

M E M O R A N D U M

TO: Audit Committee

THROUGH: Matt Dent

FROM: Clifford F. Dobler

SUBJECT: External review on the effect of complying with Dillon's Rule relating to employee benefits

STRATEGIC

PLAN REFERENCE(S): None

DATE: 11-30-2020

I. RECOMMENDATION

That the Audit Committee make recommendation to the IVGID Board of Trustees as follows:

A) That the Audit Committee, on behalf of the Board of Trustees, engage an outside law firm to create specific Policies and Practices which addresses the various employee benefits as outlined in the 11-30-2020 opinion by legal counsel.

B) That the Audit Committee, on behalf of the Board of Trustees, engage an outside law firm to create a specific Policy and Practice which addresses the payment of resources for meals to outside contractors.

It is the opinion of IVGID's Legal Counsel that the following Employee benefits are allowed by provisions of NRS 318.180 318.185 and 318.210 and do not violate Dillon's Rule

Employee Benefits -

Venue Cards to employees

Business Trips expense reimbursements
Birthday Parties and related gift certificates;
Celebration expenses and the use of purchase Cards
Rewards through IVGID "bucks" - Part of P.E.R.K program

It is the opinion of IVGID's Legal Council that any Contractor meals while meeting with Staff while not permissible under Dillon's Rule could be considered a business expense and should be clarified in an explicit policy.

Cited authorities

NRS 318.180 Employees: Power to hire and retain. The board shall have the power to **hire and retain** agents, employees, servants, engineers and attorneys, and any other persons necessary or desirable to effect the purposes of this chapter.

(Added to NRS by [1959, 464](#))

NRS 318.185 Employees: Duties and compensation. The board shall have the power to prescribe the duties of officers, agents, employees and servants, and fix their **compensation**.

(Added to NRS by [1959, 464](#))

NRS 318.210 Implied powers. The board shall have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter.

(Added to NRS by [1959, 465](#))

II. BACKGROUND

In April and May, 2020, two residents of Incline Village requested the Audit Committee to seek legal counsel to investigate whether IVGID has the authority to make certain questioned expenditures which could

be in direct violation of Dillon's Rule which requires expressed powers from the State of Nevada to make the questioned expenditures.

On June 30, 2020, Josh Nelson, IVGID's legal counsel, provided a presentation on his review and conclusions of IVGID's compliance with Dillon's Rule relating to the questioned expenditures brought forth by citizens. In general, Mr. Nelson found that the IVGID had proper authority under Dillon's Rule, however, suggested that certain Board Policies be adopted to allow certain expenditures. Audit Committee member Schmitz asked Mr. Nelson to identify the policies that needed to be drafted or were adequate policies in existence that needed to be reviewed and Ms. Schmitz concluded the policy review might be a good next step.

On September 2, 2020 Mr. Nelson's June presentation was again reviewed by the Audit Committee. According to meeting minutes the Audit Committee purported to request that Mr. Nelson provide a written opinion on his conclusions regarding the questioned expenditures and the opinion could then be posted on the District's website. Mr. Nelson requested that he provide his written opinion to the Audit Committee prior to the Audit Committee requesting an opinion from the Nevada Attorney General.

At large member Mr. Aaron asked Nelson if the list of staff expenditures was all inclusive and Mr. Nelson indicated it was limited to the 8 items listed in the citizens April and May correspondence .

On September 30, 2020 the agenda called for Mr. Nelson to present his written opinion which was not on Nelson's firm letter head. At large member Mr. Tullock requested the opinion be on Nelson's firm letter head. The agenda item was postponed.

On November 10, 2020, Mr. Nelson's written opinion was reviewed by the Audit Committee and a request was made for Mr. Nelson to provide the content on each and every NRS Statute and Board Policy and

Practice stated in his opinion. The agenda item was limited to only acknowledging receipt of Mr. Nelson's written opinion

III. BID RESULTS

Not required

IV. FINANCIAL IMPACT AND BUDGET

None

V. ALTERNATIVES

None

VI. COMMENTS

None

VII. STRATEGIC PLAN REFERENCE(S)

None

VIII. BUSINESS IMPACT

None.

or