

MEMORANDUM

TO: Board of Trustees

FROM: Josh Nelson
General Counsel

SUBJECT: Review, discuss, and provide direction on potential options regarding modifying non-resident employees' and Gold/Silver Card holders' access to beaches; and review, discuss, and potentially approve emergency Resolution No. 1888 to temporarily restrict non-resident employees' and Gold/Silver Card holders' access to beaches through December 31, 2021 due to the COVID-19 pandemic

DATE: May 12, 2021

I. RECOMMENDATION

That the Board of Trustees do the following:

1. Discuss and provide direction to Staff on potential next steps related to beach access for non-resident employees and non-resident Gold/Silver Card holders including any of the following:
 - (a) Maintain status quo (i.e., non-resident employees and Gold/Silver Card holders retain beach access)
 - (b) Restrict beach access by non-resident employees and Gold/Silver Card holders
 - (c) Obtain third party legal assistance regarding beach access by non-resident employees and Gold/Silver Card holders
2. Discuss and potentially adopt Resolution No. 1888 to temporarily restrict non-resident employees' and non-resident Gold/Silver Card holders' access to beaches through December 31, 2021 due to the COVID-19 pandemic.

II. BACKGROUND

IVGID owns and maintains beaches along Lake Tahoe. These beaches were deeded to IVGID in 1968. This deed (see Attachment #1) provides that the beaches shall be used "... only for the purposes of recreation by, and for the benefit

of property owners and their tenants (specifically including occupants of motels and hotels) within the Incline Village General Improvement District as now constituted, and as the Board of Trustees of said District may determine, the guests of such property owners....” The reference to IVGID “as now constituted” in the deed is important. Due to historical annexation and development patterns, this excludes Shoreline and Crystal Bay properties. Other relevant portions of the deed provide that IVGID may impose reasonable rules, regulations, and controls on beach access by owners. Ordinance No. 7 is an example of permissible rules, regulations, and controls.

The beach deed has been the subject of significant litigation. As an example, the Ninth Circuit Court of Appeals determined in *Wright v. IVGID* that the beaches were not a “public forum” under the First Amendment, and IVGID could treat property owners with beach access under the deed differently than those that did not have beach access. In doing so, it acknowledged that IVGID employees had the right to access the beach but the opinion does not discuss this issue in detail.

Neither *Wright v. IVGID* nor other litigation expressly considered whether IVGID can provide beach access to non-resident employees and non-resident Gold and Silver Card holders. The only somewhat relevant additional information is an ethics opinion from 1995 that determined that granting Gold and Silver Cards did not violate ethical requirements. (See Attachment #2.) This opinion does not (and would not given the limited jurisdiction of the Ethics Commission) discuss whether beach access is consistent with the beach deed.

However, there is a very long history of providing beach access to non-resident employees and non-resident Gold and Silver Card holders. Since at least the 1980s, beach access has been provided to non-resident employees and non-resident Gold and Silver Card holders. Based on prior Board minutes, resolutions granting employee privileges and the personnel policies (see Attachments #3 and #4), the rationale for providing non-resident employees and (presumably) non-resident Gold and Silver Card holders has been that they are acting as IVGID’s guest. As a property owner, IVGID is entitled to guest access as determined by the Board of Trustees. While IVGID’s ability to provide guest access must be subject to some limitations and likely would not permit opening beaches to all members of the public, a very limited carve-out for non-resident employees and non-resident Gold and Silver Card holders is most likely consistent with the plain language of the beach deed. In addition, if someone were to challenge this practice as inconsistent with the beach deed, IVGID could assert legal defenses based on the length of time of this practice.

Of course, the fact that IVGID has historically provided this privilege to non-resident employees and non-resident Gold and Silver Card holders does not mean that it must be provided. All prior Board resolutions and documents related to beach access clarify that access is provided as a privilege subject to Board modification or rescission. As such, the Board has the discretion (but not the obligation) to provide beach access to non-resident employees and non-resident Gold and Silver Card holders.

Staff requests Board direction on potential next steps. These include:

- Maintain status quo. The Board may decline to pursue this matter further. Beach access would remain as provided in current personnel policies subject to potential, temporary COVID-19 adjustment discussed below.
- Restrict beach access. The Board could direct Staff to bring amendments to the necessary resolutions and policies to restrict or eliminate beach access by non-resident employees and non-resident Gold/Silver Card holders.
- Third party legal assistance. The Board may wish to engage a third party legal firm to provide further assistance on whether providing access to non-resident employees and non-resident Gold and Silver Card holders is consistent with the beach deed. Staff has not obtained quotes as this point but could do so with Board direction.

Staff does not have a recommendation between the three options above.

As a related matter, the Board requested that Staff agendize consideration of an amendment to the recently adopted Resolution No. 1884 related to emergency limitations on access to the beaches due to COVID-19. This emergency resolution will decrease occupancy and make other changes during the 2021 beach season. When discussing this item at its April 28th meeting, the Board requested that Staff agendize an item to consider amending Resolution No. 1884 to temporarily restrict non-resident employees and non-resident Gold and Silver Card holders from the beaches. This action would only be in place for the 2021 beach season, and it could be combined with any of the options above related to long-term beach access.

Staff has no recommendation on this item. However, it is important to note that employee and dependent beach access is a relatively low amount of total beach

Review, discuss, and provide direction on potential options regarding modifying non-resident employees' and Gold/Silver Card holders' access to beaches; review, discuss, and potentially approve emergency Resolution No. 1888 to temporarily restrict non-resident employees' and Gold/Silver Card holders' access to beaches through December 31, 2021 due to the COVID-19 pandemic

visits, approximately 2% (see chart below). This includes resident and non-resident employees as well as dependents and silver & gold card holders. IVGID will be able to gather data during the peak of the 2021 beach season on total number of non-resident employees; however, the district identified by available data during the winter of 2020/21 that an estimated 30% of the approximately 540 current IVGID employees at the time of the report had addresses outside of Incline Village and Crystal Bay. In addition, there are potential administrative challenges in implementing a temporary modification to employee beach access. For example, most resident employees use their employee recreation card to access recreational facilities. Those employees may be required to obtain pictures passes to ensure beach access which may be challenging for some with no time to make arrangements.

In light of this, the Board may wish to consider other modifications to employee beach privileges. This could include not permitting spouses or dependents of employees to use the beach, distinguishing between full and part time employees, or other revisions short of restricting all access by non-resident employees.

Shown below are the 2018, 2019 and 2020 employee, spouse and/or dependent visits by beach:

REPORTS RAN FROM 5/1 TO 9/30 ANNUALLY

BURNT CEDAR	2018	2019	2020
CAT 1 FULL	580	556	511
CAT 2 PARTIAL	281	408	349
Cat 3 S/D <5	179	139	85
Cat 4 S/D >5	191	350	227
Cat 5 Dept Spec	2	14	17
GOLD	17	16	17
SILVER	21	64	72

INCLINE BEACH	2018	2019	2020
CAT 1 FULL	903	854	595
CAT 2 PARTIAL	422	444	394
Cat 3 S/D <5	117	85	212
Cat 4 S/D >5	298	368	311
Cat 5 Dept Spec	4	23	23
GOLD	13	16	19
SILVER	62	77	70

Review, discuss, and provide direction on potential options regarding modifying non-resident employees' and Gold/Silver Card holders' access to beaches; review, discuss, and potentially approve emergency Resolution No. 1888 to temporarily restrict non-resident employees' and Gold/Silver Card holders' access to beaches through December 31, 2021 due to the COVID-19 pandemic

SKI BEACH	2018	2019	2020
CAT 1 FULL	593	400	414
CAT 2 PARTIAL	220	113	314
Cat 3 S/D <5	21	30	56
Cat 4 S/D >5	136	70	141
Cat 5 Dept Spec	3	5	66
GOLD	7	1	1
SILVER	21	32	35

TOTALS-ALL BEACHES	2018	2019	2020
CAT 1 FULL	2076	1810	1520
CAT 2 PARTIAL	923	965	1057
Cat 3 S/D <5	317	254	353
Cat 4 S/D >5	625	788	679
Cat 5 Dept Spec	9	42	106
GOLD	37	33	37
SILVER	104	173	177
TOTALS-ALL BEACHES	4091	4065	3929

TOTAL VISITS - ALL BEACHES	199,802	198,406	213,727
Days of Operation	141	142	184

Percentage of Cat 1 Full, Cat 2 Partial, Cat 3 S/D <5, Cat 4 S/D >5, Cat 5 Dept Spec, Gold, and Silver Visits to Total Visits	2.05%	2.05%	1.84%
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III. FINANCIAL IMPACT AND BUDGET

There is little financial impact to this item.

IV. ALTERNATIVES

The Board can select among the options set forth in this report. As a reminder, those are:

Review, discuss, and provide direction on potential options regarding modifying non-resident employees' and Gold/Silver Card holders' access to beaches; review, discuss, **and** potentially approve emergency Resolution No. 1888 to temporarily restrict non-resident employees' and Gold/Silver Card holders' access to beaches through December 31, 2021 due to the COVID-19 pandemic

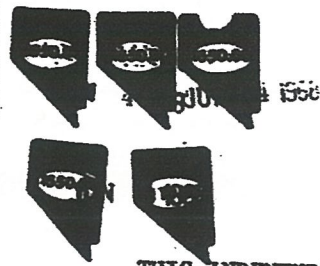
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May 12, 2021

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V. BUSINESS IMPACT

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



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R.P.T. : 2,310.00

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THIS INDENTURE, made this 4~~th~~ day of June, 1968, between VILLAGE DEVELOPMENT CO., formerly known as CRYSTAL BAY DEVELOPMENT CO., a Nevada corporation, party of the first part, (hereinafter referred to as "Grantor"), and INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, a quasi-municipal corporation organized and existing pursuant to the provisions of the General Improvement District Law, Chapter 318, Nevada Revised Statutes, party of the second part (hereinafter referred to as "Grantee"),

W I T N E S S E T H:

That the said party of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00), lawful money of the United States, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell and convey unto the said party of the second part, and to its successors and assigns, all that certain lot, piece or parcel of land situate in the County of Washoe, State of Nevada, more particularly described in Exhibit "A" attached hereto.

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, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to its successors and assigns forever.

It is hereby covenanted and agreed that the real property above described, and any and all improvements now or hereafter located thereon, shall be held, maintained and used by grantee,

Wm. Michael, Cass & White
ATTORNEYS AT LAW
300 SOUTH VIRGINIA ST.
RENO, NEVADA 89501

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1 its successors and assigns, only for the purposes of recreation
2 by, and for the benefit of, property owners and their tenants
3 (specifically including occupants of motels and hotels) within the
4 Incline Village General Improvement District as now constituted,
5 and, as the Board of Trustees of said District may determine, the
6 guests of such property owners, and for such other purposes as
7 are herein expressly authorized.

8 This covenant shall be in perpetuity, shall be binding
9 upon the successors and assigns of grantee, shall run with and be
10 a charge against the land herein described, shall be for the
11 benefit of each parcel of real property located within the area
12 presently designated and described as Incline Village General
13 Improvement District and shall be enforceable by the owners
14 of such parcels and their heirs, successors and assigns; provided,
15 however, that said Board of Trustees shall have authority to levy
16 assessments and charges as provided by law, and to control, regu-
17 late, maintain and improve said property as in its sole discretion
18 it shall deem reasonable and necessary to effectuate the purposes
19 herein mentioned; and provided, further, the said District shall
20 have the right to use the real property above described for the
21 maintenance and operation of the water pumping facilities now
22 located thereon and such other utility facilities necessary to
23 the operation of the District.

24 Grantor, for the benefit of itself and its successors
25 and assigns in the ownership of real properties located within the
26 presently constituted boundaries of Incline Village General Improve-
27 ment District, and for the benefit of all other owners of property
28 located within said boundaries, and their respective successors
29 and assigns in such ownership, hereby specifically reserves an
30 easement to enter upon the above described real property and to

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Wm. Edmund, James B. Wilson
ATTORNEYS AT LAW
500 SOUTH WASHINGTON ST.
RENO, NEVADA 89505

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1 use said real property for the recreational uses and purposes
2 specified herein. Said District shall have the authority to
3 impose reasonable rules, regulations and controls upon the use
4 of said easement by the owners thereof.

5 The easement hereby created and reserved shall be appur-
6 tenant to all properties located within the Incline Village
7 General Improvement District, as said District is now constituted.
8 Such easement may not be sold, assigned or transferred in gross,
9 either voluntarily or involuntarily, but shall pass with any
10 conveyance of real properties within said District as now consti-
11 tuted.

12 IN WITNESS WHEREOF, the said party of the first part
13 has hereunto set its hand and seal the day and year first above
14 written.

15
16 ATTEST:

17 [Signature]
18 Secretary

VILLAGE DEVELOPMENT CO.

By [Signature]
President

19
20
21 ATTEST:

22 [Signature]
23 Secretary

ACCEPTED AND APPROVED:

INCLINE VILLAGE GENERAL IMPROVE-
MENT DISTRICT

By [Signature]
President

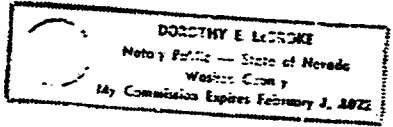
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1 STATE OF NEVADA }
2 COUNTY OF WASHOE } ss

3 On this --- day of June, 1968, before me, a Notary
4 Public in and for said County and State, personally appeared
5 *[Signature]* and *[Signature]*,
6 known to me to be the President and Secretary of the corporation
7 that executed the foregoing instrument, and upon oath, did depose
8 that they are the officers of said corporation as above desig-
9 nated; that they are acquainted with the seal of said corporation
10 and that the seal affixed to said instrument is the corporate
11 seal of said corporation; that the signatures to said instrument
12 were made by officers of said corporation as indicated after
13 said signatures; and that the said corporation executed the said
14 instrument freely and voluntarily and for the uses and purposes
15 therein mentioned.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 affixed my official stamp at my office in said County and State,
18 the day and year in this certificate first above written.

[Signature]
Notary Public



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W. B. Smith, David B. Wilson
ATTORNEYS AT LAW
100 SOUTH VIRGINIA ST.
RENO, NEVADA 89505

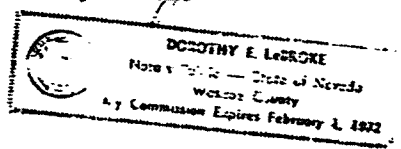
BOOK 324 PAGE 106

1 STATE OF NEVADA }
2 COUNTY OF WASHOE } ss

3 On this 17th day of June, 1968, before me, a Notary
4 Public in and for said County and State, personally appeared
5 George L. Sawyer and Frank L. Zimmerman,
6 known to me to be the President and Secretary of INCLINE VILLAGE
7 GENERAL IMPROVEMENT DISTRICT, the quasi-municipal corporation
8 that executed the foregoing instrument, and upon oath, did depose
9 that they are the officers of said corporation as above designated;
10 that they are acquainted with the seal of said corporation and
11 that the seal affixed to said instrument is the corporate seal
12 of said corporation; that the signatures to said instrument
13 were made by officers of said corporation as indicated after
14 said signatures; and that the said corporation executed the said
15 instrument freely and voluntarily and for the uses and purposes
16 therein mentioned.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 affixed my official stamp at my office in said County and State,
19 the day and year in this certificate first above written.

Doctory E. LeRone
Notary Public



24, 25, 26, 27, 28, 29, 30
Attorneys at Law
300 SOUTH VIRGINIA ST.
RENO, NEVADA 89505

DESCRIPTION

Situate in the County of Washoe, State of Nevada, as follows, to-wit:

PARCEL 1

A portion of Lots II, III and IV of Section 22, Township 16 North, Range 18 East, M.D.B. & M., more particularly described as follows:

Commencing at the Southwesterly corner of Lot 12 in Block N and the Northerly right of way line of Nevada State Highway No. 28, as said lot, block and Highway are shown on the map of Lakeview Subdivision, Washoe County, Nevada, filed in the office of the County Recorder of Washoe County, State of Nevada, on February 27, 1961; thence South 20° 35' 35" West 80.00 feet to a point in the Southerly right of way of said Highway; thence South 69° 24' 25" East 174.28 feet along the Southerly right of way line of said Highway to the true point of beginning of this description, said point of beginning also being the Northwest corner of that certain parcel conveyed to Crystal Bay Development Co. on September 30, 1963, under Filing No. 395633, Washoe County Records; thence continuing South 69° 24' 25" East 1251.79 feet along the Southerly right of way of said Highway to the Northwest corner of that certain parcel deeded to Pacific Bridge Company and Associates on October 23, 1963, under Filing No. 397736, Deed Records; thence South 20° 35' 35" West 574.75 feet, more or less, to Lake Tahoe; thence Westerly along Lake Tahoe to a point from which the true point of beginning of this description bears North 31° 07' 35" East; thence North 31° 07' 35" East to the true point of beginning of this description.

PARCEL 2

Beginning at the Southeasterly corner of Lot 24 in Block H of Lakeview Subdivision, Washoe County, Nevada, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on February 27, 1961; thence South 15° 11' 27" East 111.13 feet to a point on the Southerly right of way line of Nevada State Highway 28 as it now exists and the true point of beginning of this description, said point of beginning being the Northwest corner of Lot 36 of Lakeshore Subdivision No. 1, as said Lot 36 is shown on the map of Lakeshore Subdivision No. 1, Washoe County, Nevada, filed in the office of the County Recorder of Washoe County, State of Nevada, on June 28, 1960, and being on a curve concave to the Northeast, having a central angle of 4° 41' 11", a radius of 5040.00 feet and a tangent which bears North 61° 40' 36" West 206.23 feet, thence Northwesterly along said curve and the Southerly boundary of said highway 28, an arc distance of 412.24 feet; thence continuing along the Southerly right of way line of said highway 28, North 56° 59' 25" West 907.76 feet; thence leaving said Highway 28, South 27° 17' 46" West 90.72 feet; thence South 00° 50' 05" West to Lake Tahoe; thence running Southeasterly along Lake Tahoe to a point from which the true point of beginning bears North 28° 08' 35" East (Lakeshore Subdivision No. 1 bearing North 27° 16' 00" East); thence North 28° 08' 35" East along the Westerly boundary of said Lakeshore Subdivision No. 1 to the true point of beginning of this description.

RESERVING FROM the above described parcel an easement for maintaining and operating an existing pumping plant and pipe lines. 116713





Note of information: Basis of bearings, Lakeview Subdivision.

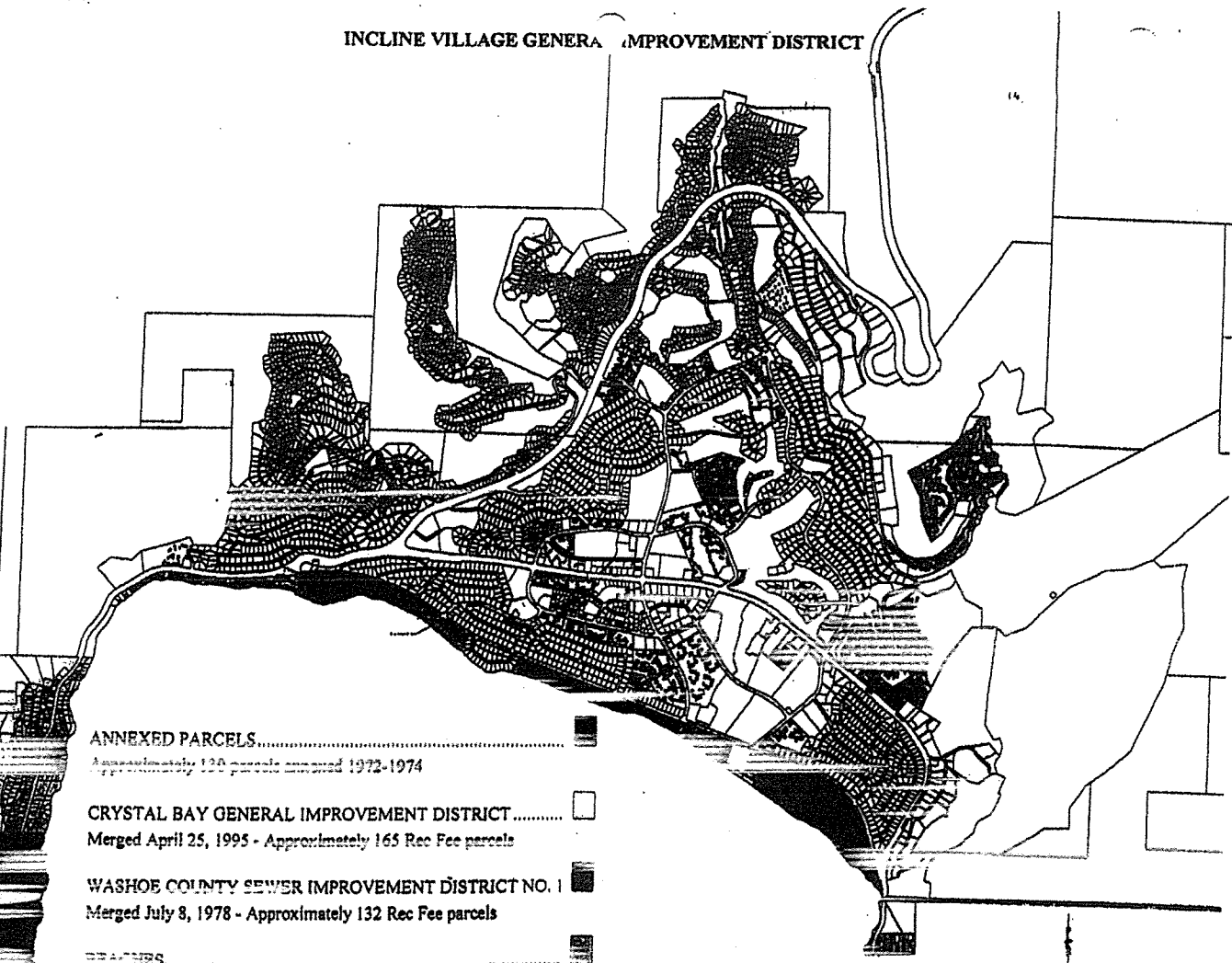
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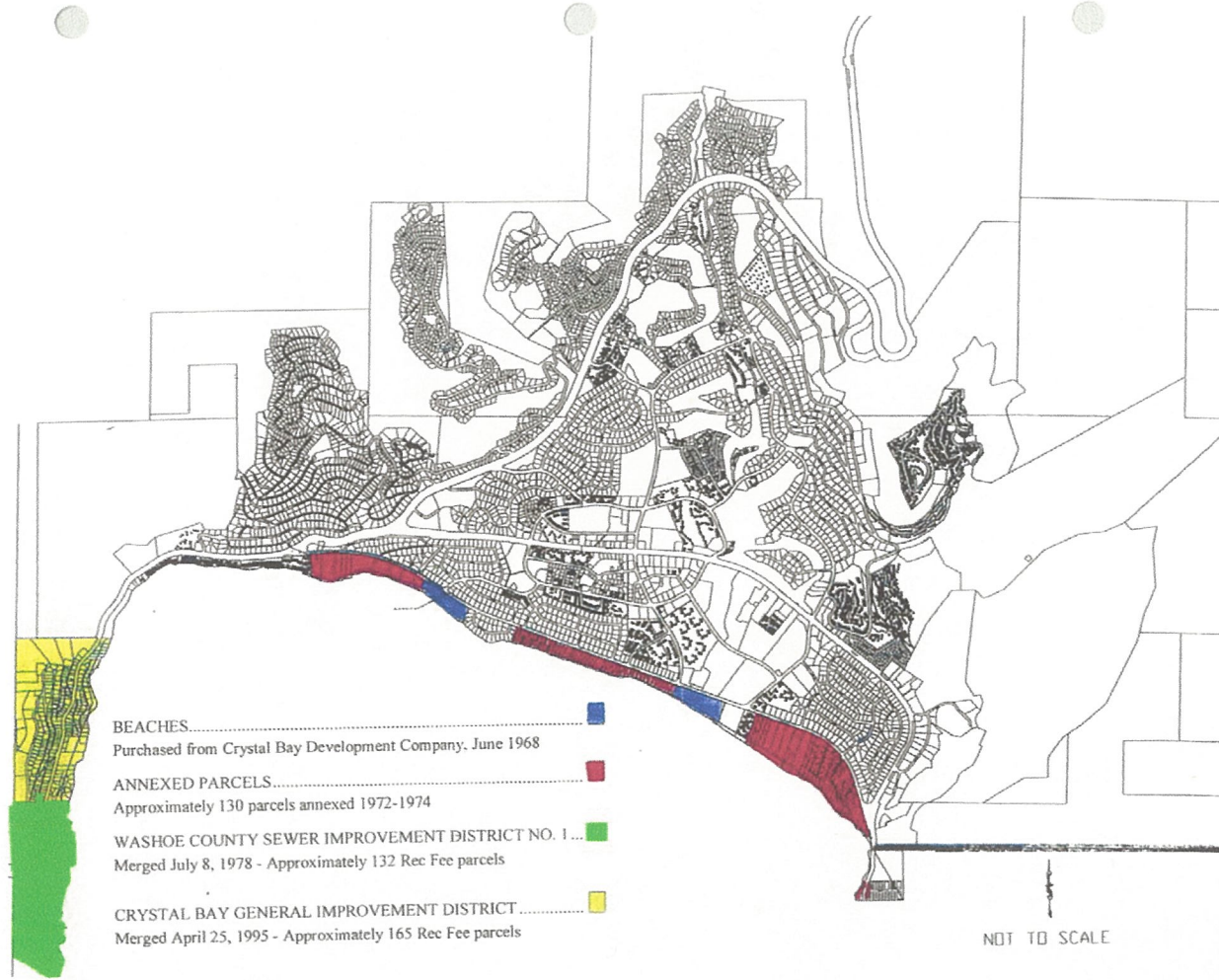
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Attachment A
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- ANNEXED PARCELS..... 
Approximately 120 parcels annexed 1972-1974
- CRYSTAL BAY GENERAL IMPROVEMENT DISTRICT 
Merged April 25, 1995 - Approximately 165 Rec Fee parcels
- WASHOE COUNTY SEWER IMPROVEMENT DISTRICT NO. 1 
Merged July 8, 1978 - Approximately 132 Rec Fee parcels
- BEACHES..... 
Purchased from Crystal Bay Development Company, June 1968



NOT TO SCALE



THOMAS R.C. WILSON
Chairman
Reno

WILLIAM R. MORSE
Vice Chairman
Las Vegas

STATE OF NEVADA



JUD ALLEN
MARY E. BOETSCH
HELEN CHISOLM
JONI WINES

COMMISSION ON ETHICS
Capitol Complex
Carson City, Nevada 89710
(702) 687-5469

December 29, 1995

Chairman and Board Members
Incline Village GID
893 Southwood Boulevard
Incline Village, Nevada 894451

RE: Opinion Requests #93-55

Dear Chairman and Board Members:

Enclosed please find a copy of Opinion #93-55, which the Commission recently issued in response to a request by Messrs Finnigan and Toto. As the Incline Village General Improvement District has waived confidentiality, this opinion will be made public.

If you have questions or concerns over this opinion, please do not hesitate to contact me.

Cordially,


Lee-Ann Keever,
Executive Secretary

/lak
CC: Louis Ling, Deputy Attorney General
Donna LaGue, Legal Researcher
Enclosure (1)

THOMAS R.C. WILSON
Chairman
Reno

WILLIAM R. MORSE
Vice Chairman
Las Vegas

STATE OF NEVADA



Dist to ...
...

JUD ALLEN
MARY E. BOETSCH
HELEN CHISOLM
JONI WINES

COMMISSION ON ETHICS
Capitol Complex
Carson City, Nevada 89710
(702) 687-5469

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Opinion Request
Regarding the Incline Village General
Improvement District

Opinion Request 93-55

This opinion is in response to the separate but consolidated opinion requests filed with the Nevada Commission on Ethics (Commission) by Mr. Brad Miller and Mr. George Toto regarding the policy and practice of the Incline Village District (IVGID) of issuing "Gold Cards" and "Silver Cards" to former and present IVGID employees and members of the Board of Trustees (IVGID Board). These cards entitle the bearers to either free lifetime or limited use of recreational facilities owned, operated, and managed by IVGID. The Commission has jurisdiction in this matter pursuant to NRS 281.511(2)(b).

After IVGID waived a just and sufficient cause hearing, the matter proceeded to a full hearing on the merits on June 30, 1994, in Incline Village, Nevada. Confidentiality of the matter was waived by IVGID pursuant to the provisions of NRS 281.511(4), and the hearing was accordingly open to the public. The Commission heard testimony from opinion requester, Mr. Toto; IVGID counsel, Ms. Terry Miller; IVGID Interim General Manager, Patrick Finnigan; IVGID Board chairman, Bernie Ferrari; former and present Board members; and interested residents of Incline Village. Opinion requester Brad Miller did not attend the hearing, but his deposition concerning the matter was introduced into evidence.

At the conclusion of the hearing the Commission closed the administrative record of the matter. The Commission now issues the following Findings and Conclusion.¹

¹ Chairman Thomas R. C. Wilson abstained from participating in this matter, and thus, Vice Chairman William R. Morse presided over this matter.

FINDINGS OF FACT

1. IVGID is organized as a general improvement district under the provisions of NRS ch. 318. IVGID is responsible for the management of community roads, local water and sewer collection, parks, baseball diamonds, tennis courts, golf courses, and a ski resort and recreational center in Incline Village, Washoe County, Nevada.

2. The IVGID Board of Trustees consists of five elected members who serve staggered four-year terms.

3. The IVGID Board has the power and authority to levy and collect general (*ad valorem*) taxes on and against all taxable property within the district. NRS 318.225.

4. At the time of the hearing on the matter, IVGID had 91 full-time employees, all of whom had free use of the IVGID recreational facilities on a restricted basis.

5. In 1977, the IVGID Board created "Gold Card" privileges to reward the then-current outgoing trustees for their service to IVGID. Gold Card privileges entitle the holder to free life-long use of any recreational facility owned by IVGID. This practice remained an informal one, and Gold Cards were occasionally awarded at the IVGID Board's discretion. In October 1981, Gold Cards were issued retroactively to all past trustees and one past general manager, all of whom had served at some time since 1961.

6. Until January 1985 (at which time the Board adopted a formal policy to reward retiring trustees with Gold Cards), Gold Cards were awarded at the Board's discretion, based only upon practice or informal action. Decisions to award Gold Cards were made generally by resolution of the IVGID Board in duly noticed public meetings.

7. All Incline Village residents are assessed a recreation fee in connection with the purchase of property in Incline Village. The majority of parcels are assessed a fee of approximately \$225.00 per year. Extra rates established by the IVGID Board from time to time are charged except for holders of a Gold Card.

8. There are approximately 7,000 voters in Incline Village including those who own and those who do not own residential property. The Incline Village electorate has not voted on the propriety of the issuance of Gold and Silver Cards to former trustees, managers, or long-term employees.

9. On January 31, 1985, a formal policy regarding the issuance of Gold Cards was instituted after the IVGID Board unanimously adopted Policy and Procedure Resolution No. 107 (Resolution 1483). Resolution 1483 provided that upon retiring from service on the IVGID

Board, each former trustee would receive a Gold Card in recognition of his or her service. The Board resolved that it wished to establish this practice as an IVGID policy.

10. On February 14, 1985, the IVGID Board rescinded its policy pending further hearing and completion of a staff survey of present Gold Card holders to determine the financial impact to the District resulting from usage of recreation facilities by Gold card holders. The report prepared as a result concluded that total gross revenue loss per year from the then-existing 27 Gold Cards was approximately \$1,100 to \$1,400, amounting to about \$40.00 to \$50.00 per Card per year.

11. On March 14, 1985, the IVGID Board voted to award Gold Cards to all past trustees who had not previously received Gold Cards and decided to leave this practice an informal one and subject to the discretion of future boards. Consequently, there was no written policy that the IVGID Board must follow to award Gold Cards to outgoing trustees.

12. In 1988, the Board voted to amend the District's Personnel Policy Manual to provide certain recreational privileges to long-time employees who leave the District in good standing (Resolution 1118). Resolution 1118 provides:

Upon termination in good standing, full-time permanent, seasonal management, and multi-seasonal employees having at least ten years of service with IVGID shall receive the privileges identified in the Table, "Recreation Privileges," as follows:

Silver Card. If the employee has at least ten, but less than twenty years of service with IVGID at the time of termination, then the employee shall receive a Silver Card, entitling the employee to the Silver Card privileges identified in the Table.

Gold Card. If the employee has at least twenty years of service with IVGID at the time of termination, then the employee shall receive a Gold Card, entitling the employee to the Gold Card privileges identified in the Table.

Silver and Gold Card benefits may be changed at any time, without advance notice. The General Manager may distribute Silver Cards and Gold Cards while employees are still employed, although the benefits do not apply until retirement, subject to the restriction that the employee shall forfeit the card upon termination, if the employee is not in good standing at termination.
(Added 11/10/88, Amended 5/10/90, 9/24/92)

13. Pursuant to the authority of Resolution 1118 as set forth immediately above, the Board has granted Gold Cards to three employees who had served IVGID and Silver Cards to 25 employees, one retired employee, and nine persons who resigned employment.

14. Under Resolution 1118, the Gold and Silver Cards permit the holders to use IVGID's recreational facilities without paying (Gold) or by paying a reduced access fee (Silver). The cards do not remove the duty by the holder to pay the annual recreational assessment on real property owned by him or her.

15. The cards are personal to the holder, and the privileges are nontransferable and cease with at the death of a holder. A single exception was allowed during the early years of the practice, at which time a former trustee had been critically ill and subsequently died. At his request, his card was awarded to his widow.

16. Prior to receiving a card, an IVGID employee would receive free use of IVGID facilities while his or her family would receive discounted use of those facilities, the rates of which would vary from facility to facility. In both instances, the access would be restricted. The privilege of card holders was also restricted. Card holders could use IVGID's facilities only if there were space available and no paying guests would be displaced. A card holder or employee would only be able to book use of IVGID facilities twenty-four hours in advance or risk being bumped. However, although a Gold Card holder would not be required to pay for use of IVGID facilities, in high season usage, a card holder or employee could and would be bumped from using the facilities.

17. On December 1, 1993, General Manager Rob Hunt resigned his position as an employee in good standing, after approximately nine years.

18. On December 3, 1993, Interim General Manager Patrick Finnigan presented a memorandum to the IVGID Board in connection with the proposed award of a Gold Card to Mr. Hunt. The memorandum provided background information about IVGID's past practices regarding the award of Gold Cards to employees, former employees, and former trustees.

19. During a subsequent public meeting to discuss the propriety of continuing the practice of awarding Gold Cards, Mr. Noel Manoukian, IVGID counsel, discussed the IVGID Board's deeply embedded and long-standing tradition, concluding that if the practice were adopted in a formal, written, deliberated policy where specific criteria for eligibility were described, it would probably be proper under Nevada law.

20. Following Mr. Manoukian's opinion, IVGID Board members moved that Mr. Hunt be provided with a Gold Card in appreciation of his nine years of "splendid service" to IVGID. An amendment to the motion conditioned the award upon a finding by Mr. Manoukian

that the practice was not illegal. The amendment, as accepted, was carried by a vote of three to one.

21. Mr. Hunt declined acceptance of the Gold Card pending the Commission's determination of the matter.

22. Since March 14, 1985, the Board has issued Gold Cards to all thirty-six former trustees, three former general managers, including Mr. Hunt, and three former IVGID employees in good standing based on their twenty year service to IVGID. Of these forty-two recipients, ten are deceased, and seven others have left the area and no longer benefit from their cards.

OPINION

Each of the five members of the IVGID Board are public officers within the meaning of NRS 281.4365 and members of the legislative branch of government as defined in NRS 281.4355. Their official duties include formulation of a budget for IVGID and authorization of expenditure of IVGID monies.

The issue presented is whether IVGID's alleged practice and policy of issuing recreational passes and privileges to retired trustees and former employees and to other public or private business entities or individuals under terms and conditions more favorable than those allowed residents violates the Nevada Ethics in Government Law.

I. Code of Ethical Standards

The relevant provisions of the Code of Ethical Standards are NRS 281.481(1), (2), and (7) which provide as follows:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of household, any business entity in which he has a significant pecuniary interest, or any other person.

7. A public officer or employee, other than a member of the

legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest.

The evidence demonstrated that both Gold and Silver Cards were awarded in recognition of an employee's or retiring trustee's past service. Though IVGID's policy guaranteed that a departing trustee would be issued a Gold Card, the awards were made in accordance with its policy and in open meetings with the knowledge of the community. Because the granting of the cards would never be made by an active Board member to himself or herself, we conclude that the practice would not tend to influence a reasonable person in the position of an IVGID Board member to depart from the faithful and impartial discharge of his or her public duties under NRS 281.481(1).

NRS 281.481(2) prohibits a public officer from using his governmental position to secure *unwarranted* advantages for any person. The Commission's examination of this point must focus on whether a municipal body, such as IVGID, can grant gifts of its largess to selected citizens. Some state constitutions expressly prohibit the legislature from granting to municipal corporations or counties the power to lend their credit or grant money or things of value to any individual, association, or corporation, and prohibit municipal corporations or counties from making any appropriation or donation, or in any way lending their credit, to any individual, corporation, or association. 56 **Am. Jur. 2d** *Municipal Corporations*, 588, n. 10 (1984 & Supp. 1994); Roger A. Cunningham, *Billboard Control Under The Highway Beautification Act of 1965*, 71 Mich. L. Rev. 1356, n.276 (June 1973). The purpose of constitutional provisions prohibiting such gratuities is to prevent transfer of public funds without receiving consideration in return. *City of Aurora v. Public Utilities Comm'n of State of Colo.*, 785 P.2d 1280 (Colo. 1990); *City of Tacoma v. Taxpayers of City of Tacoma*, 743 P.2d 793 (Wash. 1987).

In Nevada, *Gibson v. Mason*, 5 Nev. 283 (1869) stands for the proposition that under the Nevada Constitution a municipal corporation may be permitted by implication to grant donations of public funds. While article 8, section 10 of the Nevada Constitution expressly prohibits the State from becoming a stockholder in any company or association (except corporation formed for educational or charitable purposes) and expressly prohibits the state from donating money to them, neither counties nor towns are constitutionally forbidden from doing so. The Supreme Court reconciled the two provisions to conclude that counties and towns were intended to be exempt from the prohibition by virtue of legislative implication. Based upon *Gibson*, municipal corporations would be exempted from the constitutional prohibition against donations as well, and thus IVGID'S giving of Gold and Silver Cards could not be invalidated on those grounds.

Another Nevada case, *City of Las Vegas v. Ackerman*, 85 Nev. 493, 457 P.2d 525 (1969), further supports the IVGID Board's power and right to grant Gold and Silver Cards to

former members of the board. In *Ackerman*, city electors passed an initiative ordinance that increased the salary of firefighters and made the increase retroactive to a certain date. The trial judge deemed the ordinance "unenforceable" because he considered the retroactive increase to constitute a gratuity prohibited by article 8, section 9 of the Nevada Constitution.

The Nevada Supreme Court reversed that part of the declaratory judgment, noting that in each of the cases from other jurisdictions cited by opponents of the measure, there existed a specific constitutional prohibition against either a retroactive application of a statute or a prohibition against a gratuity by the state or a government subdivision to an individual. The Nevada Supreme Court found no specific statutory enactment or constitutional provision

A pension paid a governmental employee for long and efficient service is not an emolument which, by *Art. I, sec. 7*, of our Constitution, cannot be paid. To the contrary it is a deferred portion of the compensation earned for services rendered. In *Haldeman v. Hillegass*, 335 Pa. 375, 6 A.2d 801 (1939) the court, when considering retirement pay said: "This is in effect an acknowledgment by the legislature of prior service, and a recognition by it that long and faithful public employment should be compensated, emphasizing the purpose and scope of the provisions for retirement pay or delayed compensation."

Ackerman, at 501, quoting from *Great American Insurance Company v. Johnson*, 257 N.C. 367, 126 S.E.2d 92 (1962). The Nevada Supreme Court in *Ackerman* concluded:

While there is no prohibition against a municipality granting a gratuity, we find more specifically that the retroactive increase in salary for fire fighters as allowed in the initiative ordinance is in no way prohibited by any constitutional or statutory provision and it makes very little difference what the payment is to be, however, **we prefer to view it as a deferred portion of the compensation earned for services rendered.** (Emphasis supplied.)

Ackerman, at 501

It is important to note that in *Gibson* the Supreme Court emphasized public policy concerns similar to those states in which the constitution or statute expressly prohibited gifts by governmental agencies, namely that expenditure of public funds should always promote a public purpose. We agree with this public policy concern. As the Supreme Court stated in *Gibson*:

We do not wish to be understood as holding that the Legislature may enforce burdens upon or collect money from the citizens for any object that it may choose; for if it be imposed for

a purpose which is not public in its nature--that is, if it be not strictly a tax which is defined to be "a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State--then clearly it would be an unwarrantable exercise of power. But if it be levied for the purpose of furthering any public enterprise, or aiding any public undertaking whereby the community or public as such will be benefitted, it would clearly be otherwise. (Emphasis in original.)

Gibson, at 306-7. Thus, where the public interest will be in no way promoted by such a transfer, even where a compensation is paid, such as in the case of eminent domain, the right of the sovereign power to take a person's property does not exist in the absence of public benefit. *Gibson*, at 308.

While the award of Gold and Silver Card privileges surely constitutes a conferring of a public benefit upon private parties, we conclude that the IVGID Board's award of Gold and Silver Cards according to Resolution 1118 does not violate NRS 281.481(2) for several reasons. First, the giving of Gold and Silver Cards according to Resolution 1118 is an emolument of employment with or service to IVGID. Once Resolution 1118 was passed, all employees of IVGID would have a reasonable expectation that Gold or Silver Card privileges would await them once they had fulfilled the requisites for entitlement to the privileges. Viewed in this way, the Gold and Silver Cards are nothing more than deferred compensation, similar to the pension that was discussed and approved in *Great American Insurance Co. v. Johnson, infra.* and the retroactive pay increase discussed and approved in *Ackerman, infra.*

Second, the emolument or privilege represented by the Gold and Silver Cards is not "unwarranted" under NRS 281.481(2) because it is earned through service to the public. To qualify for a Silver Card, an IVGID employee must have dedicated ten years or more of his or her career in good service to the public served by IVGID. To qualify for a Gold Card, an IVGID employee must have dedicated twenty years or more of his or her career to the public served by IVGID. In all such cases, the public served by IVGID has received valuable service, in return for which it extends the Gold and Silver Card privileges as deferred compensation and in gratitude for such public service. We find that this earned benefit in this matter is not unwarranted.

Third, as long as Resolution 1118 is the means by which future Gold and Silver Cards are awarded, there is little possibility for abuse of the Gold and Silver Card privilege. We caution that the past practice of granting the Gold and Silver Cards without any formal policy seemed ripe for caprice and abuse (though we do not mean to indicate that any such caprice or abuse actually occurred). Additionally, we believe that the policy of granting Gold Card privileges to departing trustees should be formalized in writing, perhaps as part of Resolution

1118. We believe that a grant of Gold Card privileges to a departing trustee would be warranted because a trustee must have successfully run for office and served his or her constituency in a public forum and under constant public scrutiny for one or more terms, thus serving the public commendably and civic-mindedly. We believe that if Resolution 1118 (with a written policy included regarding departing trustees) continues to be the guide for the granting of Gold and Silver Card privileges, that the privileges can rightly be treated as warranted emoluments or privileges that are within the sanction of NRS 281.481(2).

Finally, regarding NRS 281.481(7), it appears to us that the self-interest of the present members of the IVGID board in awarding the Gold and Silver Cards to others is far too attenuated to impose liability under this section. As long as the tenets of Resolution 1118 are adhered to, the granting of Gold and Silver Card privileges will be orderly, predictable, and not subject to the whim or caprice of the IVGID Board.

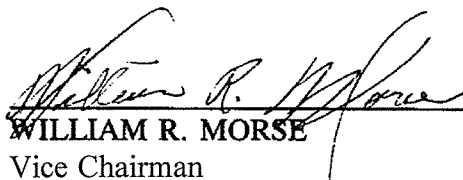
CONCLUSION

We conclude that the policy of the IVGID Board of granting Gold and Silver Card privileges to employees and trustees of IVGID does not violate NRS 281.481(1), (2), or (7) for the reasons stated above. We recommend that a formal resolution (perhaps as an amendment to Resolution 1118) be made to reduce to writing the unwritten policy of granting Gold Card privileges to a departing trustee. We would also reiterate that in the future, if the Gold and Silver Card policies are amended, that the public policy concern discussed in *Gibson* and *Ackerman* discussed above be the guiding principle in any such amendments so that the public served by IVGID will continue to receive a true and fair benefit in the provision of Gold and Silver Card privileges.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific facts and circumstances. The provisions of NRS 281.481 and NRS 281.501 quoted and discussed above must be applied on a case-by-case basis, with results that will vary depending on the specific facts and circumstances involved.

DATED this 28th day of December, 1995.


WILLIAM R. MORSE
Vice Chairman

tribunal, we can assume that her same reasoning would apply there to preclude coverage of back pay and front pay awards. I am suggesting that our General Manager, Patrick Finnigan, Risk Manager, Mike Pennacchio and me get together immediately to discuss this announced position by Willis-Corroon. I will, of course, want to review the relevant language in our policy. I should point out, however, that Willis-Corroon does agree that they must pay for the defense of this case, while they reserve their rights, as discussed above.

We are presently awaiting word from the EEOC. Once we have any material information on this case, we will inform you of same.

8. Miscellaneous Matters

Status of Gold Card Issue: As you all know, the hearing before the Nevada Commission on Ethics, established under the Nevada Ethics in Government Law (NRS 281.411 - 281.581), was held on the 30th of June, 1994, at the Crooms Theater, Sierra Nevada College.

Terri attended the Commission on Ethics' December 9th, 1994, meeting in Reno. As you have all undoubtedly been informed, at that meeting, the Commission ruled that IVGID's current practices and personnel policy provisions concerning the award of gold cards do not constitute a violation of the Code of Ethics. With regard to each category under consideration, the Commission voted 3-2, that the practice as to retired trustees did not constitute a violation; 4-1, that the practice benefitting some former general managers and other "worthy" people (e.g., Rob Hunt and Incline Village's developer, Art Wood) did not result in a violation; and 4-1, that the personnel policy benefitting employees of twenty (20) or more years, upon retirement, did not constitute a violation. The Commission also tacitly found that the award of a silver card to an employee with ten (10) or more years service to the District was not a violation of the Code of Ethics.

Accordingly, IVGID is not precluded by the Code of Ethics at this time from continuing to award and honor gold cards and silver cards. Although we were hopeful that the Commission would reach this result, both Terri and I were relieved with the outcome.

We should, however, remain mindful of the fact that this decision does not establish the actual legality of the gold card. It is always possible that the gold card could later be found to

be improper or illegal, despite its having passed ethical muster. This is due to the Commission's limited jurisdiction: it is only empowered to enforce the Code of Ethics (formally known as the Nevada Ethics in Government Law at NRS 281.411 - 281.581). Thus, the result of December 9th might have been different if the matter had been considered by another authority, specifically, the Washoe County District Attorney and/or the courts. (You may recall that, on January 28, 1994, we asked Chief Civil Deputy Maureen Sheppard-Griswold of the Washoe County District Attorney's Office to render an opinion on the gold card. She subsequently told Terri in a telephone conversation that the District Attorney's Office would not render an opinion while the matter was pending before the Commission on Ethics. Given the Commission's December 9th ruling, Washoe County might now be receptive to examine the issue and to release its separate opinion. This, of course, would typically require a written request, which we would not make without the express instruction to us from the Board.)

To further explain the distinction between "legal" and "ethical," I relate the following additional information. During the initial portion of the Commissioners' December 9th discussion, Commissioner Judd Allen stated that he didn't believe the Commission needed to rule on the gold card matter, because such had already been determined to be illegal: years ago, a certain convention authority routinely awarded privileges comparable to IVGID's gold card until the relevant District Attorney's Office determined that the practice was illegal and must be discontinued. At this point, Deputy Attorney General Frances Doherty reminded the Commissioners that their authority is derived solely from the Code of Ethics and their findings must conform only to that standard. That said, taking each specific section of the Code at issue, word by word, the Commission ruled that no Ethical violation had occurred. (Terri later discussed this earlier occurrence with Commissioner Allen, privately, at which time he indicated that he was quite certain of the facts which, he said, occurred approximately six (6) years ago.)

The Commission expressly made its December 9th gold card determination effective that same day and will (eventually) issue a formal opinion.

Status of Solicitation Ethics Issue: This issue, concerning the propriety of governmental personnel's solicitation of products, supplies, and the like from local businesses, in order that those products and supplies may be used as awards and or prizes to outstanding governmental employees, was submitted to the Commission on Ethics in September, 1993, after oral argument. We had provided our written input, in addition to our oral

Incline General Improvement District
January 3, 1995
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presentation. We have not yet received the Commission's opinion on this issue, although Terri was informed that a draft opinion is being reviewed by Chairman "Spike" Wilson and Deputy Attorney General Frances Doherty. Should you have any questions respecting this Opinion, please do not hesitate to ask me or Terri about them.

Respectfully,

NOEL E. MANOUKIAN, LTD.

NOEL E. MANOUKIAN, ESQ.

NEM:lav

Attachment #3

MINUTES OF REGULAR MEETING OF THE
BOARD OF TRUSTEES OF THE INCLINE
VILLAGE GENERAL IMPROVEMENT DISTRICT

November 10, 1988

#6

E.7 RESOLUTION NO. 1568 - PERSONNEL POLICIES AMENDMENT

General Manager Hunt stated that Resolution No. 1568 would amend IVGID's Personnel Policies to include the portion of IVGID's new longevity program regarding recreation privileges for long-term employees after retirement, and update the recreation privilege provisions for current employees by adding references to nordic ski rental and the hunting program.

General Counsel Menchetti questioned whether the deed restrictions on the beaches would be violated by giving free access to non-property owners, and suggested that the wording of paragraphs 5.4 and 5.5 pertaining to the beaches should state that employees and silver and gold card holders would have access as guests of IVGID as a property owner.

Trustee Wight moved that Resolution No. 1568 be adopted, amending paragraphs 5.4 and 5.5 under "Beach" to read as follows:

Beach. As guests of IVGID as a property owner, access to beaches; use of boat ramp.

The motion was seconded by Trustee Gang and unanimously carried.

F.1 GENERAL MANAGER'S REPORT

General Manager Hunt reviewed the General Manager's report as contained in the agenda packet.

Lobbyist Contract. The draft contract with Kay Lee Nicholas for lobbyist services was discussed, and it was the consensus of the Board that the party named in the contract should be Nicholas and Nicholas, and that the contract should require that Nicholas and Nicholas report to IVGID the names of all clients handled by them either as a partnership or individually.

F.3 JANE MAXFIELD, INCLINE VILLAGE-CRYSTAL BAY ADVISORY BOARD

Chairman Maxfield reported that there were two variance requests at the last meeting of the Advisory Board, and there was a lengthy discussion regarding skateboarding. Chairman Maxfield reported that the Community Plan Committee has now met three times.

G. APPROVAL OF BILLS

On motion by Trustee Gang, seconded by Trustee Wight and unanimously carried, the bills in the total amount of \$410,132.63, of which \$365,440.66 was in checks exceeding \$2,500, were approved for payment.

#6

Resolution No. 1568

PERSONNEL POLICIES
Incline Village General Improvement District

WHEREAS, the Board of Trustees has adopted Resolution No. 1505 (being Policy Resolution No. 112), establishing personnel policies for the District; and

WHEREAS, the Board of Trustees wishes to make changes in the personnel policies;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, that it hereby amends Section 5.4 of the policies to read as follows:

5.4 RECREATION PRIVILEGES. All IVGID employees shall receive recreation privileges during the term of their employment. Seasonal management and multi-seasonal employees shall receive recreation privileges, year-round. Recreation privileges include:

Beach. *As guests of IVGID as a property owner. [~~Free~~] access to beaches; [~~Free~~] use of boat ramp.*

Alpine Skiing. Free skiing. Free equipment rental, except during peak periods and subject to availability. 50% discount on ski repair and tuning.

Nordic Skiing. Free track use. *Free on-site equipment rental, subject to availability.*

Tennis. Free court use. 20% discount on tennis lessons.

Other. 20% discount on most programs offered by IVGID's Parks and Recreation Department.

Hunting. *Free facility use, subject to availability.*

The following privileges shall be available to spouses and dependent children (under 18 years old) of IVGID employees:

Beach. Same as employee.

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Alpine Skiing. For employees with less than five full years of service to IVGID, 25% discount on season pass rates. For employees with five or more full years of service to IVGID, 50% discount on season pass rates. Property owner rates for daily use.

Nordic Skiing. Same as employee.

Tennis. For employees with less than five full years of service to IVGID, 25% discount on season pass rates. For employees with five or more full years of service to IVGID, 50% discount on season pass rates. Property owner rates for daily use.

Other. Same rates as employees for programs offered by IVGID's Parks and Recreation Department.

Hunting. For employees with less than five full years of service to IVGID. 25% discount on season pass rates. For employees with five or more full years of service to IVGID. 50% discount on season pass rates. Property owner rates for daily use.

Additional privileges, limited to one or more programs within a specific department, may be offered to employees of the department only, at the discretion of the General Manager. Golf privileges will be offered to the extent they are available through agreement between IVGID and IVGID's golf course operator. The use of privileges may be restricted during peak usage periods.

BE IT FURTHER RESOLVED that Title 5 of the personnel policies be amended by adding a new Section 5.5, to read as follows:

55 RECREATION PRIVILEGES - AFTER RETIREMENT.

Upon termination in good standing, IVGID employees having at least ten years of service with IVGID shall receive the following recreation privileges:

Silver Card. If the employee has at least ten, but less than twenty, years of service with IVGID at the time of termination, then the employee shall receive a silver card, entitling the employee to the following privileges after leaving IVGID, for life:

Beach. As guests of IVGID as a property owner, access to beaches; use of boat ramp.

#6

Alpine Skiing. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of a daily lift ticket. 50% off equipment rental, except during peak periods and subject to availability.

Nordic Skiing. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of the daily fee for track use. 50% off on-site equipment rental, except during peak periods and subject to availability.

Tennis. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of the hourly and daily fee for court use.

Hunting. 50% discount off the resident rate for a season pass. 50% off the full (non-resident) price for daily use, subject to availability.

Gold Card. If the employee has at least twenty years of service at the time of termination, then the employee shall receive a gold card, entitling the employee to the following privileges after leaving IVGID, for life:

Beach. As guests of IVGID as a property owner, access to beaches; use of boat ramp.

Alpine Skiing. Free skiing. Free equipment rental, except during peak periods and subject to availability.

Nordic Skiing. Free skiing. Free on-site equipment rental, except during peak periods and subject to availability.

Tennis. Free court use.

Hunting. Free facility use, subject to availability.

Silver and Gold Card benefits may be changed at any time, without advance notice. Golf privileges will be offered to the extent they are available through agreement between IVGID and IVGID's golf course operator. The General Manager may distribute Silver and Gold Cards while employees are still employed, subject to the restriction that the employee shall

#6

forfeit the card upon termination, if the employee is not in good standing at termination.

BE IT FURTHER RESOLVED that this resolution should take immediate effect.

* * * * *

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 10th day of November, 1988, by the following vote:

AYES, and in favor thereof, Trustees: Bobbie Gang, Jane Maxfield, Greg McKay, Pam Wight

NOES, Trustees: None

ABSENT, Trustees: John Lillie

Pamela Wight
Secretary

#6

PERSONNEL POLICIES

6.10 Recreation Privileges

District employees and their dependents may be eligible to receive recreation privileges at District facilities during their term of employment as presented in the current IVGID Employee Recreation Privileges brochure. *Participation is strictly voluntary and is not a requirement of employment.* Employee photo identification must be shown when utilizing any of these privileges. Where applicable, peak period definitions and restrictions, availability limitations and access arrangements will be set by the Department Head. The District's paying customers have priority and employees are expected to leave an activity if a paying customer would otherwise be turned away. The District's employee recreational privileges are subject to change by the Board of Trustees and may be revoked if the privilege is abused by an employee and/or their qualified dependents.

Silver Card – An eligible employee with at least ten years of full-time service (or equivalent for seasonal manager) but less than twenty years of service with the District at the time of separation, will receive a Silver Card entitling the employee to 50% discount of the applicable resident rate at District recreational facilities for life.

Gold Card – An eligible employee with at least twenty years of full-time service (or equivalent for seasonal manager) with the District at the time of separation will receive a Gold Card entitling the employee to free use of District recreational facilities for life.

6.11 Workers' Compensation (All District employees are covered by this benefit)

Employees and volunteers (excluding Ski Patrol Volunteers) are insured under the provisions of the State Workers' Compensation Act for injuries received while at work for the District. Employees are required to report all on-the-job accidents, injuries, or illness to their immediate supervisor as soon as reasonably possible or within twenty-four (24) hours of the accident, injury, or illness.



POLICY AND PROCEDURE RESOLUTION NO. 140

RESOLUTION 1888

AN EMERGENCY RESOLUTION TO AMEND RESOLUTION NO. 1884 TO TEMPORARILY LIMIT NON-RESIDENT EMPLOYEES' AND GOLD/SILVER CARD HOLDERS' ACCESS TO THE BEACHES, LOCATED IN INCLINE VILLAGE, NEVADA KNOWN AS INCLINE BEACH, BURNT CEDAR BEACH, SKI BEACH AND HERMIT BEACH

WHEREAS, the world is experiencing a global pandemic (COVID-19) which has resulted in an unprecedented Government response to protect public health and keep communities safe from the spread of disease and death, including several Executive Directives issued by the State of Nevada Governor Steve Sisolak, evolving guidelines issued by the Centers for Disease Control, and Federal recommendations issued by the President of the United States of America;

WHEREAS, the Incline Village General Improvement District has the responsibility of managing the restricted access beaches known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach all located within Incline Village, Nevada;

WHEREAS, the significant risks presented by the threat of disease and death as a result of contracting COVID-19 require the Board of Trustees to manage beach access in a manner that will mitigate the risks presented by the current public health crisis;

WHEREAS, the Board of Trustees has determined that temporarily limiting access to IVGID restricted access beaches known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach ("Beaches") all located within Incline Village, Nevada in a manner consistent with current and evolving State and Federal Guidelines regarding public gatherings is necessary to protect the health and safety of the property owners, residents, guests, and visitors to Incline Village and Crystal Bay;

WHEREAS, the Board of Trustees previously adopted Resolution No. 1884 to implement temporary restrictions and limitations on beach access in response to the COVID-19 pandemic as set forth in the Resolution;

WHEREAS, the Board of Trustees wishes to amend Resolution No. 1884 to temporarily restrict access to the Beaches by non-resident employees and Gold and Silver Card holders as set forth in this Resolution; and



POLICY AND PROCEDURE RESOLUTION NO. 140

RESOLUTION 1888

AN EMERGENCY RESOLUTION TO AMEND RESOLUTION NO. 1884 TO TEMPORARILY LIMIT NON-RESIDENT EMPLOYEES' AND GOLD/SILVER CARD HOLDERS' ACCESS TO THE BEACHES, LOCATED IN INCLINE VILLAGE, NEVADA KNOWN AS INCLINE BEACH, BURNT CEDAR BEACH, SKI BEACH AND HERMIT BEACH

THEREFORE, BE IT RESOLVED, as follows:

1. Resolution No. 1884 is hereby amended to add the following section:

“(8) Notwithstanding anything to the contrary in prior District resolution or policy, non-resident District employees and non-resident Gold and Silver Card holders shall not have access to the restricted access beaches known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach all located within Incline Village, Nevada during the term of this Resolution. This restriction shall apply to any spouses, family members or other persons of such non-resident employees and non-resident Gold and Silver Card holders otherwise generally entitled to utilize their recreation privileges.”

2. This Resolution amends Resolution No. 1884. Except as set forth herein, Resolution No. 1884 remains in full force and effect. This Resolution shall remain in effect until the sooner of (1) December 31, 2021 or (2) the repeal of this Resolution or Resolution No. 1884.

* * * * *

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 12th day of May, 2021, by the following vote:

AYES, and in favor thereof,
NOES,
ABSENT,

Sara Schmitz
Secretary, IVGID Board of Trustees