meeting, the minutes reflect that training was eminent; *the minutes are attached.*

The presentation given by District General Counsel Jason Guinasso is *attached hereto* and it is the same presentation that was used at the continuation of the training held on March 8, 2017. The notice for the March 8, 2017 training is *attached hereto* and it was posted in the same locations however it was posted on or about February 27, 2017. The long range calendar, included in the packet of materials for the meeting of February 22, 2017, included in the complaint, very clearly states that a training is scheduled and provides the date, time and location which is consistent with the notice.

The closed session, referred to as such in the complaint, was actually an Attorney-Client meeting to discuss litigation matters and was done in accordance with 3.05 Attorney-client conference exceptions which, in part, states:

> *"A meeting held for the purpose of having an attorney-client discussion of potential and existing litigation pursuant to NRS 241.015(3)(b)(2) is not a meeting for the purpose of the Open Meeting Law and does not have to be open to the public, In fact, no agenda is required by be posted and notice is required to be provided to any members of the public."*

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT - ONE TEAM

NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **6:00 p.m.** on Wednesday, January 18, 2017 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

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

"Presentation of Award by the Incline Village/Crystal Bay Historical Society"

A. PLEDGE OF ALLEGIANCE*

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

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

acquiescence or agreement just professional behavior on their part. IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open.

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

E. PRESENTATIONS*

1. Director of Community Services Sharon Heider – Update on Community Services activities which may include an update on Incline Park Field #3

F. GENERAL BUSINESS *(for possible action)*

1. Election of Board of Trustees Officers for 2017 - Positions are Chair, Vice Chair, Treasurer and Secretary (Election process to be conducted by District Susan Herron)

2. Presentation of the First Annual Community Survey results; survey was conducted in October 2016 (Presented by Stephen Bohnet of Finn Consulting)

3. Review, discuss and possibly award a Procurement Contract for Sewer Pump Station #6 Replacement – 2016/2017 Capital Improvement Project: Fund: Utilities; Division: Sewer; Project # 2599DI1104; Vendor: Smith and Loveless, Inc. in the amount of $63,345 (Requesting Staff Member: Director of Asset Management Brad Johnson)

G. DISTRICT STAFF UPDATE

1. General Manager Steve Pinkerton
   - ❖ Mid-Year 2016/2017 Budget
   - ❖ 2017/2018 Budget Preparation
   - ❖ Washoe County Community Area Plan
   - ❖ Information Technology
   - ❖ Report on Storm Event - January 2017 - Washoe County State of Emergency

2. Diamond Peak Ski Resort General Manager Mike Bandelin - Verbal update on the Diamond Peak Ski Resort ski season

H. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. District General Counsel Jason Guinasso
   a. Discussion about the upcoming 2017 Legislative Session and matters that could be relevant or of interest to IVGID

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

J. CORRESPONDENCE RECEIVED BY THE DISTRICT*

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

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

M. ADJOURNMENT *(for possible action)*

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Thursday, January 12, 2017 at 11:00 a.m.*, a copy of this agenda (IVGID Board of Trustees Session of January 18, 2017) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

1. IVGID Anne Vorderbruggen Building (Administrative Offices)
2. ~~Incline Village Post Office~~ (will be posted as weather conditions permit)
3. ~~Crystal Bay Post Office~~ (will be posted as weather conditions permit)
4. ~~Raley's Shopping Center~~ (will be posted as weather conditions permit)
5. ~~Incline Village Branch of Washoe County Library~~ (will be posted as weather conditions permit)
6. IVGID's Recreation Center
7. The Chateau at Incline Village

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

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

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

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

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

MEMORANDUM

TO: Board of Trustees

THROUGH: Steven J. Pinkerton
General Manager

FROM: Susan Herron, CMC
District Clerk

SUBJECT: Election of Board of Trustees Officers for the 2017 Term

DATE: January 6, 2017

In accordance with IVGID's Policy 3.1.0, Section 0.11 as follows:

0.11 Officers of the Board. The officers of the Board shall be elected as provided by Nevada Revised Statutes 318.085 and shall consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and Secretary. The term of office shall be for one (1) year or until a reorganization of the Board is required.

District Clerk Susan Herron will conduct the elections of officers and the term of the elected officers will be January 1, 2017 through December 31, 2017.

District Clerk Herron will open the agenda item by stating that the nominations for officers of the Board is now open and that she would like to begin with the position of Board Chair. Nomination(s) from the Board members will be taken and it is acceptable for a Board member to nominate themselves to an officer position. It is also acceptable for a Board member to nominate a slate of officers. Once all nomination(s) are made, District Clerk Herron will close the nomination(s) and call for a vote on each nomination(s). This process is repeated for each officer position. The exception would be if a slate of officers is nominated.

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT – ONE TEAM

Conduct Meetings of the Board of Trustees
Policy 3.1.0

POLICY. The Board of Trustees will fix the time and place of the regular meeting of the Board of Trustees of the Incline Village General Improvement District and provide the manner in which special meetings of said District may be called, designating an official mailing address, and establishing the order of business and rules for its proceedings for the Incline Village General Improvement District, Washoe County, State of Nevada.

0.1 Regular Meetings. The regular meetings of the Board of Trustees of the Incline Village General Improvement District shall hereafter be held at the time and place set by the Board of Trustees.

0.2 Special Meetings. Special meetings of the Board of Trustees shall be held upon call of the Chair of the Board or of at least two of the members thereof. Notice of all meetings shall be given in conformity with the provisions of Nevada Revised Statutes 241.020.

0.3 Meeting Place. All meetings of the Board of Trustees shall be held within the District.

0.4 Holidays. In the event that any day fixed for a regular meeting of the Board shall fall upon a holiday, that meeting shall be rescheduled by the Board.

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

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

- Adjournment

*UNLESS OTHERWISE APPROVED BY The Board Chair, no matter shall be heard, or acted upon unless all relevant materials have been included in the Board of Trustees Meeting Packet.

0.6 Rules of Proceedings.

a. Public Meetings. All meetings of the Board shall be in accordance with Nevada Revised Statutes 241, the Nevada Open Meeting Law.

b. Quorum. A majority of the Board of Trustees present in person or by remote communication shall constitute a quorum for the transaction of business. In no event shall any matter be approved without the affirmative vote of three trustees.

c. Method of Action. The Board of Trustees shall act only by motion which, to become effective, shall be adopted by the affirmative vote of at least a majority of its members present in public meeting, unless otherwise provided by statutes. In the event of only three members present, the method of action must be unanimous.

d. Recording Vote. Except where action shall be taken by the unanimous vote of all Trustees present and voting, the yes/ayes and no/nays shall be taken on all actions had and entered upon the minutes. All Trustees shall have the equal right to vote, make and second motions. If the vote for/against any item is not unanimous, the Chair may ask the Clerk to conduct a roll call vote.

e. Ordinances. The enacting clause of all ordinances passed by the Board shall include the word "ordinance" and be consecutively numbered. All actions to pass or revise an ordinance shall be attested by the Secretary.

f. Contracts. Contracts entered into by the District that are required to be advertised under Nevada Revised Statutes 332 and/or 338 must be approved by the Board of Trustees. All documents approved or awarded by the Board shall be signed in the name of the District by the Chair and countersigned by the Secretary, unless authorization to sign is given to another person(s) by the Board.

Contracts, other than those covered by Nevada Revised Statutes 332.115 and which are not subject to the advertising thresholds of Nevada Revised Statutes 332 and/or 338, may be authorized, approved and executed by the General Manager of the District or designee, unless otherwise ordered by the Board of Trustees.

Contracts covered by Nevada Revised Statutes 332.115 may be authorized, approved and executed by the General Manager or his designee of the District, if it is for an amount less than the advertising threshold of Nevada Revised Statute 332. Contracts over the threshold of NRS 322.115 must be approved by the Board of Trustees.

g. Claims. The General Manager and General Counsel, and their designees, are authorized to negotiate on behalf of IVGID, the settlement of all property damage, personal injury, or liability claims, unless otherwise ordered by the Board of Trustees. Final settlement of such claims may be authorized by the General Manager, provided the amount attributed to IVGID is less than the amount that must be approved by the Board for amounts per occurrence, including all sources of payment (insurance, risk reserve, operating funds, or working capital). For claims that exceed the amount, those must be approved by the Board, the General Manager may authorize and accept a tentative settlement, which shall not be final and binding upon IVGID, unless and until approved by the Board of Trustees.

0.7. Robert's Rules. Unless contrary to this rule, such meetings shall be substantially conducted in conformity with Robert's Rules of Order unless those provisions conflict with Chapter 241 of the NRS, in which case, the statutes will prevail.

0.8. Agenda Preparation. The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda for each meeting. The Chair will place on the Agenda any item requested by a fellow Trustee. The General Manager shall schedule for consideration by the Board any matter requested to be placed on the agenda by any three Trustees. Unless directed otherwise by the Board, the General Manager may delay consideration of any item. In any conflict between the provisions of this paragraph and that of paragraph 0.9., paragraph 0.9. shall govern.

0.9. Reconsideration. Reversal, or substantial modification, of any item by the Board of Trustees within six months of the meeting date at which the action was taken, shall only be considered As follows: the General Manager may request reconsideration of any action of the Board, and place reconsideration of the action before the Board, if the General Manager determines that the action compromises the efficiency of operations or otherwise impairs the effective management of The District. Additionally, a Board action may also be scheduled for reconsideration if at least three Trustees request same. Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other general item of business.

0.10. Public Participation. Comments shall be solicited from the public during two comment periods, one at the start of the meeting and one prior to adjournment. The time limit shall be three (3) minutes for each person per comment period. No yielding of time shall be allowed.

0.11 Officers of the Board. The officers of the Board shall be elected as provided by Nevada Revised Statutes 318.085 and shall consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and

Secretary. The term of office shall be for one (1) year or until a reorganization of the Board is required.

0.12 Authorization to Sign Checks. The General Manager and the officers of the Board are hereby authorized to sign checks drawn on the various bank accounts of the District. It shall be required that at least two (2) signatures are affixed to any check drawn on such accounts.

0.13 Facsimile Signatures. The banks with which the District does business are authorized and directed to honor checks drawn on the various bank accounts of the District, when bearing any two facsimile signatures of the officers of the Board and General Manager of the District, after their manual signatures are filed with the Secretary of State, in conformance with Nevada Revised Statutes 351.030.

0.14 Reports. The Board Meeting agenda may include items under Reports which are intended to inform the Board and/or the public. These reports are not actionable items rather informational in nature and substance. Should an action be required the matter shall be presented as a General Business Item.

0.15 Consent Calendar. In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar." A memorandum will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section.

Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the general business section of the meeting.

A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.

0.16 Advisory Committees. SECTION OMITTED

0.17 Legislative Matters. The General Manager may from time to time propose positions on legislative issues, which positions shall be reviewed and approved by the Board at its regular meeting. In the event a position on a legislative issue must be established prior to the next regular Board meeting, the General Manager is hereby authorized to adopt a position on IVGID's behalf.

0.18 Conflict Resolution. In the event that the provisions of Policy 3.1.0 conflict with any other Policy Provisions, this section shall prevail.

MEMORANDUM

TO:	Board of Trustees
THROUGH:	Steven J. Pinkerton General Manager
THROUGH:	Joseph J. Pomroy, P.E. Director of Public Works
THROUGH:	Bradley A. Johnson, P.E. Director of Asset Management
FROM:	Charles Miller, P.E. Principal Engineer
SUBJECT:	Review, discuss and possibly award a Procurement Contract for Sewer Pump Station #6 Replacement – 2016/2017 Capital Improvement Project: Fund: Utilities; Division: Sewer; Project # 2599DI1104; Vendor: Smith and Loveless, Inc. in the amount of $63,345
STRATEGIC PLAN:	Long Range Principle #5 – Assets and Infrastructure
DATE:	January 6, 2017

I. RECOMMENDATION

Staff recommends that the Board of Trustees makes a motion to:

1. Award a procurement contract to Smith and Loveless, Inc. totaling $63,345 for a packaged sewer pump station for the replacement of Sewer Pump Station #6.

2. Authorize Staff to execute all purchase documents based on a review by General Counsel and Staff.

II. DISTRICT STRATEGIC PLAN

Long Range Principle #5 – Assets and Infrastructure – The District will practice perpetual asset renewal, replacement, and improvement to provide safe and superior long term utility services and recreation activities.

- The District will maintain, renew, expand, and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.

- The District will maintain, procure, and construct District assets to ensure safe and accessible operations for the public and the District's workforce.

III. BACKGROUND

The District owns and maintains 18 sewer pump stations in Incline Village and Crystal Bay to transport raw sewage collected from the community to the District Water Resource Recovery Facility on Sweetwater Road. These pump stations were constructed in the 1960s and 1970s and range in size from serving just a few houses up to pumping nearly half of the sewage flow in the District. The larger sewer stations are generally masonry block unit buildings. The smaller stations are generally below grade metal structures.

Sewer Pump Station (SPS) #6 is a small subsurface packaged pump station, located along State Route 28 to serve the Rocky Point subdivision. Constructed in 1974, this station is now over 40 years old and has reached the end of its useful life. The packaged system is no longer supported by the manufacturer and spare parts are unavailable. SPS #6 is located within 60 feet of the shores of Lake Tahoe and reliable and continuous service is critical in order to avoid a sewage overflow to the lake.

The proposed contract will provide a packaged surface mounted pump station that utilizes the existing station's subsurface wet well. The packaged system includes all pumps, motors, power and control equipment, and all necessary accessories and appurtenances to provide long term reliable operation. The new packaged station also utilizes the existing utility power connection and main circuit breaker.

Fabrication of the packaged station is expected to take 12 weeks upon contract award. Once the station is built, it will be transported to Incline Village for

installation via a separate, competitively bid construction contract awarded under General Manager's authority.

IV. BID RESULTS

IVGID publicly advertised this project for bidding and plan sets were sent out to two potential bidders. One bid was received and opened on July 14, 2016. The Engineer's estimate for the project was $75,000. The bid results are as follows:

Vendor	Total Bid Amount
Smith and Loveless, Inc.	$64,435

The low responsive bidder is Smith and Loveless, Inc. District Staff reviewed the bid and checked references for the vendor and recommends award of this project to Smith and Loveless, Inc.

V. FINANCIAL IMPACT AND BUDGET

A total of $395,000 is included in the 2016/2017 Capital Budget under the Sewer Pumping Station Improvements Project (see attached data sheet) and there is an additional $80,318 available from funds carried forward from previous fiscal years. The total available budget within the Sewer Pumping Station Improvements Project is $475,318. The estimated project budget to complete the replacement of SPS #6 is outlined in the table below:

Description	Amount
Station Procurement	$64,435
Station Installation	$50,000
Permitting, Project Management, and Construction Oversight	$20,000
Total	**$134,435**

The total estimated cost to complete the work is $134,435. The remaining capital budget in the Sewer Pumping Station Improvements Project will be utilized to complete planned improvements at other sewer pump stations including SPS #1 and SPS #8.

VI. ALTERNATIVES

None. The District must move forward with the replacement of SPS #6 in order to ensure reliable sewer collection operations to the Rocky Point subdivision and avoid a sewer overflow to Lake Tahoe.

VII. BUSINESS IMPACT

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

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT

Project Summary

Project Number:	2599DI1104
Title:	Sewer Pumping Station Improvements
Asset Class:	
Division:	99 - General Administration
Budget Year:	2017
Scenario Name:	
Active:	Yes
Budget Status:	Data Entry
Locations:	
Project Something:	SS - Sewer System

Project Description

The District owns 18 sewer pumping stations in Incline Village and Crystal Bay to transport raw sewage to the wastewater treatment plant on Sweetwater Road. The stations were constructed in the 1960s and 1970s and have provided reliable service. The stations range from serving just a few houses to pumping almost half of the sewage flow in the District. The large sewer pumping stations are generally masonry block unit buildings and the small stations are below grade metal structures (dry well can and wet well). The stations contain the mechanical and electrical equipment to pump sewage to the wastewater treatment plant from the 8000+ sewer customers. The equipment in the station includes pumps, motors, grinders, odor scrubbers, motor soft starts, variable frequency drives, telemetry equipment, motor control cabinets, automatic transfer switches, emergency generators, fuel tanks, check valves, isolation valves, instrumentation equipment, communication equipment, piping and other miscellaneous equipment. Our mission is to maintain the excellent condition and reliability of our aging infrastructure to collect and pump sewage to the wastewater treatment plant and to protect the environment.

Project Internal Staff

Staff involvement is the removal, procurement, and replacement of equipment with rebuilt or new equipment. Larger pump station capital improvement projects will be contracted out and supervised by Public Works staff.

Project Justification

This project funds the annual replacement of the equipment listed above at the sewer pumping stations. Staff performs inspections and maintenance on sewer pumping stations and plans future major upgrades as equipment reaches the end of its useful life. The age of the equipment, the number of hours of operation and other equipment analyses such as vibration testing dictate replacement or rehabilitation of the equipment to maintain this reliability to provide continuous service. The forecast contains staffs best projection of the work to be performed. The 2016-2017 fiscal year includes scheduled work at several sewer pump stations in the District. Sewer pump stations (SPS) #6 and #11 were installed in the early 1970's and have reached the end of their useful life. Pumping performance has decreased and replacement parts are no longer available. Complete replacement of SPS #6 and #11 will occur 2016-2017. SPS #1 will replace the Variable Frequency Drives (VFD). SPS #8 will include significant modifications including replacement of pumps, MCC changes, VFD's, and improved access to the wet well. SPS #7 will replace two suction valves that are no longer effectively isolating the wet well from the pumps and prohibit operation and maintenance of the pump station.

Forecast

Budget Year	Total Expense	Total Revenue	Difference
2017			
SPS #1 Modifications	115,000	0	115,000
SPS #8 Modifications	200,000	0	200,000
SPS#6 Package Station Replacement	80,000	0	80,000
Year Total	395,000	0	395,000
2018			
Electrical, Mechanical, and Pumping Improvements at various Stations	50,000	0	50,000
SPS #11 Package Station Replacement	140,000	0	140,000
Year Total	190,000	0	190,000
2019			
Electrical, Mechanical, and Pumping Improvements at various Stations	50,000	0	50,000
Year Total	50,000	0	50,000
2020			
Electrical, Mechanical, and Pumping Improvements at various Stations	50,000	0	50,000
Year Total	50,000	0	50,000
2021			
Electrical, Mechanical, and Pumping Improvements at various Stations	50,000	0	50,000
Year Total	50,000	0	50,000
	735,000	0	735,000

Year Identified	Start Date	Project Partner	Manager	Est. Completion Date
2012			Principal Engineer	

From: Washoe County
To: Herron, Susan
Subject: Northern Nevada region declares State of Emergency in preparation for flooding
Date: Friday, January 06, 2017 4:54:48 PM

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Northern Nevada region declares State of Emergency in preparation for flooding

Washoe County, City of Reno and City of Sparks all declare a State of Emergency. **Read the full announcement**

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P.O. Box 11130, Reno, NV 89520.

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				JANUARY 2017	
TO BE DETERMINED				Training	Swearing In Training by Jason Guinasso
				FEBRUARY 2017	
02/08/2017 *(distribution target 02/01/2017) (firm packet matl due date/time 01/30/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Award of Golf Cart Lease Pump Track MOU First exposure to 2017/2018 Operating Budget Legacy Projects (General Business Item) Utility Rate Study (Pomroy)
02/15/2017	Wednesday	5 to 8 p.m.	Chateau	1st Quarter Community Meeting	Topic: Face-to-Face with your Board of Trustees Format: Similar to Community Services Plan Event/Community Fair style
02/22/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
02/22/2017 *(distribution target 02/15/2017) (firm packet matl due date/time 02/13/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	10-1-2016 to 12-30-16 Quarterly Dashboard Report Debrief on 1st Quarterly Community Meeting Beach/Parks Service Options (2017/2018 Budget)

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				MARCH 2017	
03/08/2017 *(distribution target 03/01/2017) (firm packet matl due date/time 02/27/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	First exposure to 2017/2018 Capital Budget
03/22/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
03/22/2017 *(distribution target 03/15/2017) (firm packet matl due date/time 03/13/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Incline Beach House Project - Conceptual Design Selection Washoe County School District and IVGID Joint Use Agreement Amendment Waterman Construction Award (Johnson) Public Works Storage Building Award (tentative) (Johnson)
03/29/2017	Wednesday	9 a.m. - 4 p.m.	Start at Public Works	Noticed Event	Capital Improvement Program Tour
				APRIL 2017	
04/12/2017 *(distribution target 04/05/2017) (firm packet matl due date/time 04/03/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approve preliminary Fiscal Year 2017-2018 budget
04/26/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
04/26/2017 *(distribution target 04/19/2017) (firm packet matl due date/time 04/17/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approval of RWTB Memo of Understanding for 2017 Event(s)

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				MAY 2017	
05/10/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	District Strategic Plan
05/24/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
05/24/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	1-1-2017 to 3-31-2017 Quarterly Dashboard Report Final approval of 2017/2018 District budgets
				JUNE 2017	
06/14/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
06/17/2017	Saturday			2nd Quarter Community Meeting	Topic: Community Services Master Plan Community Workshop (2 of 2) - First one was held Nov 30, 2016
06/28/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
06/28/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
				JULY 2017	
07/12/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
07/26/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
07/26/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approval of Indebtedness Report as required by the State of Nevada
				AUGUST 2017	
08/09/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Trustee Wong has a potential conflict
08/23/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
08/23/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	4-1-2017 to 6-30-17 Quarterly Dashboard Report
				3rd Quarter Community Meeting	Topic:
				SEPTEMBER 2017	
09/13/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
09/27/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
09/27/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				OCTOBER 2017	
10/11/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
10/25/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
10/25/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
				NOVEMBER 2017	
11/08/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
11/22/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	This meeting is typically cancelled due to the Thanksgiving holiday
11/22/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	This meeting is typically cancelled due to the Thanksgiving holiday
				4th Quarter Community Meeting	Topic:
				DECEMBER 2017	
12/13/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
12/27/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	This meeting is typically cancelled due to the Christmas holiday
12/27/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	This meeting is typically cancelled due to the Christmas holiday

Items sitting in the parking lot (to be discussed but (a) not yet scheduled for a specific Regular Board Meeting) or (b) a future Board not on this calendar
RFID Picture Passes – Item for next Strategic Plan or three years from now – software not available nor is infrastructure/hardware
Revision to Memorandum of Understanding with Incline-Tahoe Parks and Recreation Vision Foundation (ITF)
Commercial Boat Operators
TRPA EIS Contract at Diamond Peak
Non-alcoholic beverage contract award (tentative)
Capital Projects Update: Status of current projects and presentation of long term options for Mountain Course Clubhouse and Maintenance Facility
IVGID Code/Codification
Land Policy
Investment Policy Update ref: GFOA update

From: Washoe County
To: Herron, Susan
Subject: Snow emergency in Incline Village area
Date: Tuesday, January 10, 2017 3:12:26 PM

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Snow emergency in Incline Village area

Public asked to help by reporting flood damages **Read the full announcement**

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EXHIBIT 6

EXHIBIT 6

INCLINE VILLAGE
GENERAL IMPROVEMENT DISTRICT
ONE DISTRICT ~ ONE TEAM

NOTICE

The Incline Village General Improvement District Board of Trustees, starting at approximately 3:00 p.m. and concluding at approximately 6:00 p.m., on Wednesday, March 8, 2017 may be attending a continuation of the training on "*So, You Were Elected an IVGID Trustee, Now What?*" presented by District General Counsel Jason Guinasso with assistance from IVGID General Manager Steve Pinkerton at the Chateau in the Grille, 955 Fairway Boulevard, Incline Village, Nevada, 89451.

No action will be taken by the IVGID Board of Trustees at any time during this event.

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

---

***Notice posted at:* IVGID Anne Vorderbruggen Administration Building and the Chateau**

Incline Village General Improvement District

Incline Village General Improvement District is a fiscally responsible community partner which provides superior utility services and community oriented recreation programs and facilities with passion for the quality of life and our environment while investing in the Tahoe basin.

893 Southwood Boulevard, Incline Village, Nevada 89451 • (775)832-1100 • FAX (775)832-1122

www.ivgid.org

EXHIBIT 7

EXHIBIT 7

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				MARCH 2017	
03/08/2017	Wednesday	3 p.m.	Chateau	Complete training given by J. Guinasso	So you are now a Trustee.....
03/08/2017 *(distribution to [illegible] 2/24/2017)* *(firm packet matl due date/time 02/27/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Incline Beach House Project - Conceptual Design Presentation Operating Budget (2017/2018) Board Work Plan Action Item (?) Pump Track MOU
03/17/2017	Friday	9 a.m. - 4 p.m.	Start at Public Works	Noticed Event	Capital Improvement Program Tour
03/23/2017	Thursday	11:30 a.m.	Chateau	Meet and Greet	
03/23/2017 *(distribution [illegible])* *(firm packet matl due date/time 03/13/2017; 8 a.m.)*	Thursday	12 noon	Chateau	Regular Board Meeting	First exposure to 2017/2018 Capital Budget Procurement Award for Diamond Peak Uniforms Washoe County School District and IVGID Joint Use Agreement Amendment Waterman Construction Award (Johnson) Set the public hearing dates for the Recreation Roll and 2017/2018 budget
				APRIL 2017	
04/12/2017 *(distribution target 04/05/2017)* *(firm packet matl due date/time 04/03/2017; 8 a.m.)*	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approve preliminary Fiscal Year 2017-2018 budget Public Works Storage Building Award (Johnson) Preliminary Recreation Roll approval
04/25/2017	Tuesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
04/25/2017 *(distribution target 04/18/2017)* *(firm packet matl due date/time 04/14/2017; 8 a.m.)*	Tuesday	6 p.m.	Chateau	Regular Board Meeting	Approval of RWTB Memo of Understanding for 2017 Event(s) WRRF Access Contract Award Ordinances 2 and 4 Public Hearing

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				MAY 2017	
05/10/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	District Strategic Plan
05/24/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
05/24/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	1-1-2017 to 3-31-2017 Quarterly Dashboard Report Final approval of 2017/2018 District budgets
				JUNE 2017	
06/14/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
06/24/2017	Saturday		Recreation Center	2nd Quarter Community Meeting	Topic: Community Services Master Plan Community Workshop (2 of 2) - First one was held Nov 30, 2016
06/28/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
06/28/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
				JULY 2017	
07/12/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
07/26/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
07/26/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Approval of Indebtedness Report as required by the State of Nevada SPS#8 Improvement Contract Award
				AUGUST 2017	
08/09/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	Trustee Wong has a potential conflict
08/23/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
08/23/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	4-1-2017 to 6-30-17 Quarterly Dashboard Report
				3rd Quarter Community Meeting	Topic:
				SEPTEMBER 2017	
09/13/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
09/27/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
09/27/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
				OCTOBER 2017	
10/11/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
10/25/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	
10/25/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	

DATE	DAY OF THE WEEK	TIME	LOCATION	MEETING	ITEMS SLATED FOR CONSIDERATION
				NOVEMBER 2017	
11/08/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
11/22/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	This meeting is typically cancelled due to the Thanksgiving holiday
11/22/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	This meeting is typically cancelled due to the Thanksgiving holiday
				4th Quarter Community Meeting	Topic:
				DECEMBER 2017	
12/13/2017	Wednesday	6 p.m.	Chateau	Regular Board Meeting	
12/27/2017	Wednesday	5:30 to 6 p.m.	Chateau	Meet and Greet	This meeting is typically cancelled due to the Christmas holiday
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Land Policy
Investment Policy Update ref: GFOA update

OPINION

OFFICE OF THE ATTORNEY GENERAL

STATE OF NEVADA

In the matter of: INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT	OAG FILE NOS.: 13897-224 & 226 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

BACKGROUND

Frank Wright filed two separate complaints on February 16, 2017, and April 3, 2017, (Complaints) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the Incline Village General Improvement District Board of Trustees (Board). The Complaints allege that the Board violated the OML as follows:

ALLEGATION NO. 1: The Board improperly required Mr. Wright to face the Board, as opposed to the audience, during his public comment at the beginning of the Board's meeting on February 8, 2017.

ALLEGATION NO. 2: The Board's legal counsel improperly cut off Mr. Wright's public comment during the February 8, 2017, meeting.

ALLEGATION NO. 3: The Board held two training sessions without noticing them in accordance with the OML.

ALLEGATION NO. 4: The Board held meetings with its legal counsel in violation of the OML.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The OAG's investigation of the Complaints included a review of the agenda and recording of the February 8, 2017 meeting, together with written responses to the Complaints and supporting materials from Jason Guinasso, Esq., counsel to the Board, and a sworn affidavit from Mr. Guinasso regarding Allegation No. 4.

After investigating these Complaints, the OAG determines that no clearly cognizable OML violations occurred, but that the Board's approach to public concerns failed to encourage openness and participation, both of which are key tenets of the OML.

More particularly, the manner in which the Board and its counsel hold training sessions approaches a potential violation of the OML. Furthermore, the Board and counsel's approach to public comment periods may discourage public participation in its meetings, which does not comport with the spirit and policy behind the OML.

FINDINGS OF FACT

1. The Board is a "public body" as defined in NRS 241.015(4) and is subject to the OML.

2. The Board's February 8, 2017, agenda provided for general periods of public comment at the beginning of the meeting and before adjournment, and contained the following Public Comment Advisory Statement, which Mr. Guinasso read into the record prior to the first general public comment period:

> PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.
>
> Public Comment Advisory Statement – A public body has a legitimate interest in conducting orderly meetings. IVGID may adopt and enforce reasonable restrictions on public comment to ensure the orderly conduct of a public meeting and orderly behavior on the part of persons attending the meeting. Public comment, as required by the Nevada Open Meeting Law, is an opportunity for people to publicly speak to the assembled Board of Trustees. Generally, it can be on any topic, whether or not it is included on the meeting agenda. In other cases, it may be limited to the topic at hand before the Board of Trustees. Public comment cannot be limited by point of view. That is, the public has the right to make negative comments as well as positive ones. However, public comment can be limited in duration and place of presentation. While content generally cannot be a limitation, all parties are asked to be polite and respectful in their comments and refrain from personal attacks. Willful disruption of the meeting is not allowed. ***Equally important is the understanding that this is not the time for the public to express their respective views, and is not necessarily a question and answer period.*** This generally is not a time where the Board of Trustees responds or directs Staff to respond. If the Chair feels there is a question that needs to be responded to, the Chair may direct the General Manager to coordinate any such response at a subsequent time. ***Finally, please remember that just because something is stated in public comment that does not make the statement accurate, valid, or even appropriate. The law mitigates toward allowing comments, thus even nonsensical and outrageous***

statements can be made. However, the Chairperson and/or General Counsel may cut off public comment deemed in their judgment to be slanderous, offensive, inflammatory and/or willfully disruptive. Counsel has advised the Staff and the Board of Trustees not to respond to even the most ridiculous statements. Their non-response should not be seen as acquiescence or agreement just processional behavior on their part. IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open.

(Emphasis added).

3. On February 8, 2017, Mr. Wright began his public comment during the first general public comment period by facing the audience. The Board Chair, Kendra Wong, cut Mr. Wright off and forced him to face the Board when speaking. Less than two minutes later, Mr. Guinasso cut off Mr. Wright's public comment citing slander after Mr. Wright made statements regarding Mr. Guinasso's 2016 candidacy for Nevada State Assembly District 26.

4. Board Secretary, Tim Callicrate, interceded and requested that a portion of Mr. Wright's allotted time be returned to him so that Mr. Wright could have the opportunity finish his public comment. Over Mr. Guinasso's objections, Chair Wong granted Mr. Wright 15 additional seconds to finish his public comment and then abruptly cut Mr. Wright off at the end of the 15 seconds.

5. The Board sets a three-minute timer for each public member's comment period. When the timer goes off, the speaker is cut off, at times mid-sentence.

6. Multiple members of the public complained during the two public comment periods of the February 8, 2017, meeting, stating that the Board had stopped accepting public comment on specific agenda items and that the Board's decision impaired the public's ability to be heard on issues before the Board.

7. Mr. Wright received an uninterrupted three minutes of public comment time during the general public comment period at the end of the February 8, 2017, meeting.

8. Immediately following the January 18, 2017, Board meeting, the Board attended a training session ("January Training Session") conducted by Mr. Guinasso. The January Training Session was directed solely at the Board.

9. Notice of the January Training Session was posted on the evening of January

17, 2017, at the Board administrative offices and the morning of January 18, 2017, at the location of the session. The Board did not post or distribute any other notices regarding the January Training Session. The Notice of the January Training Session stated that the Board "may" attend. The Notice was silent as to whether members of the public may attend the January Training Session.

10. The Board held another public meeting on March 8, 2017. Immediately preceding the March 8th Board meeting, the Board attended another training session ("March Training Session") conducted by Mr. Guinasso and conducted solely for the Board. Also on March 8th, Mr. Guinasso conducted a gathering with Board members to discuss pending or existing litigation involving IVGID.

11. On February 27, 2017, notice of the March Training Session was posted at the Board administrative offices and at the location of the meeting. The Board did not post or distribute any other notices regarding the March Training Session. The Notice of the March Training Session stated that the Board "may" attend. The Notice was silent as to whether members of the public may attend the March Training Session.

12. The January and March Training Sessions were entitled "So, You Were Elected an IVGID Trustee, Now What?" The support materials for both training sessions posed specific questions directly related to matters within the Board's jurisdiction and control. The questions included the following: "Who are the people I am serving with, what are their priorities and ideas, and how can I work with them to accomplish my goals and serve the public well?", "What are the priorities of the District?" and "What powers, duties/responsibilities and obligations do I have?"

LEGAL STANDARDS AND CONCLUSIONS OF LAW

1. The OAG Possesses Insufficient Evidence to Find that the Board Training Sessions Were "Meetings" Under the OML.

NRS 241.020 governs open and public meetings and it provides that "all meetings must be open and public, and all persons must be permitted to attend any meeting of these public bodies" except as otherwise provided by specific statute. NRS 241.020(1). A

"meeting" generally requires a "gathering of members of a public body at which quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power." NRS 241.015(3). "'Deliberate' means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision." NRS 241.015(2).

The OML provides an exception for a gathering "which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power." NRS 241.015(3). The spirit and policy behind the OML favors open meetings and any exceptions should be strictly construed. *Chanos v. Nevada Tax Commission*, 124 Nev. 232, 234, 181 P.3d 675, 677 (2008); *Del Papa v. Board of Regents*, 114 Nev. 388, 394, 956 P.2d 770, 774 (1998). "[T]he narrow construction of exceptions to the Open Meeting Law stems from the Legislature's use of the term 'specific' in NRS 241.020(1) and that such exceptions must be explicit and definite." *Chanos*, 124 Nev. at 239, 181 P.3d at 680. "[E]xceptions to the Open Meeting Law extend only to the portions of a proceeding specifically, explicitly, and definitely excepted by statute." *Id.* The exceptions to the OML requirements, "must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers." NRS 241.016(4).

The January and March Training Sessions were organized by the Board, specifically directed to its members, conducted by its counsel, and contemplated attendance only by its members. The OAG cautions that the questions that formed the basis for the Training Sessions may be perceived as inviting interactive communications among the Trustees and

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a collective discussion or exchange of facts.[1] If such discussions or exchanges of facts were preliminary to some action or decision of the Board, they would constitute deliberations under NRS 241.015(2). Where a gathering of a quorum of a public body includes deliberation, the gathering necessarily meets the definition of a "meeting" contained in the OML.

According to evidence obtained by the OAG from IVGID, the trustees' responses to the questions posed in the training materials suggest they discussed the priorities of the Board in general terms. However, the OAG does not possess specific evidence that the discussion which occurred during the Training Sessions, together with any exchange of facts, were preliminary to, or resulted in, any action or decision of the Board. As a result, the evidence does not support a finding that the interaction among trustees that occurred during the Training Sessions qualifies as "deliberation." NRS 241.015(2). Absent "deliberation," the Training Sessions would not constitute "meetings" under NRS 241.015(3). It follows that evidence does not support a finding that the January and March Training Sessions violated the OML.

The OAG cautions IVGID and its counsel that while no OML violation is found here, IVGID should take reasonable actions to clearly and purposefully comply with the OML, avoiding, where possible, the specter of violation. This may include opening the Training Sessions to the public and noticing and conducting them as public meetings, absent some important reason to continue with its current Training Session practices.

2. The March 8, 2017, Attorney-Client Conference Regarding Potential or Existing Litigation Is an Exception to the OML.

A gathering of members of a public body, at which quorum is actually or collectively present, does not constitute a meeting pursuant to the OML when the purpose of the gathering is for the members "to receive information from the attorney employed or

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[1] The overview of questions posed in the training materials include, but are not limited to, the following: (1) What are the priorities of the District?; (2) Who are the people I am serving with, what are their priorities and ideas, and how can I work with them to accomplish my goals and serve the public well?

retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both." NRS 241.015(3)(b)(2).

The OAG does not possess any evidence that the March 8, 2017, conference between the Board and its counsel involved any action other than the sharing of information regarding potential or existing litigation. Counsel's sworn affidavit provides that the only matters discussed during the March 8, 2017 conference concerned specific existing or potential litigation involving the Board. Therefore, the March 8, 2017, conference constituted an attorney-client conference that falls within the OML exception as provided in NRS 241.015(3)(b)(2). The Board did not violate the OML by holding and attending the March 8, 2017, attorney-client conference.

3. The Board's Counsel Has Not Demonstrated a Recognition of the Importance of Public Comment Periods to the Fulfillment of the Spirit of the OML.

In Nevada, public bodies exist to aid in the conduct of the people's business. NRS 241.010(1). Public bodies must allot time to allow comments from the general public either "at the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting" or "after each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item." NRS 241.020(2)(d)(3). The OML exists to ensure that the public is able to meaningfully participate in government. *See* NRS 241.010.

Every citizen may freely speak, write and publish his sentiments on all subjects being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. Nev. Const. art. I, § 9. The United States Supreme Court created a federal rule consistent with the Nevada Constitution in *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964), that protects even a defamatory falsehood in certain circumstances. *N.Y. Times Co.*, 376 U.S. at 279-280. The public has important First Amendment interests in its ability to comment before public governmental bodies. *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).

The OML requires public bodies to offer at least two periods of public comment during public meetings—one at the beginning of the meeting before any items on which action may be taken are heard, and another at the end of the meeting prior to adjournment. NRS 241.020(2)(d)(3). Restrictions on public comment must be included in the agenda and must be reasonable restrictions to the time, place and manner of the comments, but may not restrict comments based upon viewpoint. NRS 241.020(2)(d)(7). The interpretation and enforcement of rules during public meetings are highly discretionary functions. *See White, supra*, 900 F.2d 1421 at 1426. The decision to stop a speaker is left to the discretion of the presiding officer of the public body. *Id.* A public body may impose restrictions on public comments that are repetitious, irrelevant, or disruptive comment. *Id.*

Here, the Board fails to provide a reasonable basis for requiring Mr. Wright to face it during public comment. While reasonable rules and regulations during public meetings ensure orderly conduct of a public meeting and ensure orderly behavior on the part of those persons attending the meeting, the Board presents no evidence that the requirement to face the Board was necessary to ensure that the speaker's comments could be properly heard or recorded, or to otherwise ensure the orderly conduct of the meeting.

Determining whether public comments are repetitious, irrelevant, or disruptive should be left to the presiding officer of the meeting, namely Chair Wong. The Board's legal counsel should refrain from interjecting his opinions, or silencing speakers, during public comment periods.[2] The Board's public comment advisory statement, which is contained in its agenda, improperly authorizes and empowers the Board's legal counsel to stop public comment when such authority lies solely with the Board's Chairperson. Moreover, the general tone of the advisory statement appears to misunderstand the centrality and dignity of public comment in providing the public with the opportunity to participate in the conduct

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[2] The Board's counsel, who is not the presiding officer of the meetings, has a history of interrupting and cutting off members of the public from speaking during public comment. *See* OMLO 13897-171/180. The OAG cautions the Board that counsel's continued actions to hinder public comment may lead to legal liability for the Board for any resulting OML violations.

of *public* bodies. The OAG advises the Board to revise its public comment advisory statement to grant the discretion to stop public comment to the Board's Chair and to show appropriate respect to the citizenry in whom ultimate democratic authority rests.

Ultimately, the Board allowed Mr. Wright to make his comments during both public comment periods and so it did not commit a formal violation of the OML. Still, actions of Board counsel have shown a lack of sufficient regard for public comment and its role in the OML.

SUMMARY

Upon investigating these Complaints, the OAG determines that the Board did not commit any provable OML violation. However, the Board's general attitude, combined with the conduct of its counsel, discouraged public participation in its meetings and actions and thus has not properly recognized the spirit of the OML.

DATED: October 19, 2017.

ADAM PAUL LAXALT
Attorney General

By: Caroline Bateman
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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October, 2017, I served the **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, CERTIFIED MAIL addressed as follows:

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