MINUTES

REGULAR MEETING OF APRIL 13, 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 Thursday, April 13, 2017 at 2:00 p.m. at the Chateau located at 955 Fairway Boulevard, Incline Village, Nevada.

Chairwoman Wong announced that the Board of Trustees has decided upon a time certain end time of 5:00 p.m.

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 Public Works Joe Pomroy, Director of Human Resources Dee Carey, Director of Asset Management Brad Johnson, Parks and Recreation Director Indra Winquest, Director of Golf Michael McCloskey, and Director of Community Services Sharon Heider.

Members of the public present were Gene Brockman, Aaron Katz, Steve Price, Judith Miller, Frank Wright, Steve Dolan, Margaret Martini, Gail Krollick, and others.

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

C. PUBLIC COMMENTS*

Judith Miller said as she reflected a bit on some of the candidate forums last year, since she was one of the candidates, she recalls the question about zero based budgeting and a more detailed audit akin to an internal audit which were to give us an idea about whether or not we should scale back or continue. Here we are, in the process, and neither promise has come to pass. Instead of really
understanding what our venues do, capital is put out to the side. One of our Trustees had to close down a business because it didn’t make sense. She would hope that all Trustees would have the information but she understands that they made requests and they were denied. When an elected Board member can’t get details about how IVGID spends its monies there is something terribly wrong. When Trustees or the public can’t get information, what avenues are left to us? Washoe County has very little authority and neither does the State of Nevada. There is a bill proposed for general improvement districts that won’t get a hearing. What is left for the taxpayers to get the financial status of a general improvement district; perhaps there is nothing left other than taking legal action against the general improvement district. While it is not the first choice, sometimes it is the only choice and we have the right and privilege to take this action as it becomes necessary when every other avenue is closed to you.

Aaron Katz said that he has only three minutes to talk about all the things on this agenda and asked when the Board is going to open up public comment. On General Business Item E.3, renewal of Mr. Faust’s contract, all the public hears about is what happened five to seven years ago; what has he done lately and where is the extra money. There has been nothing so let’s put an end to this. On General Business Item E.4., snowboard rentals, where is this furnishing recreation to him; asks that the Board puts its foot down. On General Business Item E.4., is this the building to house a couple of pieces of equipment that was one million dollars and is now two million dollars? General Business Item E.7., how can you adopt a report where you are lying to the public by stating in this report that you need x amount of dollars? Mr. Katz referred to agenda packet page 88 and said that the Community Services Administration entry of $1.6 million dollars is a phony entry and that it is a discretionary entry because it is nothing you need. The District didn’t need $25 last year so it owes us a refund. The Beach Fee just went up 25% to fund a $3.1 million dollar restaurant which is going to cost more than that. On the Parasol building, don’t approve this item as there is a land use restriction and if they don’t want the building then they should give it up for free. On General Business Item E.10, the District has no power to lobby and it is nothing more than the equivalent of a mosquito as it has no power.

Frank Wright distributed to the Board members a copy of an RKG invoice that showed that the wolves were sent out to seek a breach of contract. The contract was a $4,200 contract with an individual, Kevin Lyons, who gave back approximately $2,900 as he refused to participate in an illegal and phony contract. He gave back the money and kept the money he spent. This invoice is $990 and Mr. Lyons gave back the money so this is churning up even more money which you can see in the Board packet via the 55 pages of the Legislative report. He is
now the official reporter and going down to Carson City; we are getting ripped off and the District is being hijacked by this District General Counsel because he can’t tell you what he is doing. When is this Board going to start to ask questions and step outside the realm of one, two, and three and being individuals? He taught school and he always taught his students to be individuals and ask questions. Three Trustees are stuck together and what you have before you is garbage yet you don’t ask questions thus, as a Trustee, you have become nothing more than a pack mule.

Steve Dolan thanked the Board for putting the dog park in Phase 3 of the long term planning and said that Trustee Dent seems to think that there is not so much of a desire for a dog park with 5% responding yes and he has another three hundred signatures to bring it up to about 45% so he doesn’t know why he asked it again. Do we need a dog park, no, we don’t as we live in a forest. What would it benefit – it would benefit old geezers like him, owners training rescue dogs, etc. In 2016, he explained the lakeshore environmental report and noted that we were one of the two worst in near shore water quality. What feeds that – Incline Creek and Third Creek. Near shore water quality would be helped out with a dog park. In 2016, he also gave the Board a study that show a spike in the nutrients thus the fish are drinking shit literally. He spoke with a Tahoe Conservationist gentleman and you need to worry about the runoff.

Gail Krolick thank each and every one of you and the General Manager who she met with in regarding to Item E.8 on this agenda. She is formally requesting it be moved up as the Board has a hard time stop of 5 p.m. and she would like to hear this discussion but if that’s not possible she will watch via Skype. This agenda item is very dear to hear as this lease is one she signed. She is very passionate and she has shared that with each Board member individually as well as with Ms. Anderson with whom she met with for about an hour and fifteen minutes in which they had a very candid, lively, and respectful conversation. What she came out with was that our community has changed tremendously and our wants have changed and so has our needs. We are no longer a full time resident community nor are we a second homeowner community we are now a third and fourth homeowner community. What she is requesting is that this Board not take this lightly and that they agendize it to a special meeting giving the community and the Board ample time to review all the documents, appraisals, etc. There is no need to be rushed to any timeline for either party. Our community has changed greatly so she is trusting this Board to make the right decision for our community.

Margaret Martini said that she tried to get a lot of people to come to today’s meeting but it was a challenge due to the time it is being held. Participation is nil as the
Board is having meetings at odd times so people that might want to attend are not able to come thus the shrinking participation is due to the time of the meetings and also they have a hopeless feeling because of three minutes. Correspondence is longer in the Board packets and the reason needs to be discussed. Generally, there is no response to letters, etc. to the Board other than call and make an appointment. The new bogus survey has selective participation and at least with FlashVote there was a broader base of people participating. The new survey methods needs to be looked at because it is discriminatory. On bond retiring, the Recreation Fee is either reduced or repurposed secretly and she hopes that the Board has learned its lesson on repurposing from last time.

Frank Wright asked why can legal counsel shut down public comment as that is not within his authority. Chairwoman Wong invited Mr. Wright to take that up with the Board after this meeting.

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

Chairwoman Wong made a motion that 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. Trustee Horan seconded the motion. Chairwoman Wong called the question and the motion was passed unanimously.

Chairwoman Wong moved General Business Item E.8. to General Business Item E.1.

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

E.1. **Review, discuss and possible action on the proposed modification to the 30-year ground lease with Parasol Tahoe Community Foundation (PTCF) (Requesting Trustee: Chairwoman Kendra Wong) (was General Business Item E.8.)**

Chairwoman Wong said that at the last Board meeting, under Board Updates, she distributed a letter to the IVGID Board of Trustees from the Parasol Tahoe Community Foundation (PTCF) in which they asked us to review their lease provisions. PTCF approached us saying that they wanted to discuss modifying their lease. The IVGID Board of Trustees had a litigation meeting related to this matter which was their first opportunity to
discuss the letter as the letter was received after the agenda was posted. She and the District's General Manager met with the CEO of PTCF to get an idea of where they were headed; they would like to focus their business model on helping the non-profits rather than being a landlord thus this could be a significant modification to the lease terms contained within the original lease. Chairwoman Wong then asked District General Manager Steve Pinkerton if he had anything to add. District General Manager Pinkerton said that Chairwoman Wong stated it quite well and that the Staff report gives the Board the level of information that we have at this time which is that PTCF wants to get out of the bricks and mortar business and made it clear that they still want to have the building be of community collaboration. They would like to focus their energy on the outcome rather than being a landlord and be a key supporter to the non-profits. Doing so requires a look at the lease and the requests impact and Staff has to come back with its due diligence as they have a valued building. Staff has lots of things they need to look at so we are beginning the due diligence process and will provide the pros and cons as well as open up a dialogue on a strategic path that they would like to take in order to get more feedback to the community.

Chairwoman Wong said that this Board and Staff recognizes that this must be a public process and that this is the first opportunity to have that discussion, in public, and then provide direction to our Staff to move forward.

Trustee Callicrate said that he appreciates the opportunity to address this in depth as he too was on the IVGID Board of Trustees when this lease was signed. It took a lot of community input and created some heated moments of discussion at the Board level and the community thus it is not something we can rush through. Are there some time constraints that PTCF is trying to meet as he doesn’t want to force this? PTCF has only completed twenty years of their lease and the purpose was to build it as one place and that he understands there is a waiting list for occupancy. Starting today, we need to have a clear statement about the sharing of information because of some misinformation that is out there. If the lease is in the process of changing, as well as the use, we may even need to get a real estate attorney involved and he would like to get a legal authority on leases as it is several years old and he wants to make sure we exercise all the authority as we own the land. Documents he would like to get is a copy of the deed, what monies were raised to build the building, and what is the final outcome that PTCF would like and how does that fit in. In looking over the lease, and should it become so horrendous, we could ask them to remove the building which would be foolish but that would be the last possible situation and he is not suggesting
tearing down the building. There are opportunities to work with PTCF to acquire the building whatever that means. We do need to do our due diligence and get the appropriate paperwork. He would also like to contact all the people that were involved at the original start and obtain, from them, a historical perspective and he thinks that means contacting Joyce Benka. He is looking out for the District first and foremost. Chairwoman Wong said her perspective on tenants and potential waiting list is that this is PTCF’s messaging and that they have approached us about engaging in this conversation so we need to circle back with PTCF and see what their messaging is. Trustee Callicrate said it is mixed and that Chairwoman Wong is right that it is under PTCF’s purview and that he wants to make sure that the District is not getting pulled into it. Chairwoman Wong responded that she will contact them and get an understanding of what they are communicating. She also heard that a copy of the original grant is desired as is the cost of the building, how much money was collected in fundraising, and the current appraisal of the building – is there anything else? Trustee Dent asked for the current lease agreement. Trustee Horan said that the District has been approached to modify a lease and thus we should approach it on a legal basis as to what’s possible and that we need to be very careful about the characterization of this deal and it is akin to do we want to supersize it versus what can we effectively do as we go down this road. We also have to be careful in our analysis and in what can be done in terms of the lease and the legal agreement between the two parties and then there is the financial impact. He would like it to be careful in our analysis in what can be done, in terms of the lease, and the legal agreement between the two parties and the financial impact. He wants to be very clear that we are sticking to what was requested which is a modification of the lease. Chairwoman Wong said it does fit into our current plan and that the question is how this lease modification could impact what we have in the works. Trustee Callicrate said this opportunity is for the acquisition of the structure so we need to know the value of the Southwood property as he is sure that it would figure into this situation. Trustee Morris said that the Reynolds building is a landmark in the community and well know. It is used by so many entities thus we need to make sure the wider community and the different groups are heard from as it is a signature building where many good things could come out of this so let’s not do this in isolation. Chairwoman Wong asked what specific groups. Trustee Morris said the current users of it. Trustee Callicrate said that one of the prior tenants, Project MANA, who is no longer there might be a good one to reach to and ask why they left and would they come back. Project MANA and Tahoe Shakespeare were the top two organizations involved as well as Tahoe Family Solutions, who have
also recently left the building, so let's get their feedback. Trustee Horan said that he didn't feel pressure to make a decision and that he feels we should take whatever time is needed. Chairwoman Wong said that on May 10 she would like to have a public hearing type meeting and that the only topic addressed during that time period would be this and thus give people the opportunity to weigh in. The timeline is to authorize that today and then come back and see what the PTCF proposal is and then respond. We can receive something on April 25 and then come back again on May 10 and that this will be the second time it is discussed and that she envisions it being discussed three or four more times. Further, she anticipates it will be discussed well throughout the summer, laying out the process, giving our community members the time to hear about it and be involved and giving them the time to recognize the importance of that building. She volunteers her time at a non-profit there so she understands the help PTCF has given and that PTCF is itself an important organization that helps so many in our community. Chairwoman Wong then asked District General Pinkerton if he had enough direction. District General Manager Pinkerton said yes and that he understands it is critical to keep the open dialogue and that he is certain that Staff can get the Board enough information about the perimeters. He is glad to hear that the Board understands that it will take a lot of time but that Staff should be able to provide a reasonable outline at the next meeting and then ascertain what further research needs to be done. We will keep it moving efficiently as well as he knows there is a lot of uncertainty for this building. Trustee Morris said that he would like to underscore the importance that we move at the speed that is appropriate and to keep the item current by having it on every agenda as he would hate to have a gap. Trustee Horan said it is also important, as we move forward, that we are very concerned about the information that is actually transpiring and that the community doesn't endanger us in any way. District General Manager Pinkerton said that he will provide frequent feedback to the Board.

Trustee Morris made a motion to direct Staff to provide a summary report on the feasibility of this proposal at the Board's next meeting on April 25, 2017. This feasibility analysis would review the costs and benefits of considering this lease modification and compare existing capital projects currently included in the 5-year CIP plan. Further, that Staff include this issue on the Board of Trustees May 10, 2017 meeting agenda to make sure that we notify the public about this potential change. The agenda item would be conducted similar to the way we hold a public hearing where we receive feedback from the public. Staff is to do several display ads in our local newspaper as well
as much social media outreach as possible. Trustee Callicrate seconded the motion. Chairwoman Wong asked for comments.

Trustee Callicrate said he would like to know about the original IVGID activity for that part of the Incline Park parcel and how we amended it as well as how it great. Further, he would like a concise version that answers those questions as he wants to make we are legal as well as know of the constraints. Chairwoman Wong said so a full history of how we got here; Trustee Callicrate said yes.

Chairwoman Wong, hearing no further comments, called the question - the motion was unanimously passed.

E.2. 2017/2018 Budget Review Process: Board Overview of Capital Improvement Projects Budget - Review, discuss and provide possible direction (Requesting Staff Member: Director of Asset Management Brad Johnson) - CARRY OVER ITEM FROM THE MARCH 23, 2017 MEETING (was General Business Item E.1.)

Director of Asset Management Brad Johnson gave an overview of the submitted materials and went over changes made since the last meeting.

Chairwoman Wong said, as a review for refreshment and public education, that when this Board approves the budget that the five year capital plan goes to the State of Nevada as a plan and that this Board is only approving the first year of that capital plan. Director of Asset Management Johnson said yes, it is only the expenditures for the first year and that it is always a five year capital plan. Trustee Morris said since we are only in this for one year are there any projects where it would be stupid to start it and then not continue them in subsequent years. Director of Asset Management Johnson said there are a number of multi-year projects and for those in the Utility Fund we are starting the design for the WRFF Aeration System, for the Water Pump Station 2-1 it is a comprehensive replacement for the motor control items which is a necessary replacement and that if the Board has no interest in doing it then the District won’t be able to distribute drinking water. In the Community Services Fund, there is the Tennis Center Remodel which is a project that is about design and then construction. Trustee Morris said thank you and that there is nothing he would consider stupid and that all projects seemed very sensible. Trustee Dent said, looking at last year and then this year, what changes did we make, what projects were cancelled, what projects are new, and what are we doing to improve upon as compared
to last year. Director of Asset Management Johnson said that the five year capital plan is a living document and that Staff gains information throughout the year such as Board input or decline of an asset and then responds to that condition. There is always some shifting on a year to year basis which is thoughtful and if it is a lower priority, we can push it out. The greatest push out is the vehicle replacement cycle as we approach it for actual replacement so we look at it and replace or push it out. Out in years three, four, and five, we rearrange as we try to do just in time replacement however often we are unable to allocate time to do so or respond to unplanned projects which are spoken about in the Utility Rate Study. We do try and minimize this but we are not perfect and our goal is to stay within the allocated fund balance but sometimes we have to pivot due to failure. This is also one of the reasons the Board empowers the General Manager to make those decisions on the fly and that Staff always comes back to the Board when we exceed those limits. District General Manager Pinkerton added that there are also right-of-way items that come before us. Director of Asset Management Johnson said that in Public Works Shared we do adjust with the Washoe County right of way as we have a placeholder because we know we have a certain amount of facilities that are in their right-of-way and if those fail, it becomes dangerous to the traveling public so we get directed to repair those items and then there are other times we get late notice about execution of their projects and our utilities are in the way thus they require us to move our facilities out of their way. We have those costs but we can't predict them but we do our best based on averages. Trustee Dent asked, with our current fiscal year 2016/2017, when we can get together as a Board and review how we finished the year as we haven't done that yet. Chairwoman Wong says that happens in September. District General Manager Pinkerton said that Staff doesn't have a formal Board presentation but that we do put out the reports which we are refining as it is up to the Board as to what level of detail you would like to see. Trustee Dent said he would like to sit down as a Board and discuss it and get a review on how the prior year went. Chairwoman Wong said that she will kick that over to the Popular Reporting Committee. Trustee Callicrate said that he likes that idea and that this be done for the Board's edification and public information and that he would like to do that for Popular Reporting as we need to have it formalized how well we do, are we on the right track, can we make improvements, and by formalizing it, it puts it out there. Trustee Horan said that he agrees that the Popular Reporting Committee is where it belongs and that they can come up with the process to do that review formally. Chairwoman Wong said with all the changes that has been mentioned, does the District have the capacity with our fund balances to handle that stress
test. Director of Finance Gerry Eick said that this has been prepared through our last audit and it was included in the Board packet; the short answer is we have the capacity to deal with them as we stand however the commitments are only one year at a time but that if we have to make roof repairs we have the capacity to make them at the time they are needed. The results of 2016/2017 are in an improved position and thus there is no question we can handle it. Trustee Dent, referencing agenda packet page 20, asked where those numbers are coming from; what is the funding source for $1.225 million and is the proposal a bond. Director of Finance Eick said the funding source is the fund balance and that it is monies earned in prior years so it is not a bond. Trustee Dent asked if the same goes for new projects. Director of Finance Eick said that the commitment is the fund balance and that is located on agenda packet page 21. For the things coming out of it, there will be a stress test. None of this is decided upon and thus at the point in time there will be reflection on where we stand. Trustee Dent said, referencing agenda packet page 16, in the background, that it talks about debt expiring and then the repurposing of those funds so it this more of a summary of what took place or is this about looking for an ordinance or a policy or just a summary. Director of Finance Eick said that this is a discussion of what we have been doing since about 2011 with strategic planning, timing of available resources, and perhaps adding new projects so as to have a stable facility fee as well as looking at opportunities to time projects. The first paragraph is referring to a 2008 bond and that nothing has been decided because it is not the time; when a bond retires and we have available resources, we take those opportunities as it is what we have been planning for some time.

E.3. Review, discuss and possibly authorize Sewer Main Extension to serve APN 123-071-34 with all costs borne by Applicant in accordance with District regulations (Requesting Staff Member: Director of Public Works Joe Pomroy) *(was General Business Item E.2.)*

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

Trustee Dent asked if any change orders come forward, are they approved by the owner or do we serve them with the additional cost. Director of Public Works Pomroy said the developer is doing the construction then the District reviews, test, and accept so they are in charge of all items. Trustee Horan asked if this approval was consistent with Washoe County approvals.
Director of Public Works Pomroy said yes and that the plans went through the Washoe County plan check process. Trustee Callicrate said so this is paid for completely by the developer and just overseen by IVGID and is being done to the standards we require. Director of Public Works Pomroy said yes, they pay for all our costs. Trustee Callicrate added so we are not paying for the developer doing what they are doing.

Trustee Callicrate made a motion to authorize a sewer main extension to serve APN 123-071-34 with all costs borne by Applicant and constructed in accordance with District regulations. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, receiving none, called the question - the motion was unanimously passed.

E.4. Review, discuss and possibly authorize Contract Amendment for Federal Legislative Advocacy Services with Marcus G. Faust, P.C. in the amount of $62,000 (Requesting Staff Member: Director of Public Works Joe Pomroy) (was General Business Item E.3.)

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

Trustee Horan asked that Chairwoman Wong quickly summarize their recent visit to Washington D.C.; Chairwoman Wong said that they discussed the Lake Tahoe Restoration Act and trying to get funds appropriated because we have been upgrading our systems. We then discussed the fire agreement that we are a part of. Trustee Callicrate asked if this was over and above Mr. Faust's regular contract. Director of Public Works Pomroy said this is the annual contract and just a renewal for another year. Trustee Callicrate said that he didn’t see the contract as part of the Board packet and that this is about hiring someone to lobby thus he would have liked to have seen the original contract included in the packet. Trustee Dent agreed and said that the amendment threw him and he too would have liked to have had the original contract included; is this included in the budget every year. Director of Public Works Pomroy said yes, it is included in the water and sewer budget and that it will be split in the upcoming budget.

Trustee Dent made a motion to authorize a contract amendment to Marcus G. Faust, P.C. in the amount of $62,000 for one year for Federal Legislative Advocacy Services and 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 passed unanimously.

E.5. Review, discuss and possibly award a Procurement Contract for Replacement Snowboard Rental Equipment – 2016/2017 Capital Improvement Project: Fund: Community Services; Division: Ski; Project # 3468RE0002; Vendor: Burton Corporation in the amount of $178,104.83 (Requesting Staff Members: Director of Asset Management Brad Johnson and Diamond Peak Ski Resort General Manager Mike Bandelin) *(was General Business Item E.4.)*

Director of Asset Management Brad Johnson and Diamond Peak Ski Resort General Manager Mike Bandelin gave an overview of the submitted materials.

Trustee Dent said that the other two bidders were deemed non-responsive so would it fit within our budget if we were to re-bid this project to make sure that they understood and how would that delay us especially if we were to table this today and ask that it be put out to bid and then it would come back in a month or month and half. Director of Asset Management Johnson said if the Board were to table this item and ask Staff to reissue the bid specifications, we would advertise next week and the Nevada Revised Statutes requires a minimum three week bid period so to sequence that with the next Board packet, we are likely looking at a six week time frame before this could back to the Board. Diamond Peak Ski Resort General Manager Mike Bandelin said that he would like to make it clear that now is about the time frame as to when all the orders should be placed for delivery next November. Trustee Dent asked, moving forward, what can we do to put it out to bid sooner. Director of Asset Management Johnson said that this is a great piece of feedback as there as there is a bit of a time frame for pricing and Staff can back it up in the event is goes sidewise so perhaps we bid this in January or February and we probably can’t go earlier because of product line development. Chairwoman Wong asked if there non-responsiveness was like oops I forgot something. Director of Asset Management Johnson said that this is one of the hardest projects we have to deliver to it is bidding a project to an audience who has no idea what they are looking at. We do reach out in advance and we do hold their hand as much as possible but this is probably the only bid they will pick and they have one shot to nail their paperwork. The public bidding environment has very strict requirements and while we are sympathetic to the audience, it is pretty tough. Chairwoman
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Wong asked what our current rental fleet is; Director of Asset Management Johnson said it is Burton. Trustee Callicrate said it is one of the top. Director of Asset Management Johnson said we are getting a great product and that the bids submitted are not apples to apples so it is hard to know if they would resubmit because of the requirements of our specifications.

Trustee Callicrate made a motion to authorize a procurement contract to Burton Corporation totaling $178,104.83 for the replacement of Diamond Peak Ski Resort snowboard rental equipment (totaling 418 snowboards, 596 pairs of snowboard boots, and 545 pairs of snowboard bindings) and authorize Staff to execute all purchase documents based on a review by General Counsel and Staff. Trustee Horan seconded the motion. Chairwoman Wong asked for comments, receiving none, called the question - the motion passed unanimously.

Chairwoman Wong called for a break at 3:35; Board reconvened at 3:45 p.m.

E.6. Review, discuss and possibly award Multiple Contracts for the Public Works Equipment Storage Building Project – 2016/2017 CIP Project; Fund: Utility; Division: Public Works; Project # 2097BD1301, 2097BD1502, and 2097LI1401; Vendors: Geney/Gassiot, Inc. in the amount of $2,026,997, BJG Architecture and Engineering in the amount of $89,100, and Tri Sage Consulting in the amount of $65,000 (Requesting Staff Member: Director of Asset Management Brad Johnson) (was General Business Item E.5.)

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

Trustee Horan asked if there was any concern about remediation problems. Director of Asset Management Johnson said we have samples that don't indicate any challenges but there is some double walled installation so we don't anticipate any challenges during construction but if there were it will have to be addressed with change orders.

Trustee Morris said this project is forecasted to finish in June 2018; he thought Staff said that the old facility is demolished when this is in use. Director of Asset Management Johnson clarified that the only demolition is
at the fuel facility which once we get the new fuel island will be demolished and then we will pave and work in a small yard.

Trustee Callicrate said that this is really three separate projects which need to be done and makes sense as this is part of the heart of our operation so Staff has put his mind at ease and answered his questions; thanks.

Trustee Morris made a motion to award a construction contract to Geney/Gassiot, Inc. in the amount of $2,026,997 for the construction of the Public Works Equipment Storage Building Project and related site fueling facility and paving improvements; authorize Chair and Secretary to execute the contract based on a review by General Counsel and Staff; authorize Staff to approve change orders to the construction contract for additional work not anticipated at this time of up to 10% of the project bid – $202,000; authorize Staff to enter into an Additional Services Addendum with BJG Architecture and Engineering totaling $89,100 for design services during construction of the project and authorize Staff to enter into an Additional Services Addendum with Tri Sage Consulting totaling $65,000 for construction inspection services during completion of the project. Trustee Horan seconded the motion. Chairwoman Wong asked for comments.

Trustee Dent said that we should have reporting correct thus this is his only objection to this project.

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

E.7. Review, discuss and possibly authorize Form 4404LGF as the IVGID 2017-2018 “Tentative” Budget for filing with the Nevada Department of Taxation by April 17, 2017 (Requesting Staff Member: General Manager Steve Pinkerton) (was General Business Item E.6.)

District General Manager Pinkerton gave an overview of the submitted materials.

Trustee Dent, referencing the bottom of agenda packet page 54, said actuarial liability is mentioned; what is that liability?
District General Manager Pinkerton said that this has been in the Audit Report every year and that the District used to be self-insured but is no longer therefore there is an ongoing liability and we will be talking about in the future. Trustee Dent asked if they could discuss this offline. District General Manager Pinkerton said that Staff had a dialogue with the State of Nevada so he is not yet sure of the date of discussion therefore we continue to keep the money set aside and now we are in a position of where we are comfortable to transfer it back.

Trustee Dent, referencing the top of page 55, said that the Community Services estimated fund balance is nine million dollars and the Board policy is around four million dollars. If the policy is four million dollars do we need to have a discussion about the policy about where do we stop and switch the way we handle the Recreation Fee and draw this down for operations; he is curious. District General Manager Pinkerton said he would like to clarify; all the reserves stay in this fund and then after the budget is adopted, allocation of the funds happens and what is the impact on the five-year plan. Based on the level of expenditures, we are more than consuming the excess balance and it would be deceiving to say it is all for operations rather this is for operations and capital and he draw attention to agenda packet page 20 the funds begin in the Community Services Fund and then it goes into the Capital Fund. We have a minimum fund balance to be in operation and then we have necessary funds, shown on agenda packet pages 20 and 21, to execute the capital improvement plan and thus why we did the stress test. Chairwoman Wong said we had a great year thus we have an additional fund balance and this year we are coming off four bad winters. We don’t know what Mother Nature might do so let’s leave it as is and see where we budget as we tend to budget conservatively because we could end up in a situation where Mother Nature doesn’t cooperate and we might just be at budget. District General Manager Pinkerton said he would be concerned if we didn’t have this amount in fund balance. Trustee Dent asked at what point do we stop; when it gets up to sixteen million dollars. Chairwoman Wong said, to be honest, a lot depends on Mother Nature. We are filing a tentative budget and if there are any changes, Staff lets us know. District General Manager Pinkerton said Staff will point out any changes between the two documents.

Trustee Morris made a motion to authorize Staff to execute and file Form 4404LGF as the Incline Village General Improvement District’s “Tentative” budget for Fiscal Year 2017-2018, including the Budget Message therein, and order it filed by April 17, 2017 to meet Nevada
Revised Statutes (NRS) 354.596 requirements. Trustee Horan seconded the motion. Chairwoman Wong asked for comments.

Trustee Callicrate said he wants to see zero based budgeting; he campaigned on it thus he will be voting no on this item and he wanted the rest of the Board members to have this heads up. Trustee Dent said he seconds Trustee Callicrate’s comments.

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

E.8. Review, discuss and possibly approve Resolution Number 1858: A Resolution Preliminarily Approving the Report for Collection of Recreation Standby and Service Charges, Fiscal Year 2017-2018 (Requesting Staff Member: General Manager Steve Pinkerton) *(was General Business Item E.7.)*

District General Manager Pinkerton gave an overview of the submitted materials.

Trustee Horan asked if this was a regulatory requirement at this time; District General Manager Pinkerton said yes. Trustee Morris said this is increasing for beaches so if you don’t have beach access then you will see your fee go down; District General Manager Pinkerton said yes, that is correct.

Trustee Horan made a motion to adopt Resolution Number 1858 which preliminarily approves the report for collection of recreation standby and services charges (also known as the Recreation Facility Fee and Beach Facility Fee) and sets forth the public hearing date of Thursday, May 24, 2017 at 6:00 p.m. at 955 Fairway Boulevard, Incline Village NV. Trustee Morris seconded the motion. Chairwoman Wong asked for comments, receiving none, called the question - the motion passed unanimously.

E.8. Review, discuss and possible action on the proposed modification to the 30-year ground lease with Parasol Tahoe Community Foundation (PTCF) (Requesting Trustee: Chairwoman Kendra Wong) *(moved up to General Business Item E.1.)*
E.9. 2017/2018 Board of Trustees Work Plan: Confirm the consensus and assign Trustees to submit their top four (4) items to the District Clerk by no later than March 31, 2017 (Requesting Trustee: Chairwoman Kendra Wong) - CARRY OVER ITEM FROM THE MARCH 23, 2017 MEETING

Chairwoman Wong gave an overview of the submitted materials.

Trustee Callicrate thanked Chairwoman Wong for putting this together as it made it easier to digest. He would like to work on Ordinance 7, then the Master Plan, then Communication and then Financial Reporting and since the Chairwoman wants us to be specific, how are we to let the clerk know. Chairwoman Wong said stay within the four main categories and then rank them 1, 2, 3, and 4. Trustee Morris said these are due on April 26. Chairwoman Wong said that is correct and she did that to give you time to think about it and then we can discuss it at the May 10 meeting.

E.10. Review, discuss and possibly take action on a Legislative Update regarding proposed legislation (Assembly Bills (AB) 5, 32, 34, 42, 100, 106, 109, 140, 154, 193, 209, 246, 280, 349, 379, 406 and 433; Senate Bills (SB) 26, 47, 51, 54, 63, 78, 85, 87, 134, 145, 146, 150, 170, 246, 317, 335, 357, 460, 462, 471, and 494 - available at the Legislature’s website www.leg.state.nv.us) being considered during the 2017 Legislative Session that may impact IVGID and direct District General Counsel to take affirmative steps on any legislation during the 2017 Legislative Session of the State of Nevada (Requesting Staff Members: General Manager Steve Pinkerton and District General Counsel Jason Guinasso)

District General Counsel Guinasso gave an overview of the submitted materials as well as an update on the various State of Nevada Assembly and Senate Bills.

Trustee Callicrate asked from the last Board meeting to this Board meeting, have you or anyone else gone before the Legislature and spoken.

Callicrate – from last meeting to this meeting, have you or anyone else gone before the Legislature and spoken. District General Counsel Guinasso said no rather he has just gathered information. Trustee Callicrate said in the context of each one of these bills, is he acting as a defacto lobbyist and do
you have to register as it can get a little confusing as to whether one has to register or not. District General Counsel Guinasso said he is already a registered lobbyist as he does represent other clients in the Legislature. He did include IVGID, NLTFPD, and IVCB on his registration as he had to do that ahead of time so if any Board decided they wanted him to appear he would be ready to appear. Chairwoman Wong said this is about whether or not we want to direct our attorney and/or Staff and then the direction of whether or not IVGID supports or not supports would come from the Board – that is what is on the table for discussion. District General Counsel Guinasso said he is presently not advocating on any bills. There are some bills on prevailing wages and there are two pieces of legislation that would have a significant impact on the projects that IVGID does. He is using those as an example and he doesn’t know IVGID’s position. Trustee Morris said there is a difference between lobbying and giving testimony. If someone is representing us to refute facts, he doesn’t think of that as lobbying as lobbying is persuading someone. District General Counsel Guinasso said that is a good point. One can testify in support, in opposition, or neutrally. If you do testify, you do have to register and while our proposal is to provide neutral, factually information, he would like to have the Board’s endorsement in that regard as to facts, etc. Legislators don’t know about general improvement districts and giving them information, in general, is good as they may not understand the nuances and that their decisions could impact this community. Trustee Horan said that for any testimony, for or against, that direction should come from this Board. The Board should be involved in any type of presentation as opposed to choice of counsel or General Manager. Trustee Callicrate said he agrees. Chairwoman Wong asked, logistically, how that works when we have to agendize three days before so could we miss a time frame. District General Counsel Guinasso said we don’t have enough notice as typically the hearings are agendized two days, at the maximum three days ahead, and that is the best case scenario. He got notice of a hearing for tomorrow that was added ten minutes ago. In the past, the District had lobbyist that worked on the behalf of IVGID. Over the last several sessions, the District hasn’t had that representation. We do have legal counsel that are representing others that is monitoring legislation and an example would be on prevailing wage. He had authority to give testimony and call Staff and ask them to testify and then discuss how the bill would drive costs. This allowed our Legislators to understand the impact. If he would have had to bring that item back to the Board, we wouldn’t be able to act because the decision would have been made. Trustee Morris asked what do other entities do and does one assume that the lobbyist decides the position and that we give that direction. District General Counsel Guinasso
said that is correct and noted that the City of Reno, City of Sparks and Washoe County have lobbyists that reports to the General Manager. The General Manager directs a lot of the position and most of the time it has been with broad principles. They have a designated council person to coordinate with the General Manager and the lobbyist if something comes up that is unexpected. Chairwoman Wong asked how much does a lobbyist cost. District General Counsel Guinasso said they range between $2,500 per month up to $10,000 per month. His lobbying is at a cost of $150 per hour as cited in their contract and noted that he did this report under our retainer and didn’t charge for additional services. For the additional legwork done on Assembly Bill 349, he did charge the District an hour under additional services. Trustee Callicrate said, for this legislative session, he would feel more comfortable if this Board, for the next time, actually hired a standalone lobbyist. He does appreciate this document however it does represent ceding to District General Counsel and the General Manager where in years past we have had a lobbyist and then we haven’t and we are still doing okay fifty plus year later. As this information is accessible to the public, he doesn’t want to see us giving away authority. He has concerns and while he understands he has our best interests in mind, he doesn’t feel comfortable giving that authority away. If something comes up that is of dire importance, the Board must be made aware of it. Chairwoman Wong said we won’t have that opportunity if we don’t enable our Staff and District General Counsel to respond with factual information. We will lose any ability we have to respond because of their noticing and we won’t have the time to notice a meeting so we would be giving up our voice on these bills rather she would like us to be clear and she would advocate for that. Trustee Morris said he is not advocating for that and he respects Trustee Callicrate but having had some experience we need to ability to react as to just let it happen would be the worst. He doesn’t want to go all out but he does think it would behoove this Board to authorize someone to be able to respond with factual/neutral testimony and that is something he would like to see. Trustee Horan said that he doesn’t have any problem with neutral, advocating is where he has a problem. Chairwoman Wong said so if a request comes from a committee for factual information, we want to be able to respond. Trustee Morris asked what about testimony that was given that was factually incorrect. District General Counsel Guinasso said it would be factually only and that your current rules do allow the General Manager to do this. At the last Legislative session, we had a Staff member go and give factual information which was objected to by a number of our Board members so we want to be transparent by bringing factual information that is helpful thus we would like to have that authority. Trustee Dent asked if this is what other
general improvement districts do as his only concern would be is this correcting the record as he wants to allow anyone to make their public and don't want to shut that down. District General Counsel Guinasso responded that other general improvement districts showed up to testify on Senate Bills 462 and 471 because those general improvement districts recognized that the bill would affect their interests, i.e. dissolve them. They gave their perspective and the bill sponsor made some modifications; this is an example of getting involved and protecting their interests. While it is certainly not government's role to shut down public comments when comments are made that aren't ethical and are not providing information or alleged, we all have to understand that the Legislators are making decision based on what they are hearing and they are not getting full information. Regarding the public records law, this has gone through litigation, and when misinformation is given to try and make a change to the law it is incumbent on the District to set the record straight. That is the only reason and it is certainly enough. He provide the context with this report in order to involve the Board while being sensitive to their concerns and authority. Trustee Morris said that this is twofold, lobbying or not, and are there any red or yellow alerts out there on any bills that Counsel wants to draw attention to. District General Counsel Guinasso, in response, went over a number of bills. District General Manager Pinkerton said from a timing perspective and in hindsight, he would like to try and find a time to talk about this sooner as functionally it hasn't really been possible up until this meeting. The ability to continue to introduce legislation does put all of us in a tough position especially when we then have two or three weeks to make this decision. Bigger agencies do deal with this and function differently as they are proactive where we are reactive. For us, there is always a challenge to figure out how we react. District General Counsel Guinasso said that he would remind the Board that he brought this to its attention in January and noted that it could have an impact but that he didn't have the bill language which has trickled out over several weeks and then we got two giant bill dumps which result in about eight hundred pieces of legislation that is being considered during a ten to fourteen day window and that this was the first opportunity to provide a comprehensive overview and then have this discussion which is unfortunate. Chairwoman Wong said that October 2018 would be when we should discuss the potential for a lobbyist so last October would have been the ideal timing to have had this conversation. District General Manager Pinkerton said we will have an election in November 2018 so the earliest would be to talk about it after the election. Chairwoman Wong said so probably in December. General Manager Pinkerton said yes and Staff will make a note. Chairwoman Wong
said so this resolves it going forward; what would the Board like to do for this Legislative session.

Trustee Morris made a motion for District General Counsel and District General Manager to provide neutral and factual information and testimony to the Legislature on matters that affect IVGID. Chairwoman Wong seconded the motion. Chairwoman Wong asked for comments.

Trustee Dent said so is this an open checkbook or is there a dollar limit. Chairwoman Wong asked Trustee Dent to propose a dollar amount. District General Counsel Guinasso said we can utilize the additional services clause in the current contract or he can submit a proposal which can come in the form of an e-mail or the District General Manager can manage it within his authority or the Board can limit to a specific number. He doesn’t anticipate a large amount of time and in the event of something major, he would go through the process outlined in the contract. Trustee Morris said it is a valid point and that he would propose we keep it within the District General Manager’s authority. Chairwoman Wong said then no amendment to the motion is necessary because that policy already exists. Trustee Dent asked what that dollar amount was. District General Counsel Guinasso said it is up to $50,000 but that he can’t imagine spending more than $2,500 which is ball parking it. District General Manager Pinkerton said twenty hours would be three thousand dollars.

Trustee Morris amended his motion to include a dollar limit of up to three thousand dollars. Chairwoman Wong seconded the amendment. Hearing no further comments, Chairwoman Wong called the question and the amended motion passed unanimously.

F. DISTRICT STAFF UPDATE

F.1. General Manager Steve Pinkerton

- Washoe County Community Area Plan
- Financial Reporting

General Manager Steve Pinkerton gave a report on each of the above items.
G.  APPROVAL OF MINUTES *(for possible action)*

G.1.  Regular Meeting of March 9, 2017

Chairwoman Wong asked for any changes, receiving none, she deemed the minutes of the regular meeting of March 9, 2017 approved as submitted.

H.  REPORTS TO THE IVGID BOARD OF TRUSTEES*

H.1.  District General Counsel Jason Guinasso

District General Counsel Guinasso said he had nothing further to report.

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 the Nevada League of Cities is hosting Legislator Day and that she will send out that information.

Trustee Dent said that he would like to have an update on the Katz lawsuit as it has been a couple of months since we were last updated. Additionally, he is interested in bringing back public comment on each General Business item and, regarding the Board meeting times, he would like to have all Board meetings later in the evening.

J.  CORRESPONDENCE RECEIVED BY THE DISTRICT*

District Clerk Susan Herron said that correspondence has been received from Bill O'Donnell, Frank Wright, and Aaron Katz. It has been distributed and will be included in the next Board packet in hard copy.

Trustee Callicrate asked District Clerk Herron about correspondence being withheld as it is what is counter to what we have been doing. District General Counsel Guinasso said that he can address why it was withheld and that is because the correspondence had legal ramifications and it was pulled due to potential liability; he can address this further during a litigation meeting with the Board.
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.

Gene Brockman said that he now knows why he stuck around; the general improvement district is a limited power municipality and it is high time we take that position. There are only two other general improvement districts that come close to the scope of this general improvement district. In reality, IVGID ranks eleventh or twelfth as the largest municipality in this State as a general improvement district. We should have eyes and ears at the Legislative Session and during the interim. Frankly, it is appalling that this District no longer has a lobbyist as it is cheap insurance to essentially know what is going on. When we don’t have one on contract, it has been his experience that the General Manager is empowered to manage it as he is in the best position to take quick action on legislation of importance to this District. Lobbyists have to register but he, as an individual, can give testimony so in the future, he hopes that this Board will demand that a lobbyist be put on Staff.

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

District General Manager Pinkerton went over the Long Range Calendar and noted that the Audit Committee meeting is going to move to May 10 and noted that the meeting scheduled for April 25 was moved to that date due to a Trustee conflict.

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

The meeting was adjourned at 5:00 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.
Minutes
Meeting of April 13, 2017
Page 24

Submitted by Aaron Katz (3 pages): Written Statement to be included in the written minutes of this April 13, 2017 Regular IVGID Board Meeting – Agenda Item E(10) – Review and take action with respect to lobbying for or against proposed legislation

Submitted by Margaret Martini (1 page): Board Meeting 4-13-2017

Submitted by Steve Dolan (1 page): Put on the Agenda today April 13, 2017

Submitted by Aaron Katz (26 pages): Written Statement to be included in the written minutes of this April 13, 2017 Regular IVGID Board Meeting – Agenda Item E(8) – Parasol Foundation’s request to modify Donald Reynolds Non-Profit Center’s ground lease/land use restrictions
INTRODUCTION: Here Mr. Guinasso and staff seek permission to represent the IVGID BOT in lobbying for or against proposed State legislation. Because I VGID has no power to engage in these activities, I object. And that's the purpose of this written statement.

IVGID is Not a Form of Government With General Powers. Instead, it is a Special District With Limited Basic Powers: According to the Legislative Counsel Bureau, "the purpose of...GiD(s) is to provide municipal-type services to an area which needs them, but which may not need (n)or want the full range of services implied by incorporation. (Thus) GiDs are most effectively used where it will be necessary to carry out ongoing operation and maintenance of a (particular) facility or service." Given GiDs are creatures of County Boards of Commissioners ["County Boards" [see NRS 318.015(1) and 318.075(1)]], the only "basic powers" they may exercise are those expressly included in their initiating [NRS 318.055(4)(b)] or supplemental (NRS 318.077) ordinance(s) with the added proviso those powers be "one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein."

Dillon's Rule: Moreover, since "Nevada is considered a state without home rule...(local) governments generally have only those powers that are (expressly) granted to them by the Legislature...(because) without home rule, the general application of 'Dillon's Rule' limits the powers of counties, cities...towns" and here, I VGID. In other words, "[A] municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable."

1 Since "all of such statutes...constitute a grant of power to certain boards and governing bodies, and (they) are a deprivation of powers and privileges in respect to the individuals residing within the affected areas...(they)...must...be strictly construed, to include no more than (the) Legislature clearly intended" [see A.G.O. No. 63-61, p. 103 (August 12, 1963)].
2 GiDs are quasi-municipal corporations [NRS 318.015(1) and 318.075(1)].
IVGID's Creation: IVGID was created on May 20, 1961 as a "body corporate and politic and a quasi-municipal corporation" [NRS 318.075(1)] pursuant to Washoe County Board Bill No. 57, Ordinance 97. Its initial basic powers were limited to: 1) grading, re-grading, surfacing and resurfacing Incline Village streets, alleys and public highways; 2) constructing, reconstructing and improving Incline Village streets with curbs, gutters, drains, catch basins and sidewalks; 3) constructing, reconstructing, replacing or extending storm, sewer and other drainage; 4) constructing, reconstructing, improving, extending or bettering Incline Village's sanitary sewer system; and, 5) acquiring, constructing, reconstructing, improving, extending or bettering facilities for the supply, storage and distribution of water. In other words, IVGID was created to be nothing more than a public utility district.

IVGID's Assumption of Recreation Powers: When IVGID was created, no GID was authorized to exercise "basic powers" to furnish facilities for recreation. But as a result of changes to the predecessor of today's NRS 318.116(14), effective July of 1965 GIDs were then allowed to exercise such powers if granted by their County Boards. A search of the legislative history behind this change in law will reveal that IVGID and its then Harold B. Tiller (see discussion below) were proponents.

Once the law changed, IVGID sought this new basic power from the Washoe County Board and on November 15, 1965 it was granted the additional basic power to furnish facilities for "public" recreation⁴ (see Washoe County Board Bill No. 132, Ordinance No. 97). I emphasize the word "public" because ever since June 4, 1968 IVGID has been exercising the basic power to furnish facilities for non-public or private recreation; a completely different power it has never been granted.

IVGID's Assumption of Additional Powers Based Upon Their Alleged Incidence, Necessity and/or Implication: IVGID staff will argue IVGID has the power to furnish facilities and services for all questionable purposes whether or not necessary to furnish facilities for public recreation, because of NRS 318.210 which gives the Board the power to "exercise all rights and powers necessary or incidental to or implied from the specific powers granted in...chapter" NRS 318. I disagree for at least two reasons. First, because of Dillon's Rule (discussed above). And second, because of the doctrine of expressio unius est exclusio alterius which in lay person's terms declares that:

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⁴ At the time the predecessor to today's NRS 318.116(14) did not recognize the "basic power" of any form of "recreation" other than "public recreation." Although that predecessor was amended in 1967 to remove the word "public," IVGID has never been granted that power by the Washoe County Board; i.e., to furnish facilities for non-public recreation.
"To express one thing is to exclude another. This maxim reflects a form of reasoning that is widespread and important in interpretation...the a contrario argument...(i.e. the) negative implication (or)...implied exclusion. An implied exclusion argument lies whenever there is reason to believe that if the Legislature had meant to include a particular thing within the ambit of its legislation, it would have referred to that thing expressly. Because of this expectation, the Legislature's failure to mention 'the thing' becomes grounds for inferring that it was deliberately excluded. Although there is no express exclusion, exclusion is implied.\textsuperscript{5}

Thus "whenever there is reason to believe that if the Legislature had meant to include a particular thing within the ambit of its legislation it would have referred to that thing expressly...(its) failure to mention the thing becomes grounds for inferring that it was deliberately excluded."\textsuperscript{5}

**IVGID Has No Power to Lobby for Against Legislation:** Whether or not IVGID has the power to furnish facilities and services for all of the questionable purposes it does, there's little argument that because it is not a general government, it has no power to pass laws or to lobby for or against State legislation. The basic powers a GID may exercise, if expressly granted by its County Board, are set forth in NRS 318.116. An examination of those powers reveals that it has no express power to lobby for or against legislation. Even if such a power were recognized, since there is no question IVGID has never been granted this power by the County Board, it does not exist.

**Conclusion:** Dillion's Rule goes on to state that if there be any doubt as to whether a local government may legitimately exercise a power, that doubt is to be resolved against the exercise of that power. Although I do not believe there is any doubt, assuming arguendo there is, that doubt must be resolved against IVGID. I urge the Board to stop staff from spending local property owners' Recreation ("the RFF") and Beach ("the BFF") Facility Fees on endeavors it has no power to pursue.

**Mr. Guinasso's Attorney's Fees:** Additionally, I want to know whether IVGID has been charged additional attorney's fees for Mr. Guinasso to investigate and report the pending legislation he has, and if so, how much and who authorized this expenditure? I ask the Board to please report back to the public.

**And You Wonder Why the RFF and BFF are as High as They Are?** I've now provided more answers.

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


3
Board mtg 4-13-2019

1. Meetings held @ times where public funds had to attend = shrinking public participation
2. Feelings of hopeless participation when only have 3 minutes + a huge agenda
3. Correspondence no longer in Board meeting - arbitrary decision - need reason found
4. Generally NO response to letters - emails sent to Board
5. New Bogus Survey - selective participation - only 20% of questions - when do taxpayers get their questions acknowledged
6. 2008 general obligation bond is retiring in a few short months in 2018 - do the rec fee going to be reduced - or are you going to secretly re-purpose the funds again - Transparency - I hope you learned your lesson on the last "ri-purpose" secrecy that you were caught red-handed on.

Dr Martinez
507 5930 NV NV
Put on the Agenda Today  
April 13, 2017

I want to thank you for adding a dog park to the Phase 3 Long term agenda.
Trustee Dent seems to think there is not the desire for a dog park with his continued
asking of the question – hoping it will disappear. 300 + 35 ~ 45% for his FLASH
VOTE

Do we need a dog park? NO we live in the forest, but here again is what will benefit
from having one:
1. 90 year old geezers that you pander to need it.
2. People without the time or energy to walk the woods with a dog need it
3. Owners with rescue or young dogs that need fencing need it
4. 2016 TRPA near shore lake environmental reports that out of 52 sites
around the lake Incline is one of two that has not improved in 14 years of
testing (about the same amount of time the TEMPORARY dog park landed at
Village Green
5. (2016) Submitted TRPA generated testing of nutrients and turbidity which
clearly shows spike at Village green
6. Parents want VG cleaned up for their children
7. Children hate sliding in poop.
8. Teenagers hate sliding in poo.
9. College kid using the park for la Cross hate the shit
10. Concert goers
11. 4th of July event participants
12. x-terra
13. Tournaments
14. Environmental Stream clarity for riparian SEZ health
15. Stream Clarity and health
16. Sent you a photo showing direct drainage of VG laden with fecal mater
draining directly to Third Creek – NO RESPONSE correctively or
verbally.
17. Tahoe Conservancy water tester warned me that Incline should be
concerned about summer rains washing fecal pollutants into streams
and then the kids swimming in it at the roped off swimming area. I
responded that it doesn't matter because there is plenty of shit from Ski
Beach filtering in continually during the summer from high wind dust
and waves.
18. Law: Merriam-Webster definition: Livestock; “animals kept or raised
for use or pleasure” IVGID has been herding its 40 to 100 per day
livestock into the SEZ area of both Incline Creek, and 3rd creek against
the rules and regulations established in 1989 Tahoe Basin Lake Tahoe.

Blatant disregard for Constituents, Environment, and Law
19 months to put on the agenda cleaning up Village Green.
WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS
APRIL 13, 2017 REGULAR IVGID BOARD MEETING – AGENDA ITEM E(8)
— PARASOL FOUNDATION'S REQUEST TO MODIFY DONALD REYNOLDS
NON-PROFIT CENTER'S GROUND LEASE/LAND USE RESTRICTIONS

Introduction: Here the IVGID BOT Chairperson asks that the Board authorize staff to spend efforts considering the Parasol Foundation's ("Parasol's") request for modification of its current ground lease underneath the Donald Reynolds Non-Profit Center Building ("the building"). Because IVGID should never have entered into such a lease in the first place, there is no reason for IVGID to discuss anything further with Parasol other than Parasol's rescission of that lease, at no cost whatsoever to the public. And that's the purpose of this written statement.

Underlying Facts: As Ms. Wong's April 4, 2017 memorandum¹ admits, the land underneath the building (2.36 acres) is owned by IVGID. Parasol currently has a $1/year ground lease, and Parasol's proposed modification "would no longer meet the land use requirements of the ground lease." But there is far more to this story:

1. The land which is the subject of Parasol's ground lease was purchased by IVGID in 1977 as part of a larger 26.6 acre parcel for $1.25M². In other words, the public's pro-rata cost in 1977 for Parasol's 2.36 acres was nearly $110K!

2. Although that land was initially purchased with a loan from the utility rates and charges paid by IVGID water and sewer services customers, that loan was subsequently repaid with Rec Fee monies.

3. The ground lease with Parasol commenced January 12, 2000 for an "initial term" of thirty (30) years, "with three (3) additional, twenty-three (23) year options to renew/extend."³ In other words, a whopping ninety-nine (99) years!

4. Thus stated differently, $110K of our Rec Fee was given away to Parasol for what? $1/year for 99 years or a whopping $99.


² See paragraph 1 of that September 26, 1977 "Purchase Agreement and Escrow Instructions" ("the purchase agreement") between IVGID and Boise Cascade Home & Land Corporation ("Boise-Cascade"), a copy of which is attached to this written statement as Exhibit "A."

³ See sections II(A)-(B) of that "IVGID-Parasol Foundation of Incline Village Lease," a copy of which is attached as Exhibit "B" to this written statement.
5. But the issue before the Board is far worse. At the time of IVGID's purchase, the land was conveyed with Covenants, Conditions and Restrictions ("the CC&Rs") which protected the public by expressly restricting its permissible use in perpetuity "only for park and recreational and related purposes, and for no other purposes" whatsoever. In other words, since Rec Fees were being used to purchase these 26.6 acres, their use had to be limited to "park and recreational...purposes, and...no other purposes."

6. Moreover, paragraph 18(b) of the purchase agreement was "contingent upon (IVGID) obtaining final court approval of the purchase agreement prior to the close of escrow," or IVGID's "waive(r) in writing" of this contingency. I have made a public records request upon Susan Herron for examination of that court approval, identity of the case number for which that approval was sought, and/or evidence of any written waiver of this approval by IVGID, and Susan has provided NOTHING. Therefore as far as I am concerned, IVGID's purchase of this land for the purpose represented was invalid from day one. And it is capable of invalidation today if beyond IVGID's powers.

7. Unbelievably 22 years after IVGID's purchase of these 26.6 acres, a former IVGID Board decided to give away the public's subject 2.36 acres to Parasol. Even though Parasol's intended use would clearly be in violation of the CC&Rs, did that stop Parasol and the Board from this giveaway?

8. Of course not! IVGID being the dirty entity it nearly always is (and do not these facts point to IVGID's unclean hands), here it sought the circumvention of this prohibition. And its vehicle of choice became retroactive modification of the land's use restrictions. Putting aside the question of whether CC&Rs which impact persons other than the parties to a land purchase can be modified without providing notice and the opportunity to be heard to all persons impacted, the original seller of this land (Boise-Cascade) no longer existed. So how could Parasol and IVGID accomplish their proposed CC&R modification?

9. Since all that remained of Boise Cascade was a servicing arm [Gardena Service Company ("GSC") which had no power to change the prior deed's use restrictions, let alone 22 years after the fact, IVGID chose to pay this servicing arm with more public moneys to modify the property's CC&Rs. Thus on July 1, 1999, paragraph 1 of those use restrictions was modified to now read as follows:

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4 See that November 16, 1977 deed to the subject 26.6 acres expressly "subject to the restrictions described (in) Exhibit 1-A attached together with paragraph 1 of the CC&Rs, copies of both of which are attached as Exhibit "C" to this written statement.
5 In other words, an action to determine the validity of proposed governmental action.
6 I have attached a copy of this modification (i.e., Amendment to CC&Rs) as Exhibit "D" to this written statement.
"The property shall be used only for park and recreational and related purposes and for no other purposes except for the construction of a building for the use of the Parasol Foundation, Parasol Foundation collaborators or the Parasol Foundation legal successors."

10. How much did IVGID pay to secure this modification? Again, I have made a public records request upon Susan Herron and can you guess he response? We don't keep financial records that far back so she has nothing to provide. Really? Well how about other public records like minutes of Board meetings where this payment was approved by the IVGID Board? Or an agreement between IVGID and GSC whereby the parties agreed to the modification and GSC was released from any liability as a result of its modifying the CC&Rs? Again, none was produced even though I fully expect they exist.

11. Nevertheless, how much of this fee did Parasol pay given modification of the land's use restriction was for its direct benefit? Again the answer is zero.

12. Putting aside the question of whether the modified CC&Rs which impact persons other than the parties to IVGID's land purchase can be modified without providing notice and the opportunity to be heard by all persons impacted, the CC&Rs were amended to permit Parasol non-profit center, recreation and park use ONLY. Not an office building occupied by persons other than Parasol, and not an IVGID administrative building. Instead, for recreation and park purposes only!

13. Did IVGID go back to court to get validation of this material change 22 years after the fact? Of course not. If it had, what do you think the outcome would have been? Thus here we have another invalid IVGID act at local property owners' expense.

14. In fact, if you look at paragraph XV of the lease between IVGID and Parasol, you will see where Parasol was put on notice of the fact that its proposed use of public land for purposes other than recreation and parks might be invalid. Notwithstanding, Parasol chose to move forward at its peril.

15. Moreover, if you examine paragraph IV(A) of the lease between IVGID and Parasol, it is quite clear that the public's land can ONLY be used "for the purposes of conducting thereon a Nonprofit Center, and related facilities, activities, seminars, work shops, lectures, and occasional fund raising events. Lessee shall not use or permit said premises, or any part thereof, to be used for any other purpose or purposes without the express prior written consent of" IVGID. And should Parasol fail to operate the building or significantly reduce its use from what was contemplated in Parasol's Long-term Business Plan, or should its primary use of the building change for purposes other than as intended, or should Parasol's primary use of the property differ from that originally intended, according to paragraph XIII(B)(8) of the lease between IVGID and Parasol the property, expressly including all improvements thereon (i.e., the building), shall revert to IVGID's full use and ownership.
16. According to the Board's chairperson, on March 17, 2017 Parasol "sent a letter to the IVGID BOT indicating an interest in possibly modifying the existing ground lease." Since I am certain most of the public has never seen that letter, I have attached a copy as Exhibit "E" to this written statement. Don't you see how cryptically the letter is written? Don't you see how reference is made to Ron Alling as Parasol's point person who can be contacted for further particulars? I want the Board and the public to know this was and is an intentional misnomer. I called Mr. Alling to learn more of Parasol's proposed plans for the building. Although he was not available to discuss those plans with me, I left a message with his secretary asking he return my call. Unsurprisingly to me, he never did. And now we must rely upon the IVGID Board's Chairperson's recital at page 103 of the 4/13/2017 Board packet for Parasol's true intent.

Parasol Proposes Changing Use of the Donald Reynolds Building From That Originally Intended: meaning all improvements thereon (i.e., the building), shall revert to IVGID's full use and ownership without the payment of anything to Parasol. So what is there to discuss?

Staff's Justification That the Donald Reynolds Building Can be Used for Recreational Programming Purposes is Disingenuous: IVGID already has a building for that purpose; the Recreation Center. Given essentially none of the nearly 100 programs staff operates out of the Recreation Center operates at a revenue neutral or on a positive cash flow basis, what justification exists to spend hundreds of thousands if not millions more to acquire use of the Donald Reynolds Building allegedly for these purposes? Since the answer is NONE, shouldn't we look behind staff's labeling to learn of the real purposes?

But the Donald Reynolds Building Cannot be Used for IVGID's "Office Space Needs:" Such use would violate the underlying land's use restrictions. Moreover, that land was acquired with Rec Fee moneys for park and recreation purposes only. To now use this land for administrative office space purposes would mean that the Rec Fee is being used for another impermissible purpose; i.e., the alleged availability to use a public recreational facility. If staff is allowed to get away with this misrepresentation, then it means there are essentially no limits whatsoever on what IVGID staff can use Rec Fee moneys for which as I and others have complained, is wrong, wrong, wrong!

Please remember, the ends do not justify the means. It is what is represented to local property owners that matters; something most of you seem to have forgotten.

Conclusion: It is time to nip this misuse in the bud. If Parasol no longer intends to conform to the current lease's restrictions, then it must give up the building for no "adequate consideration for the remaining life of the building('s) improvements." If it is not willing to accept this consequence, then it must use the building as originally intended without any other compensation for the lease's remaining term. In fact, this entire transaction should be set aside because where does IVGID get off charging local property owners to acquire property supposedly to be used for park and recreation purposes only, and then give it away to anyone at all? Now the Board has the opportunity to make things right, and I and others I know demand that is exactly what it does.
And You Wonder Why the Recreation and Beach Facility Fees are as High as They Are? I've now provided more answers.

Respectfully, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).
EXHIBIT "A"
PURCHASE AGREEMENT AND INSTRUCTIONS

TO: First Commercial Title
Incline Village Plaza
P.O. Drawer A-F
Incline Village, Nevada 89450
Attention: Trish Imperial

Gentlemen:

1. Recital. HOUS CASACDE HOME & LAND CORPORATION, a Delaware corporation ("Seller"), is the owner of that certain real property in the County of Washoe, State of Nevada, described in Exhibit "A" attached hereto and made a part hereof (the "Property"). When this document or counterparts hereof have been executed by Seller and INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT ("Buyer"), and delivered to you, it shall constitute your escrow instructions and a binding agreement between the parties relating to the purchase and sale of the Property for a purchase price of One Million Two Hundred Fifty Thousand Dollars ($1,250,000) (the "Purchase Price").

2. Authority to Deliver Documents and Funds. Buyer herewith hands you the sum of Ten Thousand Dollars ($10,000.00) on account of the Purchase Price. Buyer will, at least two business days prior to the "Closing Date" (as that term is defined in Paragraph 7 below), hand you the funds constituting the balance of the Purchase Price due Seller at close of escrow, as more particularly set forth in Paragraph 3 below, together with all other funds and documents necessary on the part of Buyer to enable you to comply with these Instructions. You are authorized to deliver such documents and to disburse such funds on account of the purchase price on the Closing Date, provided (i) you can issue your standard form CLTA owner's Policy of Title Insurance with liability in the amount of the total Purchase Price showing title to the Property vested in Buyer, SUBJECT ONLY TO:
any and all costs, expenses, losses, attorneys' fees and liabilities (including, but not limited to claims of mechanic's liens) incurred or sustained by Buyer as a result of Seller's removal of said sales office.

17. Indemnity for Prior Acts. Seller agrees to indemnify and hold Buyer harmless from any and all costs, expenses, losses, attorneys' fees and liabilities incurred or sustained by Buyer as a result of any act or negligence of Seller in connection with the Property occurring prior to the close of escrow.

18. Closing Contingencies.

(a) Seller's obligation to consummate the sale of the Property to Buyer and Buyer's obligation to consummate the purchase of the Property from Seller at the close of escrow is contingent upon the conveyance to Hambel Ocheltree of Seller's property described on Exhibit "3" attached hereto and made a part hereof, and the conveyance by gift deed from Hambel Ocheltree to Buyer of the Property described in Exhibit "4" attached hereto and made a part hereof prior to or concurrently with the close of escrow.

(b) Buyer's obligation to consummate the purchase of the Property from Seller at the close of escrow is contingent upon Buyer's obtaining final court approval of this Agreement prior to the close of escrow. Buyer's contingency set forth in this Subparagraph 18(b) may be waived in writing by Buyer.


(a) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Seller and Buyer, provided, however, that Buyer shall not have the right to assign any of its rights under this Agreement without the prior written consent of Seller.
EXHIBIT "B"
IVGID-PARASOL FOUNDATION OF INCLINE VILLAGE LEASE

THIS LEASE ("Lease") is made and entered into effective this 12th day of January, 2000, by and between the INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT (hereinafter "LESSOR"), as Lessor, and the Parasol Foundation, Inc., a Nevada Corporation d.b.a. THE PARASOL FOUNDATION OF INCLINE VILLAGE, a Nevada nonprofit corporation (hereinafter "LESSEE"), as Lessee.

RECITALS

A. Lessee has approached Lessor, requesting that Lessor consider leasing to Lessee a parcel of Lessor’s public land, for Lessee’s proposed Nonprofit Center, and related facilities.

B. Lessee wishes to lease for the public benefit from Lessor certain public land for the purpose of operating a Nonprofit Center and related facilities pursuant to the provisions contained in this Lease.

C. The subject development is to be known as the Donald W. Reynolds Community/Nonprofit Center (herein called the “NONPROFIT CENTER”).

D. Lessor, a quasi municipal corporation formed under NRS 318.010, et seq., is willing to lease a parcel of its public land for Lessee’s stated purpose.

E. Lessor is the owner of the premises composed of approximately one and one-half (1 ½) acres adjacent to the Incline Village Middle School parking lot and Incline Way, situated below Tahoe Boulevard-Nevada State Highway Route 28, Incline Village General Improvement District, Washoe County, Nevada, being a portion of Assessor’s Parcel No. 127-030-15, with legal description attached hereto as Exhibit “A”, and made a part hereof by reference.
F. Lessee, through its duly authorized officers, agents and representatives, is very pleased with the above-referenced parcel; has inspected the subject property; is fully aware of its condition; and acknowledges that said parcel will meet Lessee's needs.

G. On May 28, 1997, as part of its regular meeting agenda, IVGID's Board of Trustees formally agreed to lease the subject realty to Lessee, provided that all pre-conditions and conditions are met and strictly adhered to by Lessee.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Lessor and Lessee agree as follows:

I

LEASE OF PREMISES

Lessor leases to Lessee, and Lessee leases from Lessor, that certain real property and improvements situated thereon, owned by IVGID, and fully described in Recital E, above, on the terms and conditions hereinafter set forth.

II

TERM; OPTION TO EXTEND

A. Term. The term of this Lease shall commence on the 12th day of January, 2000, and be for a term of thirty (30) years, ending at 12:01 a.m. of the last day thereof. This thirty (30) year term shall be referred to herein as "Initial Term." If Lessor is unable to deliver possession of the premises at the commencement date set forth above, Lessor will not be liable for any damage claimed to be caused by the delay, nor will this Lease be void or voidable, but Lessee will not be liable for any rent until possession is delivered. Lessee may terminate this Lease if possession is not delivered within thirty (30) days of the commencement of this Initial Term.
B. **Option to Extend Lease.** Lessee shall have the option to extend the lease term, for three (3) additional, twenty-three (23) year options to renew/extend. Notwithstanding anything herein contained to the contrary, in no event shall the Initial Term extend beyond thirty (30) years without a prior written extension in writing signed by both parties or their designee(s), which shall be conditioned upon Lessee's meeting the criteria/requirements/conditions and terms discussed in the several sections hereinbelow. Specifically, all of the three (3) such extensions shall be on the following conditions:

1. **Lessee shall not be in default.** At the time Lessee gives Lessor Lessee's written notice of election to extend or renew this Lease, as provided herein, Lessee shall not be materially in default of any of its obligations under this lease. If Lessee is in default of any of the material obligations at the time it gives written notice of intent to extend the Initial Term, or any options thereafter, the notice shall be ineffective.

2. **Type and nature of notice.** Lessee shall give the Lessor written notice of its election to exercise the extension no later than six (6) months before the expiration of the Initial Term, and any proposed renewals thereafter. The Lessee's notice may be personally delivered to the Lessor or mailed to the Lessor; provided, however, if the notice is mailed it must be mailed postage prepaid, certified mail, return receipt requested, to the addressee provided in this Lease or at any such other addresses Lessor may in writing later direct. The time of deposit in the mail shall not constitute sufficient notice to Lessor, as notice is deemed to be effective only upon receipt thereof by the Lessor. No attempt to exercise the
decision or judgment rendered, together with all costs, charges, interest, and penalties, incidental to the decision or judgment.

IV

USE; LIMITATIONS ON USE

A. Use of premises. Lessee shall use the premises for the purposes of conducting thereon a Nonprofit Center, and related facilities, activities, seminars, work shops, lectures, and occasional fund raising events. Lessee shall not use or permit said premises, or any part thereof, to be used for any other purpose or purposes, without the express prior written consent of Lessor. Again, special use of the facility not related to the aforementioned activities, such as concerts, shall require prior written approval of Lessor or its designee.

B. Lessee's limitations. Lessee shall not do, bring, or keep anything in or about the premises that will cause a cancellation of any insurance, or increase an insurance covering the premises. Lessee shall, at Lessee's sole cost, comply with any and all laws, ordinances and any other relevant requirements pertaining to the use of said premises of any insurance organization or company necessary for the maintenance of reasonable fire and public liability insurance covering property and persons which and who are its responsibility hereunder.

C. Compliance with laws. Lessee shall comply with all laws concerning the premises or Lessee's use of the premises, including, without limitation, unless contrary to provisions herein, the obligation at Lessee's cost to alter, maintain, or restore the Premises in compliance and in conformity with all laws relating to the condition, use, or occupancy of the premises during the terms.

D. Waste; Activities Prohibited. Lessee shall not use the premises in any manner that will constitute waste, nuisance, or unreasonable annoyance to owners, neighbors, or
4. **Voluntary assignment; Involuntary assignment.** Both a voluntary assignment and an involuntary assignment shall constitute a default by Lessee, and Lessor shall have the right to elect to terminate this Lease, and any rights incidental to it, in which case this Lease shall not be treated as an asset of the Lessee.

XIII.

**DEFAULTS; EXPIRATION; REMEDIES**

A. **Events of Default.** The occurrence of any of the following shall constitute a default by the Lessee:

1. **Failure to pay.** Lessee shall default in the payment of any sum of money required to be paid hereunder, as well as any financial conditions herein, and such defaults continue for thirty (30) days after written notice thereof from Lessor to Lessee;

2. **Failure of performance.** Lessee shall default in the performance of any other material provisions, covenants or conditions of this Lease on the part of Lessee to be kept and performed and such default continues for ninety (90) days after written notice thereof from Lessor to Lessee; PROVIDED, HOWEVER, that if the default complained of in such notice is of such a nature that the same can be rectified or cured, but cannot with reasonable diligence be done within said ninety (90) day period, then such default shall be deemed to be rectified or cured if Lessee shall, within said 90-day period, commence to rectify and cure the same and shall thereafter complete such rectification and cure with all due diligence, and in any event, within one hundred and twenty (120) days from the date of giving of such notice. Lessee shall provide to Lessor, timely written notice of the plan to rectify, as well as the timing of the completion of such rectification;
3. **Failure to Operate Facility.** At any time during the course of this Initial Term or any extension hereof, Lessee fails to operate the facility to Lessor's satisfaction, including but not limited to the following:

(a) Failure to pay its bills and obligations in a timely manner; or,

(b) A significant reduction in use from what is contemplated in Parasol's Long-term Business Plan; or,

(c) Failure to comply with promised dates for access by IVGID, as herein provided: the access shall be exclusive, as to the designated room, twelve (12) days per calendar year; it shall be in any order, combination or times, subject to Lessor's providing Lessee the advance written notice of intended use, as indicated as follows: such written notice shall be provided to Lessee in January of each year; at least thirty (30) days prior to the intended use, Lessor shall provide written notice of its confirmation of the reservation; such use shall be between the hours of 3 p.m. and midnight; Lessee shall make available to Lessor a meeting room sufficient to accommodate the number of people that are anticipated will be attending the specific meeting, not to exceed 100 people; Lessor will reimburse Lessee for any of Lessee's reasonable "out-of-pocket costs" incidental to each such meeting; and the parties agree that there shall be no indemnification of Lessor by Lessee during Lessor's exclusive use of the leased premises, absent Lessee's negligence or intentional acts or omissions. Notwithstanding, should Lessor fail to provide the requisite written notice, or fail to confirm as outlined above, and should Lessee
have the requested space or comparable space available, then Lessor shall be entitled to use the requested space, as if Lessor had met the referenced conditions precedent to such use. In the event Lessee does not comply with this section, Lessor will accept as its sole remedy, payment from Lessee sufficient to secure a comparable local meeting facility. or,

(d) Failure to maintain appropriate licenses and permits as necessary to and for the operation of the facility.

4. **Vacation of premises.** Lessee should vacate or abandon the leased property during the term of this Lease, including by operation of law; or

5. **Bankruptcy.** There is filed any petition in bankruptcy, or Lessee is adjudicated as a bankrupt or insolvent, or there is appointed a receiver or trustee to take possession of all, or substantially all, of the assets of Lessee, or there is a general assignment by Lessee for the benefit of creditors, or any action is taken by or against Lessee under any state or federal insolvency or bankruptcy act, or any similar law now or thereafter in effect, including, without limitation, the filing of any petition for or in reorganization, or should the leased property or any portion thereof be taken or seized under levy of execution or attachment against Lessee, and the continuance of the same in effect for a period of ten (10) days.

Notwithstanding anything herein contained to the contrary, if Lessee is the subject of an involuntary petition in bankruptcy, Lessee shall have the right to contest any such petition. Any such contest must be timely; otherwise, the attempt to oppose the petition shall not avoid Lessor’s claim of default.
6. Improper use of premises. Should Lessee's primary use of the property for a
purpose or for purposes other than as intended hereunder, persist in such use after
thirty (30) day's written notice to cease and desist any such different or contrary
uses, then the property, including all improvements thereon, shall revert to
Lessor's full use and ownership. Improper use shall also include ancillary
activities associated with the facility, such as rock bands, destructive behavior of
patrons, parking lot abuses, or any other behavior deemed inappropriate by
Lessor's Board of Trustees.

7. Demolition Reserve Fund. Further, in addition to any endowment funds or
programs discussed above, Lessor may, in its sole discretion, also require that
Lessee establish a reserve fund, obtain a surety bond or other form of acceptable
security, to guarantee that Lessee will be able to meet the condition of demolition
and removal.

8. Lessor's right to review plans. Lessee shall not commence construction prior to
affording Lessor with at least thirty (30) days written notice for Lessor's review
and written comments respecting the plans of the Center, the parking and
driveway layouts, pedestrian pathways, and landscaping. Lessee will make every
effort to accommodate reasonable input from Lessor.

9. Required financial resources. Lessee fails to demonstrate to Lessor's full
satisfaction that Lessee possesses the financial resources with which to undertake
and complete the construction of the proposed Nonprofit Center facility, including
sufficient allowances or reserves for unforeseen contingencies which may develop
during construction. This shall include adequate written proof of Lessee's
be applied by Lessor to the account or credit of Lessee, and shall be an offset by
Lessee respecting any rent or damages due by Lessee.

7. **Return to Natural Condition.** In its sole discretion, Lessor may require Lessee to
remove the Nonprofit Center facility from the leased premises and return said real
estate to its former, natural state/condition.

8. **Board Action.** Should Lessee fail to comply with or meet any of the requirements
of XIII(A)(3)(a) through and including (e), immediately above, and any such
failure or act(s) continues for thirty (30) days after written notice thereof from
Lessor to Lessee, then Lessee shall be subject to remedial action by Lessor's
Board of Trustees, which action may include, but not be limited to, termination of
this Lease and assumption of full ownership and use of the Leased realty,
including all improvements and fixtures, but not limited thereto.

XIV.

**ENTRY AND INSPECTION**

Lessee shall permit Lessor and its agents, including Lessor's staff, members of Lessor's
Board of Trustees, other management staff of Lessor, attorney, real estate agent or broker,
architects, but not limited to them, to enter into and upon the premises at all reasonable times and
for whatever purpose Lessor shall deem reasonable and appropriate. Lessee shall permit Lessor,
at any time during this Lease, to enter said premises and exhibit all aspects of the same to
prospective tenants, or prospective purchasers, without affecting Lessee's option to extend the
Lease. On reasonable notice, any person desiring to lease or purchase the premises, shall be
permitted to inspect the premises at reasonable times.
XV.

RESTRICTIVE COVENANT

Lessor and Lessee have full knowledge of the existence of the November 16, 1977, Deed from Boise Cascade Home & Land Corporation, a Delaware corporation, to Lessor, which Deed contains a restrictive covenant which affects the realty being leased hereunder; that the 1977 Deed’s Covenants, Conditions and Restrictions limit the use of said realty to the following uses: “...park and recreational and related purposes and for no other purposes;” that, the restrictions have been amended twice; that the relevant amendment, executed July 1, 1999, was signed by Irving Littman, President of Gardena Service Company, a California corporation, with the latter corporation being the successor of Boise Cascade Home & Land Corporation; that said amendment reiterates the foregoing mentioned restriction, excepting however, “the construction of a building for the use of the Parasol Foundation, Parasol Foundation collaborators or the Parasol Foundation legal successors.”

Although the referenced Amendment To Covenants, Conditions and Restrictions appears to resolve any concerns about the use to which the subject property may not be put, Lessee hereby assumes full and complete responsibility regarding said issue, and hereby agrees to hold Lessor free and harmless of any claims, demands or lawsuits by any persons who may challenge the Amendment. Lessee further agrees to indemnify Lessor concerning any such claims, including orders, judgments, attorney’s fees and costs.

Lastly, assuming such has not been done, Lessee shall, within thirty (30) days of the full signing of this Lease, record the July 1, 1999, Amendment, in the official records of Washoe County, Nevada.
EXHIBIT “C”
THIS INDENTURE, made this 16th of November, 1977, by and between BOISE CASCADE HOME AND LAND CORPORATION, a Delaware corporation who acquired title as INCLINE VILLAGE, INC., a Nevada corporation, and INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, the Grantor, and the Grantee,

WITNESSETH:

THAT the said Grantor, for and in consideration of the sum of TEN ($10.00) DOLLARS, lawful money of the United States of America, to it in hand paid by the said Grantee, the receipt whereof being hereby acknowledged, does by these presents grant, bargain, sell and convey unto the said Grantee all that certain real property situate, lying and being in the County of Washoe, State of Nevada, more particularly described as follows, to wit:

See Exhibit "A", attached hereto and made a part hereof.

Subject to the restrictions described Exhibit 1-A attached.

TOGETHER WITH, all and singular, the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD said premises, together with the appurtenances, unto the said Grantee, and to its heirs and assigns, forever.

IN WITNESS WHEREOF, the said Grantor has hereunto executed these presents the day and year first above written.

WHEN RECIEVED PLEASE MAIL TO: BOISE CASCADE HOME AND LAND CORPORATION
FIRST COMMERCIAL TITLE, INC.
Drewer AF
Incline Village, Nev. 89450

By: (Signature)

Asst. Vice Pres.,

(Title)

STATE OF NEVADA
COUNTY OF WASHOE

On November 16, 1977, personally appeared before me, a notary public, who acknowledged that he executed the above instrument on behalf of BOISE CASCADE HOME AND LAND CORPORATION.

Notary Public
TRISH A. LIVERTY
Notary Public - State of Nevada
Nevada County

503002
COVENANTS, CONDITIONS AND RESTRICTIONS

By acceptance of this Deed, Grantee, on behalf of itself, its successors and assigns, covenants and agrees to accept the real property described herein (the "Property"), subject to the restrictions, covenants and conditions hereinafter set forth, which shall constitute covenants running with the land, as provided by law, and shall be binding on all parties now or hereafter owning or possessing the Property.

1. The Property shall be used only for park and recreational and related purposes and for no other purposes.

2. Grantor, its successors and assigns, shall have the right to prevent and stop violation of any of these restrictions by injunction or other lawful procedure and to recover damages resulting from such violation.

3. All of these restrictions run with the land and shall be binding upon Grantee, its successors and assigns, and all persons claiming by, through or under them, for a period of fifty (50) years from the date these restrictions are recorded.

4. Invalidity of any one of the above restrictions or provisions by a Court Judgment, or decree, shall in no way affect any of the other restrictions or provisions; such other restrictions and provisions shall remain in full force and effect.

EXHIBIT "1-A"
AMENDMENT TO
COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, the undersigned Gardena Service Company, a California corporation, successor by merger to Boise Cascade Home & Land Corporation, executed a Deed dated November 16, 1977, to Incline Village General Improvement District (IVGID) recorded as document 503002, Book 1168, pages 174 to 176 in the office of the Washoe County Recorder, and

WHEREAS, said Deed contains Covenants, Conditions and Restrictions which provide in Paragraph 1 thereof:

1. The property shall be used only for park and recreational and related purposes and for no other purposes.

WHEREAS, it is the desire to IVGID to allow a portion of the real property described in Exhibit A to be used by the Parasol Foundation for a building to house said Parasol Foundation and Parasol Foundation collaborators.

NOW, THEREFORE, said Covenants, Conditions and Restrictions are amended in respect to Paragraph 1 to state:

1. The property shall be used only for park and recreational and related purposes and for no other purposes except for the construction of a building for the use of the Parasol Foundation, Parasol Foundation collaborators or the Parasol Foundation legal successors.

In all other respects, said Covenants, Conditions and Restrictions shall remain the same.

Dated this 1st day of July, 1999.

GARDENA SERVICE COMPANY

STATE OF IDAHO )
) ss.
County of Ada )

On July 1, 1999, personally appeared before me, a Notary Public, Irving Littman, President of Gardena Service Company, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary Public

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March 17, 2017

Incline Village General Improvement District Board of Trustees
C/O Kendra Wong, Chairwoman
893 Southwood Blvd.
Incline Village, NV 89451

Dear Chairwoman Wong,

I am writing on behalf of the Parasol Tahoe Community Foundation (Parasol) Board of Directors. As you may be aware, Parasol recently celebrated its 20th anniversary of serving the community and is now looking forward to celebrating the 15th anniversary of the opening of the Donald W. Reynolds Community Non-Profit Center (DWR Center) this summer. Such major milestones signal an opportunity for a community foundation to pause, reflect and review its past accomplishments, evaluate its current programs, and strategize goals for the best ways to serve the community going forward. Therefore, the Parasol Board of Directors has spent the past year taking an in-depth look at our work in the community and brainstorming new opportunities to effectively meet the changing needs of the community in the future.

One of the opportunities identified by our board would require a modification of the Land Lease currently in place between Parasol and the Incline Village General Improvement District (IVGID). Our board believes that this option would not only broadly serve the whole community but also address pressing issues currently facing the district. We would welcome the opportunity to discuss this option with IVGID in more detail at your earliest convenience. If IVGID still has an interest in pursuing this opportunity, our board has appointed Ron Alling as our point person on this matter and he can be reached at 775-588-6676.

Thank you for your kind consideration and we looking forward to the possibility of better serving the community through our ongoing partnership.

Respectfully,