

# NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **6:00 p.m.** on **Wednesday, July 13, 2021** in the Chateau at 955 Fairway Boulevard, Incline Village, Nevada.

- A. PLEDGE OF ALLEGIANCE\*
- B. ROLL CALL OF TRUSTEES\*
- C. INITIAL PUBLIC COMMENTS\* - *Unless otherwise determined, the time limit shall be three (3) minutes for each person wishing to make a public comment. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item. Not to include comments on General Business items with scheduled public comment. The Board of Trustees may address matters brought up during public comment at the conclusion of the comment period but may not deliberate on any non-agendized item.*
- D. APPROVAL OF AGENDA *(for possible action)*
- The Board of Trustees may make a motion for a flexible agenda which is defined as taking items on the agenda out of order; combining agenda items with other agenda items; removing items from the agenda; moving agenda items to an agenda of another meeting, or voting on items in a block.*
- OR-**
- The Board of Trustees may make a motion to accept and follow the agenda as submitted/posted.*
- E. DISTRICT GENERAL MANAGER UPDATE *(for possible action)* – **pages 4 - 15**
- F. REVIEW OF THE LONG RANGE CALENDAR *(for possible action)* – **page 16**
- G. REPORTS TO THE BOARD\* - Reports are intended to inform the Board and/or the public.
1. Treasurer's Report – Checks issued by the District over \$10,000 (Requesting Trustee: Treasurer Michaela Tonking) – **page 17**
  2. Final report regarding the District's utilities management review and asset assessment submitted by Raftelis Financial Consultants, Inc. representative Seth Garrison and Rebekka Hosken (Requesting Staff Member: District General Manager Indra Winquest) – **pages 18 - 70**
  3. Review, discuss and provide guidance on Golf Cart Capital Improvement Project #3141LV1898 Championship Golf Carts for 2021/2022 (Requesting Staff Member: Director of Community Services/Golf Darren Howard) – **pages 71 - 73**
  4. Audit Committee Report presented by Audit Committee Chairman Ray Tulloch
- H. CONSENT CALENDAR *(for possible action)* (In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to budget, user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar". A memorandum containing all relevant information will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section. Any member of the Board may request the removal of a particular item from the Consent Calendar and that the matter shall be removed and addressed in the General Business section of the meeting. A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.)
1. Review, discuss and possibly approve the Tahoe Truckee Area Agreement for Mutual Emergency Aid (Requesting Staff Member: Director of Public Works Brad Underwood) – **pages 74 - 88**

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## Incline Village General Improvement District

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

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

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# NOTICE OF MEETING

Agenda for the Board Meeting of July 13, 2021 - Page 2

2. Review, discuss and possibly award a professional services contract for the Lakeview ski lift gear reducer service and rebuild; 2021/2022 Capital Improvement Project: Fund: Community Services; Program: Ski; Project # 3462HE1702; Vendor: Artec Machine Systems, Inc. in the amount of \$72,617 (Requesting Staff Member: General Manager Diamond Peak Ski Resort Mike Bandelin) – **pages 89 - 116**
  3. Review, discuss and possibly approve a Sole Source Finding, **and** review, discuss, and possibly authorize a Procurement Contract for a Replacement PistenBully Snow Grooming Vehicle – 2021/2022 Capital Improvement Project; Fund: Community Services; Division: Ski; Project # 3463HE1728; Vendor: Kassbohrer All Terrain Vehicles, Inc. in the amount of \$400,000 (Requesting Staff Member: General Manager Diamond Peak Ski Resort Mike Bandelin) – **pages 117 - 146**
  4. Review, discuss, and possibly approve the District's pay grade(s)/salary matrix, and hourly pay rates, in accordance with Nevada Revised Statutes 318.185 (Requesting Staff Members: Director of Human Resources Erin Feore, Director of Finance Paul Navazio, and District General Counsel Joshua Nelson) – **pages 147 - 158**
  5. Review, discuss, and possibly authorize a Professional Services Agreement for the Sewer Pump Station No.1 Improvements Project – 2599DI1703 – Fund: Utility; Division: Sewer; Vendor: Jacobs Engineering, Inc., in the amount of \$49,660 for the Sewage Pump Station No.1 Electrical Improvements Bid Documents Revisions and Bid Phase Services (Requesting Staff Member: Director of Public Works Brad Underwood) – **pages 159 - 171**
  6. Review, discuss, and possibly authorize Staff to execute SHI Quote #20696904 for the one-time purchase of a Microsoft Windows Server Data Center License in the amount of \$56,546.64 to be expensed in approved FY21/22 budget (Requesting Staff Member: Director of Information Technology Mike Gove) – **pages 172 - 174**
- I. GENERAL BUSINESS (*for possible action*)
1. Review, discuss, and provide direction on cost savings options for the Recreation Center Men's and Women's Locker Room Remodel Project: 4899FF1202 – Fund: Community Services; Division: Recreation (Requesting Staff Member: Director of Public Works Brad Underwood) – **pages 175 - 178**
  2. Review, discuss, and possibly authorize critical repairs **and** review, discuss, and possibly authorize the use of alternative storage ponds: Effluent Pipeline and Pond Lining Projects (Requesting Staff Member: Director of Public Works Brad Underwood) – **pages 179 - 185**
  3. A. Review, discuss and possibly approve the District's Form 4410LGF - Indebtedness Report, as of June 30, 2021, for filing with the Nevada Department of Taxation and the Washoe County Debt Commission **and**
  - B. Review, discuss and possibly approve the District's Form 4411LGF - Five-Year Capital Improvement Plan, to include the IVGID-prepared Five Year Capital Plan Summary for fiscal years 2021-22 through 2026-27 and FY2020-21 Carryforward Schedule, for filing with the Nevada Department of Taxation, the Washoe County Clerk and the State of Nevada Legislative Counsel Bureau
- (Requesting Staff Member: Director of Finance Paul Navazio) – **pages 186 - 229**



# NOTICE OF MEETING

Agenda for the Board Meeting of July 13, 2021 - Page 3

4. Review, discuss and provide direction on possible revisions to Board Policy 15.1.0 – Audit Committee (Requesting Trustee: Board Chairman Tim Callicrate) – **pages 230 - 246**
  5. Review, discuss and possibly approve the appointment of Mr. Chris Nolet as an Audit Committee At-Large Member, to approve modifications to Policy 15.1.0 to permit Mr. Nolet’s appointment **and** to defer further review and possible modifications of Policy 15.1.0 (Requesting Audit Committee Member: Audit Committee Chairman Raymond Tulloch) – **pages 247 - 248**
  6. Review, discuss and possibly approve the District’s Strategic Plan for 2021-2023 (Requesting Staff Member: District General Manager Indra Winquest) – **pages 249 - 302**
- J. MEETING MINUTES *(for possible action)*
1. Meeting Minutes of May 12, 2021 – **pages 303 - 339**
  2. Meeting Minutes of May 26, 2021 – **pages 340 - 427**
  3. Meeting Minutes of June 9, 2021 – **pages 428 - 560**
- K. FINAL PUBLIC COMMENTS\* - Limited to a maximum of three (3) minutes in duration.
- L. ADJOURNMENT *(for possible action)*

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## CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Thursday, July 8, 2021 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of July 13, 2021) was delivered to the post office addressed to the people who have requested to receive copies of IVGID’s agendas; copies were e-mailed to those people who have requested; and a copy was posted, physically or electronically, at the following locations in accordance with Assembly Bill 253:

1. IVGID Anne Vorderbruggen Building (893 Southwood Boulevard, Incline Village, Nevada; Administrative Offices)
2. IVGID’s website ([www.yourtahoepace.com/Board of Trustees/Meetings and Agendas](http://www.yourtahoepace.com/Board of Trustees/Meetings and Agendas))
3. State of Nevada public noticing website (<https://notice.nv.gov/>)

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

District Clerk (e-mail: [sah@ivgid.org](mailto:sah@ivgid.org)/phone # 775-832-1207)

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**Board of Trustees:** *Tim Callicrate - Chairman, Matthew Dent, Sara Schmitz, Kendra Wong, and Michaela Tonking.*

**Notes:** *Items on the agenda may be taken out of order; combined with other items; removed from the agenda; moved to the agenda of another meeting; moved to or from the Consent Calendar section; or may be voted on in a block. Items with a specific time designation will not be heard prior to the stated time, but may be heard later. Those items followed by an asterisk (\*) are items on the agenda upon which the Board of Trustees will take no action. Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to call IVGID at 832-1100 at least 24 hours prior to the meeting. **IVGID'S agenda packets are available at IVGID's website, [www.yourtahoepace.com](http://www.yourtahoepace.com); go to "Board Meetings and Agendas".***

## MINUTES

### **REGULAR MEETING OF MAY 12, 2021 Incline Village General Improvement District**

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Thursday, May 12, 2021 at 6:02 p.m. This meeting was conducted virtually via Zoom.

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

The pledge of allegiance was recited.

#### **B. ROLL CALL OF TRUSTEES\***

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

Also present were District Staff Members Director of Finance Paul Navazio, Director of Public Works Brad Underwood, Interim Director of Human Resource Erin Feore, Parks and Recreation Superintendent Shelia Leijon, and General Manager Diamond Peak Ski Resort Mike Bandelin.

No members of the public were present in accordance with State of Nevada, Executive Directive 006, 016, 018, 021, 026 and 029.

#### **C. INITIAL PUBLIC COMMENTS\***

Ellie Dobler said the Winquest Employment Agreement - 2020 states: "IVGID hereby employs General Manager (Indra Winquest) full time to uphold and abide the laws of the State of Nevada, District Ordinances, written Policies, Practices, and Resolutions enacted by IVGID Board of Trustees." Is Mr. Winquest living up to the terms of his agreement with IVGID? Well no. Here are some violations: Under Board Policy 15.1.0 Mr. Winquest was required to have his Representation Letter to the external auditor reviewed by the Audit Committee prior to submittal. He failed to comply and the Audit Committee was in the dark. Under Board Policy 1.1.0 Mr. Winquest is required to provide a three year District Strategic Plan for 2020 to 2022. It was to be presented to Trustees in February, 2021 which never happened There is no Strategic Plan. Under Board Policy 6.1 Mr. Winquest is to provide a Balanced operating Budget. The proposed 2021-2022 budget for the Community Services venues presented last week was not balanced and included almost \$1.8 million in Facility Fees imposed on property owners which were not necessary. Under Board Practice 13.2 regarding Capital Expenditures, Mr. Winquest chose to ignore the Trustees responsibilities to award and execute design contracts for the Recreation Center lobby bathrooms and locker rooms.

Also asked Trustees to approve a construction contract exceeding \$50,000 prior to Trustees accepting regulatory permit conditions. Also under Board Practice 13.2, the interest earned on money set aside for the Effluent Pipeline should also be set aside. The Audit Committee and the Trustees requested that be done but has been ignored. Under Resolution 1701, Mr. Winquest is required to follow a procedure to provide recreational facilities at below market rates to nonprofit organizations and he has publically stated he no longer follows the resolution. These are just a few. There are probably more. Since not all Board Policies, Practices and Resolutions are upheld by Mr. Winquest, he is not honoring his employment contract. Trustees, what do you intend to do?

Dick Warren said it is interesting how IVGID management, or the lack thereof, has over a nine year period deceived the residents about the Effluent Pipeline Phase II Project and the Utility Fund. This may be one of the biggest stories of gross mismanagement ever perpetuated even though residents via public comments provided warning signs about the deception. But it continued. On many occasions Trustee Dent tried to bring attention to the misuse of funds but the trio of Morris, Horan and Wong stymied any further debate. The Public Works Senior Team began to depart like rats abandoning a sinking ship. After the fall of the Wong Triad, Trustee Dent was able to bring forth the problems and slowly, action began to take place. Two major consulting contracts were recently issued; one to Granite Construction to evaluate what needs to be done on the pipeline and the closed wastewater storage pond, and the other contract to Raftelis to perform a review of the Utilities Management and the condition of the \$600 million in Fund Assets. Costs for this work will be almost \$500K. Trustee Wong voted against both wanting to leave it up to the non-existent Management. The critical nature of the pipeline failures cannot be brushed aside. Two and a half years ago after a second \$500K assessment, 16 additional locations were found to have severe mid-body defects, and 9 were so deficient that they required immediate repair. But nothing has been done. Keep in mind that the first assessment only indicated 5 deficiencies but management decided that if an additional 8 locations were repaired the pipeline would be operational for 10 years. That plan lasted less than a year. The first assessment was a complete failure as the data could not determine wall loss at over 200 joint locations in segment 3. It appears that Management submitted an incomplete plan to the Nevada Department of Environmental Protection to satisfy a 5 year old Consent order. Breaks or spills continue to occur and Public Records requests for required notifications to NDEP for new spills have been ignored. The co-location of the pipeline in the futuristic bike path was nothing more than a "pipedream". The Army Corps of Engineer 595 Program Funding has not materialized and will be minuscule at best. The Utility fund is busted; it has absolutely no money for the wastewater pond, no reserves, and will only have \$11.5 million of the \$18 million collected at the end of the next fiscal year. If proper

accounting had been done it would have been obvious that the Utility Fund was operating at a loss, draining all reserves and improperly using the pipeline funds set aside to build non-essential projects. A current example is postponing for 3 to 5 years the purchase of 7 pieces of rolling stock for \$553,000. Interesting how with no money, equipment can last longer. Thank you.

Cliff Dobler said IVGID is governed by an elected Board of Trustees which acting on behalf of the electorate sets policy and determines strategies for the IVGID charter; this statement is on the website labeled "About IVGID". So policies have been set however most Trustees have indicated the policies belong in a wastepaper basket, are confusing and are no longer applicable. Strategies for the future do not exist as the last Strategic Plan for was for the period of 2018 to 2020 and nothing has been provided whether the strategies were achieved or not. Now some background on the policies over the past 6 years when he became involved in reporting IVGID accounting antics. In 2014 and 2015, the policies were severely watered down by the GM and legal counsel in order to gain control and make the Trustees less relevant. Wong was all for it and he believes that Callicrate was against it. A change was made in last 2017, to reinforce the Trustees responsibility to institute litigation after embarrassment for allowing the former GM to sue local businesses who did nothing wrong. After several complaints from citizens and Board members about the poorly written policies, in 2018/2019, Trustee Wong, without Board approval, instructed Staff to develop an IVGID Code which would consolidate policies, practices, resolutions and ordinances with the understanding that no policy would be changed until the code was complete. The code went nowhere, time was wasted, and policy changes went dormant. Recently, the policy on Central Services Cost Allocations was changed in a rush to comply with the law and now has to be redone as the related practice was not changed. His hat is off to Trustee Wong for her work in 2020 at establishing clarity in Policy 3.1, spending authority and Policy 15.1 regarding the Audit Committee which expanded participation without outside members and providing authority for oversight. Both were approved except Trustee Wong objected. These policy changes pulled back unreasonable authority of the GM and brought to light the material weaknesses in financial reporting and internal controls. Citizens should thank Trustee Dent who pushed relentlessly to establish better policies and engaging Moss Adams to review citizens' complaints regarding improper accounting and stating several Board policies were deficient. In March, the Board authorized \$40,000 to seek outside assistance to improve 12 policies and practices. Trustee Tonking is the Board liaison. Since the Director of Finance has stated assistance is necessary to prepare the 2021/2022 budget, he would like to know the result of the outside assistance since the budget is planned for approval on May 26 a mere two weeks from now. Thank you.

Aaron Katz said he has several written statements for inclusion in the record. He has heard there was another failure of the effluent pipeline yesterday, is that true General Manager and he hopes somebody will be reporting on that? He wants to make sure that there is a second public comment period just before voting on the Union contract since it is a public hearing. He sent e-mails on several of the matters on the agenda today for the benefit of the Board but since the public isn't aware of what he sent, he will make some brief comments about it. If we had a proper communications policy, then everybody could see what it was. Let's deal with employee access to the beaches. He wrote that Staff did not propose an NRS 43.100 confirmation petition as another available means to address the problem and this is the best means. Why isn't the petition being confirmed? The effluent pipeline – you will recall when we first had the CMAR as a proposal he said it was a waste because we already had design professionals who had submitted proposals back in February of 2020 and we didn't need a CMAR to cost us more money to get to the same point. Well now we get the 1st report from the CMAR and guess what, same design professionals we had available February of 2020 except now it is going to cost us a lot more money, now we have wasted a year and a half, and now we got to pay a CMAR to confirm what he and others were saying that we already had available to us. What a complete waste. By the way, the R in CMAR stands for at risk, what's the at risk for our CMAR? It is nothing. Let's talk about the Rec Center bathrooms and locker rooms. Another waste of \$1 million plus. No justifiable reason other than gee it is 27 years old. He will bet that most of the Trustees are living in properties that are older than 27 years and they haven't modernized their bathrooms yet we got to do it at the Rec Center? We can't keep losing \$1 million a year annually and then every couple of years come up with another \$1 million in CIP expenses. This is a complete waste, things need to change and if you can't operate at a breakeven, then dispose of the property as a money losing facility. Clean Tahoe – another absolute waste and really our problem is Staff – do your job. Gee we had a position but we haven't been able to fill it for 15 years.

Mike Abel said he has reviewed agenda item H.2 – the DP report. Without puffing his chest, he is probably the only person in this community (outside of management) with enough interest and experience in DP to effectively comment on it at a meeting. Nobody that he is aware of in management or even in our community has the experience and interest in DP that he has. None of our Trustees or management regularly ski or board there since Simonian left the board. He has been a skier for 60 years. He is an expert skier. He holds passes for Vail resorts and Mount Rose. He has also skied about 10 resorts in Europe in past recent years. This year, he skied Tahoe and Utah for 65 days and skied over 1,000 miles and 1,000,00 vertical feet. He skied DP for 21 days this year even though, as

General Manager Diamond Peak Ski Resort will attest, his records only show him skiing there 13 days. Despite a poor snow year – DP recorded about 15% more visits than were budgeted. It is apparent that mid-April operations are a loser despite a life-saving mid-April snow fall. Passes represented 48% of the visits – that is probably a lower rate than at other Tahoe resorts. In his humble opinion - pass prices are too high for non-senior IV/CB residents. Ticket and Pass sales exceeded the budget by 30%. It is apparent from the surveys that reasonably priced tickets and proximity are DP's biggest selling points. The differential between tickets at nearby resorts and the prices at DP are the biggest driver of DP's visitation numbers. Advertising should be severely limited as it drives very few visits. Kuddos to Dent, Schmitz and Callicrate for axing most of the advertising budget. Coming out of this Covid year – why is management only planning on the same number of visits (130,000) next year? I think that they should expect 140,000-150,000. With an operating income of over \$4 million this past season IVGID should be focused on making DP a better winter resort with upgrades – not just more of the same. From his extensive multi-resort experience, it is apparent that DP needs three things to move forward with revenues, a better visitor experience, a safer resort, and increased visits.

1. DP must move toward RFID passes and tickets – This is the industry standard and any resort lacking this is considered a 2<sup>nd</sup> class operation. RFID passes speed lift access, provide more accurate usage numbers, prevent fraudulent access, improve skier experience, and improve safety by letting lift operators focus on safety rather than illegal access. Proof – DP only recorded 13 of my visits this year despite the fact that I skied there for 21 days this season. \*
2. DP should move toward the replacement of the Lakeview lift with a detachable 4-pak or 6-pak lift. Again, this will greatly improve the visitor experience and dramatically improve safety. If DP wants to expand their terrain, the old lift can be stored and later used in another area of the resort.
3. Parking – Parking – Parking. This is the biggest problem at every Tahoe ski area and DP is no different. He suggests that as a part of the plan to improve and increase visitation that.....when the Skiway Boulevard is repaved that the east side (between Bigwater and Lakeview lift) should be paved inward about 3-5 feet so that DP visitors can park diagonally. This would increase nearby parking capacity by what he would estimate at 25-35%.

Why are you planning for only \$1 million more in revenues to \$11.2 million for next year? \*From his personal experience. DP is missing some nominal revenue from cheaters who get on the Lakeview lift (once) then ski over to Crystal and spend the day there without ever having a ticket checked. Mount Rose put RFIDs in this year



and it was an enormous success in improving the visitor experience. Lines moved faster and it was definitely a better experience.

Dr. Tara Madden-Dent said thank you to IVGID Staff for their good work on the preparing of the beaches. She frequents our beaches almost every day and she can see what hard work has gone into preparing for that. She would like to publicly identify one staff member for his handling of a difficult situation yesterday regarding entrance to our private beaches. Mark Helixson comes across as someone who is very dedicated to our community and that she gets that spirit and energy from all of our Staff. She just wants to say thank you and please keep up the good work as she, her son, and her family feel safe and very fortunate to live here. Thank you.

Margaret Martini said she has just a couple of items to note – asking for the e-mail address in the Ordinance 7 survey is intrusive and inappropriate. The survey should be able to be taken without giving personal information so she just wanted to note that. She thinks that IVGID has a Staff issue and an oversight issue. Staff must have no oversight based on the current debacle over the Rec Center renovations. It seems as if Staff has decided to run ahead with renovations, disregarding all policies and to rush the renovation through. Why wait for RFPs? Why wait for Board design approval and oversight in the design phase? Why make a presentation to the Board if you don't think you have to? If Staff can and does circumvent the Board and IVGID policies, procedures and practices, what is the purpose of even having a Board? Just let Staff have free rein of running the place. Trustee Tonking's statement at the last meeting stating that she is not comfortable when asked her opinion on following the policies and good financial practices. She should be immediately removed from the Board for not taking her fiduciary responsibilities to the parcel owners finances seriously. Oh, and as a reminder, to Trustee Wong, good governance would not be disregarding the policies and practices, it would be to abide by them and hold Staff accountable to follow them and then if you disagree with them, work to change them within the perimeters of the procedures. That would be good government. P.S. Spending \$250,000 on a small bathroom remodel job at the Rec Center is also not good governance. Oh, and one more thing, hire the litigation attorney for the beach access issue because if you don't, someone else will which will result in a lawsuit which will result in spending a whole lot more money. Is it worth it? You have to wonder what? Thank you.

Frank Wright said to play off a bit of what Ms. Martini said, the bathrooms, how do you get into a project of this size and magnitude and never letting the Board know that you are doing design work, etc. before coming to the Board and thinking that the Board is going to rubber stamp everything so why not? Are you really managing our money in this District properly? He doubts it. But, more importantly, let's take



a look at the beach issue that is coming up tonight with employee access. How can you have an attorney give an opinion when he also represents North Tahoe Public Utility District and he is going to come over representing those employees and give an opinion that the employees can or cannot or whatever he is going to say and we don't know until he says it but he can't really engage as he has got a conflict of interest. This shouldn't even be an issue because if you read the beach deed, you don't give public property away, private property as far as the beaches are concerned, to people who don't live here, for life. They never have a vested interest in our community. They do not, in any size, shape or form, have to pay a mandatory Rec Fee, they don't have to pay an entrance fee. Their guests get in and here we are going through this big process in Ordinance 7, which he is a member of, and we are making sure that we have a procedure and process for all the parcel owners to access something that they have an absolute right to access and there are no procedures or policies for employees, just come on down. Go on and use it, bring your guests with you, show your ID and away you go. There are no punch cards, no picture passes rather it is just an employee card. If you don't think something is wrong with that, he does, he thinks it is horrible and he thinks that this community, when they figure this all out, that they are paying for all of these employees to use and access our facilities for free, things that we have to pay a Rec Fee for and then we have to pay another fee to enter, and they don't have to pay a Rec Fee and they don't have to pay anything to enter and that some of them get to do it for life and they live in Reno, Tahoe City, they don't live here, they don't participate in our community but they get to use all the things we pay for. He finds that to be outrageous so it is what it is so thank you.

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

Chairman Callicrate asked for changes to the agenda; no changes were requested and thus the agenda is approved as submitted.

**E. PUBLIC HEARING (for possible action) Reference: Nevada Revised Statutes 288.153**

**E.1. Review, discuss, and possibly approve the Memorandum of Understanding between and for Incline Village General Improvement District and the Operating Engineers Local Union No. 3, Supervisory Unit, July 1, 2020 through and including June 30, 2023 (Requesting Staff Member: District General Manager Indra Winquest)**

District General Counsel Josh Nelson said we will be having public comments on this item after the Staff presentation so please start cueing up.

District General Manager Winquest gave a brief overview of the submitted material.

**E.2. PUBLIC COMMENTS\* for the public hearing above - *time limit shall be three (3) minutes for each person wishing to make a public comment***

Aaron Katz said thank you for the opportunity to speak on this matter. The Director of Finance said that the IVGID Management Team negotiated the bargaining unit agreement on behalf of the District with the Operating Engineers Local for supervisory employees for items in IVGID like Fleet which we have now established are not competent to rebuild a lawn mower nor a Caterpillar loader. He doesn't even know why we have Fleet and he guesses he doesn't know why we have supervisory for Fleet. Now listen to what our crack team negotiated on our behalf and remember that this is all on top of overcompensation and over benefits; Mr. Katz then read off some of the summary items from the submitted materials. Now, no recreation privileges are in this agreement, none, and this agreement has already been approved by the Union membership which means once you approve it, it means no recreation privileges for these employees and he doesn't want to see any of them getting free access to our facilities. And furthermore, this is on top of the March 10, 2020 ratified Union contract for non-supervisory employees. No recreation privileges. Thank you very much; adhere to the contract.

Mike Abel said he does endorse almost everything that Aaron Katz said, kudos to what he said and they should be considered in this contract discussion. Thank you.

Margaret Martini said she would also like to affirm Aaron Katz' comments, and she thinks number one, we overpay on everything; number two, the benefits are over the top ridiculous; and number three, as far as access to the beaches, there can't be any employee access to the beaches unless they are parcel owners here. Thank you.

Frank Wright said he guesses he has to take the words of Trustee Tonking when she says she is not comfortable with this, hey, nobody who is paying the rec fee and the beach fee and all the other fees that we pay would be comfortable with this. This is outrageous and you know reasonable people would look at this and go are you kidding me, are you kidding me, how can you even consider this? He knows that our Board doesn't really look at anything in its entirety, this is one time you really should. You should take a

peekie poo and see exactly what this is going to cost us and exactly what we are getting for it because if we aren't getting our monies worth, it is not worth it, it really isn't. And the stuff that comes up at these Board meetings every week, you have to sit there and go what are these people doing. What are they doing? We are not a rich District that just keeps dumping money even though the Board thinks we are. We have got to reel this in at some time, this is just an outrageous, outrageous contract. Incredible, whew, that is all he has to say; thank you.

Chairman Callicrate said this concludes the public hearing comments.

Trustee Wong made a motion to authorize the Chairman and Board Secretary to execute a bargaining unit agreement with the Operating Engineers Local Union No. 3 for the Supervisory employees as negotiated by the IVGID Management Team. Trustee Schmitz seconded the motion. Chairman Callicrate asked for further comments.

Trustee Wong said thank you to our Staff as she knows that it has been a long process, thank both sides of our Staff for being open to listening to each other, and for bringing reasonable recommendations to the Board. Chairman Callicrate said this is a compromise.

Chairman Callicrate called the question and the motion passed unanimously.

**F. REVIEW OF THE LONG RANGE CALENDAR (for possible action)**

District General Manager Winquest gave an overview of the submitted materials. Trustee Dent said he would like to put Policy 13.2.0, Capital Planning Policy, in the parking lot as we should revisit it and then figure out at our next meeting where we are going to put that. Trustee Schmitz said at the meeting for May 26, it will be coming up on a year where we identified that some parcels were incorrectly charged on the Recreation Roll. There has been an audit of the selected parcels so we should have that discussion as she doesn't think we should approve the Recreation Roll without that discussion so she would like to cover that as part of that item during that conversation so we have clarity. District General Manager Winquest said he will have the Director of Finance incorporate an update on that matter. Trustee Wong said she would like to have an item added to the agenda to discuss and possibly remove Cliff Dobler from the Audit Committee. Chairman Callicrate acknowledged the request. District General Counsel Nelson said that there are some special NRS notices that have to be followed, not followed for this

meeting and Trustee Wong has made her request, we will process as it as a requested item, and he will work with the Chair regarding scheduling, noticing, etc.

**G. DISTRICT GENERAL COUNSEL UPDATE (for possible action)**

**There is no District General Counsel update for this agenda.**

**H. REPORTS TO THE BOARD\* - Reports are intended to inform the Board and/or the public.**

**H.1. Tri-Strategies Legislative Advocate Verbal Report – Eddie Ableser and/or Paul Klein**

Paul Klein went over the submitted materials; two special sessions will be called prior to the end of the year – one will be on Federal monies and then the second session will be on redistricting; both require receiving information from the Federal government. Trustee Schmitz asked, regarding redistricting, are anticipating or do you know of any redistricting at the county level? As it relates to the Federal funding, is there anything we need to do for the receipt of Federal funds to do infrastructure projects like the pond lining, etc. Mr. Klein said regarding redistricting, all government bodies are required to do so by the end of the year, each governmental body has their own process and it starts with the census material which has yet to be received. Federal funding – the State is taking requests for projects and the two projects you mentioned would be perfect. District General Manager Winquest said that himself and others on Staff have been meeting with the Nevada League of Cities and they are advocating for us and we are working through the process with them on what type of funding is available to us. In addition, he has met with Mr. Faust and that information was shared with the Board. We have indicated that the funds are forthcoming, we have indicated our projects are ready to go, and are tracking this with both entities. Trustee Wong asked do we know what is driving the significant increase in revenue? Mr. Klein said that the State has 7 tax revenues – they are forecasting higher than originally forecasted in December. Trustee Wong said in looking at Senate Bill 368, which she is wholly in favor of this, but the word “requiring” is sort of raising a red flag for her such that if we were doing a project and this bill passes and we had the cash, that we would have to issue a general obligation bond? Mr. Klein said we will note this bill and get back to you, it has been excluded from the deadlines, so we will provide some analysis and if you want to engage, we have time to do so. Trustee Wong said that it is really just the requirement piece for her.

## **H.2. General Manager Diamond Peak Ski Resort Mike Bandelin: End of 2020/2021 Ski Season Verbal Report**

General Manager Diamond Peak Ski Resort Mike Bandelin went over the submitted materials and went over the safety trainings that occurred during 2020 and 2021 seasons. Trustee Tonking said she appreciates the survey and analysis and that it would really be interesting to dig in on those that don't have the season passes; please thank Staff for a great experience this year. Trustee Schmitz said thank you for the putting financial analysis in the report and commend you and your team for such a great performance in a difficult year; you and your team should be happy with the outcome. Recalling the survey, from last year, it said that we could do better with our food and are their opportunities and she is curious about your thoughts. General Manager Diamond Peak Ski Resort Bandelin said he wished we could have done some different things. We may be looking for some more healthy items and the best way to increase our service level with speed and just do a better job on the things we sell a lot of. He will get with the Food and Beverage team and discuss the survey results as we focused on speed versus quality. Staff will look into that a little more and provide some feedback. Trustee Dent said he appreciates the report, they have improved, and thank you for managing through the unknowns with COVID and that he is looking forward to a more normal year post COVID. Have we looked into the RFID technology as having an accurate count of our visitors would be a good thing? General Manager Diamond Peak Ski Resort Bandelin said that project is not in the five-year capital plan, yes, we have looked into it and met with a vendor to get a quote for three lifts and Staff has done some preliminary work on that effort. Staff has a meeting with that vendor in the next week or two to look into that technology to see how it may apply in other areas but it is not in the five-year capital plan for Diamond Peak. Trustee Dent said once you learn a little more, can you report back to the Board? District General Manager Winquest said we are looking at this technology holistically and bringing it onboard for the beaches and ski at the same time. It is not necessarily cheap technology but it could be very valuable to the District. Trustee Dent said he wants to hear more and looks forward to hearing an update. Trustee Wong said thank you as she heard from a lot of residents about the focus on residents and our community and that they really appreciated it. Chairman Callicrate said he heard, all season long, from those that used the resort that they were really happy with the conditions in a difficult year.

## **H.3. Treasurers Report (*for possible action*)**

**H.3.A. Payment of Bills *(for possible action)***

Treasurer Tonking said in the bill pay sheet that we have there were two areas that stood out. We paid BBK twice in April and had an almost \$23,000 charge for Raley's. The BBK charge was for work done in March and in April. The District did not make a payment in March for the work and made the first payment on April 14. The Raley's payment is for an invoice from Raley's Co-Op Advertising Department for 2,100 water bottles purchased by – and paid for by – the Tahoe Water Supply Association (TWSA). The District acts as the fiscal agent for the TWSA, and this expense is a TWSA marketing/promotions item funded by that agency. The check just gets cut by IVGID. Also a quick update on policy and procedure updates. There is a list of all the policy and procedures that need to be updated, then reviewed by Staff and then finalized. As well, of course, as making sure that everyone is aware of the updated policy and procedure and making sure they are followed. The hope is then to have a set of policies reviewed every year. Management has been working with Tyler to input the chart of accounts and to make adjustments to the chart of accounts to better reflect how the District actually is. A final update on procurement cards - Management has worked to tighten spending authority and approval of procurement cards. Additionally, she has worked with Staff with cards on the types of purchases that should be on the cards versus the types that should be invoiced. This is not an issue with the policy but rather making sure everyone is on the same page and fixing any loose ends.

**H.4.a. Review and discuss the District financial results through March 31, 2021 (3rd Quarter of Fiscal Year 2020/2021)**

**H.4.b. Review and discuss the Popular Capital Improvements Plan Status Report through March 31, 2021 (3rd Quarter Fiscal Year 2020/2021)**

**(Requesting Staff Member: Director of Finance Paul Navazio)**

Director of Finance Paul Navazio gave an overview of the submitted materials. Trustee Schmitz said, on agenda packet page 83, that she continues to be greatly concerned with Utilities and that this is showing that we are under in revenues and over in expenses by \$1 million year-to-date and asked what are the actions to fill that gap? On agenda packet page 84, in the area of sources, she believes you have funded capital resources

which is really use of fund balance so the line that is use of fund balance, we have a budget of \$2.2 million and current/actual have nothing so she is just curious about that. Director of Finance Navazio said, on agenda packet page 83, the actual revenues for the first nine months is more than the budget and expenses are under the revenues by \$800,000. On agenda packet page 84, we will be changing how we will be reporting and then going back to agenda packet 81, when comparing revenues to the sources, we point out two issues – one is use of fund balance and the other is the offset and the last sentence in the paragraph says that the apple to apple comparison accounts for those two items and another reason for future modification. Trustee Schmitz said the uniforms are intended to be expensed in the future so should those be removed from the capital project report? Director of Finance Navazio said ski uniforms will be reported differently going forward. Trustee Dent said thank you for your work on this report. Looking at the reports – do we have a year-end one for 2020 and did it not just get posted? Director of Finance Navazio said on the capital report, he thinks there was a gap and he will double check it and see if we can fill in that gap. Trustee Dent said he appreciates Staff looking into that request.

Vice Chairman Dent called for a break at 7:25 p.m.; the Board reconvened at 7:40 p.m.

**I. CONSENT CALENDAR (for possible action)**

**There are no Consent Calendar items for this agenda.**

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

**J.1. Initial presentation: Effluent Export Pipeline and Pond Lining Projects (Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Brad Underwood gave an introduction of the submitted materials and shared a PowerPoint presentation that is incorporated herewith by reference. Granite's John O'Day gave an overview of the summary of findings that was included in the Board packet. Chairman Callicrate said he appreciated the concise presentation, the alternatives that are explored, and the benefits of doing these projects together. We know that the work, once done, will be to the highest standards. Director of Public Works Underwood then went over the remainder submitted materials. He then addressed the leak that occurred on Monday and stated that Staff shut down the system, got the patch completed, and the system is back online.



Trustee Wong said how does this dovetail with the State funding that we are going to request and that Staff is bringing back to us at a later date? Director of Public Works Underwood said we can do that and that Staff is working with USACE for funding. Project will be done in phases and anticipate different funding opportunities. Trustee Dent said that he too would like to go to the State to see if we can find some funding. Thanks for your presentation and there are still things that need to be found out – concrete plan on a timeline; when could we get that? This fall or this spring? Mr. O’Day said the first step is to have designers on board and getting that work going as soon as possible. For the pond lining, 8 to 10 month lead time for permits is what was estimated. If we can get it going right away, get a design finalized, then there is a good possibility to work on the pond in a year and do some of the repairs and investigation this fall. We need to get both designs going concurrently so we can work through the permit process and if we can get them informed, one on one, and keeping them informed, we could start sooner. Realistically, we have to get the pond done first to allow the work to be done on the pipeline. It all boils down to permitting. Trustee Schmitz said regarding the repairs, how you are identifying what needs to be repaired, where they are, and how many are we talking about? Mr. O’Day said that there were 16 with the majority in Segment 3, a lot of them seemed to be in the location near Secret Harbor. There were a couple in Segment 2 which is the high pressure section and that he doesn’t know of any leaks. Majority of the repairs in Segment 3, of the 16, are identified and there are some that we, along with HDR, will need to look closer at and together. Trustee Schmitz said because Segment 3 is low pressure, these repairs wouldn’t be wasted. Is slip lining a possibility and will they remain in place instead of being torn out and replaced again? Mr. O’Day said the ones that have already been repaired, we could tie into them, so yes, we will not rip out something we already replaced. Chairman Callicrate said thank you and looking forward to working with you. Director of Public Underwood said we are looking for Board concurrence on issuing contracts with Jacobs and HDR and then come back in early June with design contracts. Chairman Callicrate asked if there was any gross opposition; no Board members expressed opposition. Chairman Callicrate said move forward as outlined.

**J.2. Review, discuss, and possibly authorize or approve:**

- (A) Plans and specifications for the Recreation Center Upstairs Lobby Restrooms Remodel;**
- (B) Two contracts for the Recreation Center Upstairs Lobby Restrooms Remodel - 2020/2021 Capital Improvement Project: Fund: Community Services; Division: Water;**

**Project 4884BD1902. Vendor: Avail Construction in the amount of \$159,832.40 and Ward-Young Architecture in the amount of \$20,487;**

- (C) An additional \$52,556 be authorized from the Community Services Fund Balance to increase the project budget; and**
- (D) Resolution Number 1885 authorizing a budget augmentation of \$52,556 from available resources within the Community Service Capital Fund (550) Fund Balance to augment the Recreation Center Restroom Remodel project budget**

**(Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Dent said, regarding ADA, is anyone requiring that we update them or are we choosing to do that? Director of Public Works Underwood said we are choosing that as there are groups that go out and look for these things thus we want to avoid that. Trustee Dent said he did visit the restrooms today and that he feels like those restrooms are in really good condition. We do a great job of maintaining, they look great, and he knows that we do have to address the ADA with this upgrade. Price is very steep, he has concerns with the process, and he has voiced them. As to Policy 13.2, Staff needs to do a better job of following that policy and that is why he is requesting to put that on the agenda for absolute clarity and not be left up to interpretation so we can all be on the same page. We should have gone about this project a little differently and we can address that with the policy so there is clarity. Trustee Schmitz said she agrees with Trustee Dent, she reviewed the Livestream, and Trustees Callicrate, Dent and herself requested that the design be brought before us. Trustee Schmitz then said that she too wanted to point out, on agenda packet page 141, where it discusses the Trustees responsibilities, it says "*Section 3.8.6.1 of Board Practice 13.2.0 states that Trustees are responsible for 1) ensuring that design contracts are awarded and executed consistent with Nevada Revised Statutes, and 2) that Trustees are to review and accept regulatory permit conditions on construction projects over \$50,000.*" This should have been brought to the Board at that point, so there was discussion and community engagement and involvement. She too is finding issue with the process and adherence to our capital planning practice as Staff could have done a better job and moved forward more swiftly in the way it was handled. Trustee Tonking asked, in terms of ADA compliance, what other things have to be done beside the stalls? Director of Public Works Underwood said entry as well and then the stalls – these are the main two items. Chairman Callicrate said

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we have heard from several people in the public asking why can't we go to Home Depot, etc. and that is because we are a government and we can't go to a big box store. There have been some issues with the double doors and then sinks have issues with spacing from floor to sink. He was around when that building was built and there were cuts made and so we are dealing with mistakes that were done initially. When we close the Burnt Cedar pool and they use the Recreation Center pool, that is going to put more use at the Recreation Center. He does agree with the policy upgrades mentioned by Trustees Schmitz and Dent but once again we are up against a situation with ADA requirements and bathrooms that weren't built to the original specifications. Trustee Schmitz asked if the ADA compliance is being imposed upon the District because of the locker room remodel? Is it one of the conditions as part of the locker room remodel? Director of Public Works Underwood said that he thinks these are independent projects and it behooves us to make the improvements as we can. As long as we have a plan, we move it forward through the capital plan. Trustee Schmitz said do you have any design options for us as Trustees to consider to reduce the cost of this project? Director of Public Works Underwood said he didn't as he wasn't involved at the start. They are moving one of the doors in the women's restrooms and they have done a pretty good job. A challenge with the remodels is you have confined space so you have to do some work around and they have done a good job. Trustee Schmitz said it would have been nice to see options but it seems that this project is too far down the road so the Trustees don't have the opportunity to make some changes as it quite expensive for two bathrooms. Director of Public Works Underwood said he understands and yes, we are pretty far down the road. Trustee Dent said regarding ADA, a remodel triggers the ADA upgrade and because of the scope, it triggers those ADA improvements. District General Manager Winqest said as someone that worked in that building for 17 years, we do have people that come in wheelchairs and blind guests and that we have had challenges with the doors so there is clearly an issue with the entrances. The Recreation Center is one of the first places our new residents come and the direction to the architect was that this is the heart of the community as it gets the most use. It is a subsidized facility and Staff understands the sensitivity however it is a very heavily used facility and do think it is important to refresh and taking care of these issues. Last thing that he would want is for one of our residents to take issue with these facilities and report us to Washoe County. Regarding the policy, Staff just wants to be on the same page as the Board, Staff doesn't bifurcate on how it has been interpreted. Perhaps Staff could have done a better job. It hasn't been the practice of past Board's so getting on the same page is important as we want the Board to get involved and be a part of these projects; we just want to get on the

same page. There is usually a Board liaison on these projects and he would recommend getting someone from the Board on the locker room project. Trustee Schmitz said that the District General Manager asked her six months ago so there is no ambiguity or confusion as she just doesn't understand why this project and the locker room project deviated from this practice. Chairman Callicrate said we are all frustrated because we are in the process of getting things done. He appreciates the efforts on policies and procedures, etc. to alleviate this frustration and that all of the Board members have all expressed where we stand.

Trustee Wong made a motion to:

1. Award a construction contract to Avail Construction in the amount of \$159,832.40 for the Recreation Center Upstairs Lobby Restrooms Remodel project.
2. Authorize Chair and Secretary to execute the contract with Avail Construction based on a review by General Counsel and Staff.
3. Authorize Staff to approve change orders to the construction contract for additional work not anticipated at this time for approximately 10% of the project bid – \$16,000.
4. Authorize Staff to enter into an Additional Task Order with Ward-Young Architecture totaling \$20,487 for services during construction of the project.
5. Approve Resolution No. 1885 authorizing a budget augmentation of \$52,556 from available resources within the Community Service Capital Fund (550) Fund Balance to augment the Recreation Center Restroom Remodel project budget.

Trustee Tonking seconded the motion. Chairman Callicrate asked for further Board comments.

Trustee Dent said he supports the project and is opposed to the process. Trustee Schmitz said she agrees about the process and that the District General Manager didn't follow the practice. She does understand that we need to update our facilities and it didn't allow the Trustees to weigh in and she would like this process to not occur again; she will not be supporting this

motion. Trustee Wong said she had people ask her why we didn't support this at the last meeting.

Hearing no further comments, Chairman Callicrate called the question – Trustee Wong, Tonking, Callicrate voted in favor of the motion and Trustees Schmitz and Dent voted in opposition; the motion passed.

Chairman Callicrate said all future projects need to be hammered down and that he supported it because we do need to do this project. The cost is tremendous due to prevailing wage and he understands the cost increase. He would like to see more than a schematic in the packet. District General Manager Winquest said Staff will bring back any project that has a design component. Trustee Dent said for recreational projects only. Trustee Wong said she would like to agendaize an item to discuss it. Trustee Schmitz said we don't have any \$500 items. Chairman Callicrate agreed that we should bring back an agenda item so we can discuss this and the threshold.

**J.3. Review, discuss, and possibly authorize or approve review plans and specifications for the Recreation Center Men's and Women's Locker Room Remodel (Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Tonking said this is a project she has heard about from a lot of people and that she is excited about this project. Saw that the project is 90 days so when is it starting, etc. Director of Public Works Underwood said the start is after completion of the restrooms so it should start in September and be completed before the Thanksgiving holiday. Trustee Schmitz said she appreciates the willingness to be flexible, the locker rooms do need to be remodeled but we do need to bring these plans forward to the Board as she does understand that they need updating and that she is taking you up on that offer. Chairman Callicrate said sometimes they get deferred indefinitely, reference made to Diamond Peak and skate park, and that he too appreciates your offer to look at other options. Locker rooms were fairly obsolete within 5 years of opening and give the Staff kudos for keeping them clean as it is a problematic building. There is a high price on this project but the community has been giving feedback and he is in support of doing this sooner rather than later. Trustee Wong said they were really calling her about the locker rooms – with the Burnt Cedar pool being closed, do we expect an increase in the use of Recreation Center pool given the Burnt Cedar pool closure? District General Manager Winquest said initially the plan was to start to this project in early August depending on the restroom

project. Yes, we are going to see 25 or 30 lap swimmers of which half will swim at the Recreation Center so Staff wants to have the downstairs locker rooms available. No matter what we do, we will have delays, however starting this project mid to late fall is the right timeline as we will need the locker rooms in the summer. Trustee Dent said we should have had the process right, we have learned from it, and let's do it better next time. Trustee Schmitz said she can't recall what do we have in our budget for funds this year? Director of Public Works Underwood said \$60,000 for design and Staff time. Trustee Schmitz said so no funds for this fiscal year? They aren't appropriated until next fiscal year? Director of Public Works Underwood said he isn't sure what is remaining and doesn't have that information presently. District General Manager Winqest said his recommendation is to go through the design specifications and to have no contract award until after July 1. Whenever we bring this back, is that what the Board is expecting is for Staff to bring back the design specifications at a future meeting? Chairman Callicrate said he is fine either way and leaving it up to the architect as he doesn't want to tie the hands but not carte blanche. District General Manager Winqest said Staff lives that facility and they are well aware of what we need. He heard Trustee Schmitz say that she wanted to be a part of reviewing the design specifications and if not in the agreement, then he needs to know what the Board wants Staff to present to the Board. Trustee Schmitz said what she is referring to is design information similar to the Tennis Center, with options, because if you look at Policy 13.2., as it relates to Staff responsibility, a high level summary and what is driving cost and options to do something, you have done that with other projects and not something you haven't done with other projects. Director of Public Works Underwood said we have a design right now, take the design they have now and go over the key elements and show some of the different fixtures for the Board to see and what level that is – prime tile, medium tile, etc.? Trustee Schmitz said that would be great and look at Policy 13.2. Chairman Callicrate said so if we do that and go back, what costs are we looking at? Director of Public Works Underwood said he doesn't know but probably a few thousand dollars. Chairman Callicrate said he doesn't want to escalate the project because we want another visual. Director of Public Works Underwood said \$10,000 or under, we will look at all the implications, and that this is a 90-day project for construction. Chairman Callicrate said if you were to come back with some drawings, does this fit into the timeline or make better sense to come in around September? District General Manager Winqest said it may push the program out a little bit. If we were to wait until July, would it be the end of the world, no. However, there are only a couple of months out of the year for perfect timing and that we have to look at the dollars. Staff will have to sort through the details to

see if we have the money as we want to have this project go through the process. Trustee Wong said that she takes a different approach as the Tennis Center was almost the entire facility. This is the locker room – sinks, etc. and you have gotten feedback from community so she is fine with moving forward as written. Director of Finance Navazio said we could reallocate some monies so any additional work from the architect, which is a relatively modest amount, can be adjusted in next year's budget. We can proceed without too much concern about timing of funding for the scope of work. Chairman Callicrate said regarding going out to bid, we would have to hold up on that so he wants to make sure that we are not shooting ourselves in the foot. This is a large contract and he wants to make sure we are not to create a bigger issue than necessary and have this project get kicked into next year. Director of Public Works Underwood said a lot of the work happens towards the end so we probably won't have an impact – we can either cancel the bid or postpone the bid due date if there were changes and it is the latter that he would prefer. Chairman Callicrate said that is a critical component and as to postponing, he likes the second option too. In trying to abide by our Board policy, we are giving ourselves a couple more weeks to look at it and follow the procedures we need to follow. This is an opportunity to be closer to the Board's policy. District General Manager Winquest said we have the direction we need for the June 9 Board meeting so that the Board can review the design specifications and try to get the architect on that call and if the Board wants to see a bottom, middle and top option, we can provide that and that Staff understands the standard until further notice. Chairman Callicrate said we need to take a couple of extra weeks to move forward with confidence. District General Manager Winquest said he would love to have a Board liaison on this project. Trustee Schmitz said when it is in a Board packet, the public can see it, thus they can be thrilled about it. District General Manager Winquest said that Trustee Schmitz is the Board liaison.

**J.4. Review, discuss and possibly authorize a Memorandum of Understanding for the Clean Tahoe Multi-Jurisdictional Program and review, discuss and possibly approve a Professional Services Agreement with Clean Tahoe, for the Clean Tahoe Multi-Jurisdictional Program (Requesting Staff Members: Director of Public Works Brad Underwood and Resource Conservationist Madonna Dunbar)**

Director of Public Works Underwood gave an overview of the submitted materials. Chairman Callicrate said, whoever was in charge of checking trash, that the person has some more people skills as we want people to be

compliant and that this is a great opportunity for collaboration therefore he is in support. Trustee Wong said thank you to our Resource Conservationist as she is one of the unsung heroes over in Public Works and that she knows how passionate she is and it shows so she appreciates all the work she is putting into this program. Trustee Tonking said thank you to the Resource Conservationist and that she is excited to have the District be a part of a pilot program because then we can give our input and be a part of something like this. A fine happens but education is key; she is excited about the program. Trustee Schmitz said thanks to the Resource Conservationist and have that she does have some questions – is 10 hours a week enough? Director of Public Works Underwood said we talked about that aspect and we felt it was a good opportunity to test the waters. 10 hours is probably not enough but it is a start and Staff could come back to you in a year for more hours but we felt this was good as this is a test period. Trustee Schmitz said she wanted to point out that it isn't a large contract, paying \$75 per hour, pretty large hourly rate, didn't see anything that defined what days of the week or hours they were going to perform or defined because of our needs? Director of Public Works Underwood said we just wanted to show the number of hours per week and didn't want to pigeon hole ourselves and they will identify their routes and then have them available on call for reports by the public and Staff. We wanted to be flexible on the approach and that it does seem like a lot but we are having to pay some of the overhead, etc. in that hourly rate. Trustee Schmitz said the reason she asked about hours of services is because our requirements happen more so on weekends and she wanted to know if that was covered? Director of Public Works Underwood said yes, the weekends are covered. Trustee Schmitz said her suggestion is to include that it includes weekends and include reports on the hours used in the scope of work. Director of Public Works Underwood said he would expect that in their report but that he will make it quite clear.

Trustee Wong made a motion to authorize a Memorandum of Understanding (MOU) for the Clean Tahoe Multi-Jurisdictional Program with participating agencies, and execute a Professional Services Agreement in the amount of \$40,000 with Clean Tahoe Program, for the "Clean Tahoe Multi-Jurisdictional Program" (a pilot project for solid waste mitigation services along Tahoe's north shore) that includes the numbers of hours worked in the reporting and authorize Staff to execute the MOU and Professional Services Agreement after review by the District's Legal Counsel as to form. Trustee Dent seconded the motion. Chairman Callicrate asked for further comments, receiving none, he called the question and the motion was unanimously passed.



Chairman Callicrate called for a break at 9:18 p.m.; the Board reconvened at 9:30 p.m.

**J.5. Review, discuss and possibly authorize a quitclaim of Water Main to Grinberg Family Trust on APN: 126-231-05 for the purposes of improving operations of IVGID's Water Systems (Requesting Staff Member: Director of Public Works Brad Underwood)**

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

Trustee Wong made a motion to approve Quitclaim of Water Main to Grinberg Family Trust on the Trust's property (APN: 126-231-05) in exchange for One Dollar (\$1) for the Purposes of Improving Operations of IVGID's Water Systems and authorize Staff to execute the Quitclaim documents upon review by District Counsel. Chairman Callicrate asked for further comments, receiving none, he called the question and the motion was unanimously passed.

**J.6.A. Review, discuss, and provide direction on potential options regarding modifying non-resident employees' and Gold/Silver Card holders' access to beaches (Requesting Staff Members: District General Manager Indra Winquest and District General Counsel Joshua Nelson) and**

Trustee Tonking made the following statement:

*"Chair, NRS 281A.420 requires here to disclose a conflict of interest. The matter before this Board affects her commitment in a private capacity to the interests of her sister, an IVGID employee. While her sister is a District resident that will not be directly impacted by this item, she wishes to avoid even an appearance of impropriety. As such, she is going to be abstaining from voting in this matter."*

District General Counsel Nelson gave an overview of the submitted materials. Trustee Wong said thank you for the information, history and data as it is good for the Board to refresh our memory on benefits. We don't need to go to a resolution as our Staff and you have shown to her that this is such a small fraction of beach visits and that the benefits it provides far outweighs the detriment that could come if we take away this benefit in her mind.

Trustee Dent said thank you and, at the last meeting, we asked to get further clarification as we hear these terms kicked around and we are not sure exactly what they mean so he appreciates this being put together. At the last meeting, he did bring up the following item and threw out the term non-resident employee and it includes a lot. He learned a lot and in order for the information to be captured, the District General Manager let him know that it was going to be quite a task. As we go into the next item, it is nothing more than a boilerplate based on the information provided here as a starting point. District General Manager Winquest said he wanted to respond to Trustee Dent on the data and he does have a document to share with the Board on the number of employees and last summer in different categories so you can get a look at how many employees we employ in the summer and that our winter employees do get panned out unless they work for us in the summer. Trustee Schmitz said she has some questions about the benefits and how they are executed – one of the things she wanted to understand, she read about them in the policies, it talked about gold/silver, it says employee, wanted to know if that language is accurate versus reality? District General Manager Winquest said it is his understanding on gold/silver cards they are for employees and former Trustees and that a holder of a Gold/Silver card is not allowed to bring guests. He believes that has been the practice however there may have been some exceptions. He is a holder of a Silver Card, he uses his employee card, and that his Silver Card can become active when one leaves the District. Trustee Schmitz said why do we have them issued for employees when it is less? District General Manager Winquest said because it is more ceremonially. Trustee Schmitz said as it relates to current active employees, do they have the ability to bring spouses, dependents? District General Manager Winquest said it is only for them and their spouses and dependents. Trustee Schmitz said back in the late '80's, they were all were residents and now, more than ever, you have got more non-resident employees. So when it was implemented, were more employees' residents? District General Manager Winquest said yes, it is safe to assume that and because of the cost of living and the availability of long term rentals, that is probably true.

**J.6.B. 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 (Requesting Trustees: Sara Schmitz and Matthew Dent)**

District General Counsel Nelson gave an overview of the submitted materials. Chairman Callicrate said that our full time year round employees

need to be thought of very careful as this is something that has been beneficial and we were paying the lifeguards a premium in the summer to stay on. Historical precedent, with the allowance of employees, is 3 hours a week, non-resident, they have no access to the beaches. Trustee Schmitz said she wanted to explain why she brought it up. We are One District-One Team and that we are making so many changes on parcel owners because we do need to limit the beach access. Our parcel owners should be able to enjoy the beaches and that she realizes that we are in this together and that we need to make some compromises together as she wants to protect that beach deed. The longer we go on with the housing market, we are going to have a lot more non-resident employees. It will continue and with this COVID, we need to all be safe and make sure the parcel owners are safe and being One District-One team, let's have Staff join in this effort. Trustee Dent said he agrees with Trustee Schmitz and that this is the approach he took as well. We have asked the parcel owners to make a lot of changes over the last year and looking at all the areas where we can tighten our belts. There is a bunch of different options and what this category would be on this temporary resolution. Just a boilerplate in talking with District General Counsel and Staff on restricting access and not wanting to compromise the beach deed. District General Manager Winquest shared his screen with a document that identified information regarding where District employees live. Trustee Schmitz asked if the Union employees are represented on here twice? Interim Director of Human Resources Erin Feore said that they are not double counted. District General Counsel Nelson said that the resolution isn't effective until approved by the Board. Trustee Schmitz said full time year round employees are the same as Category 1 on the privileges document and she asked if the Union employees were full time year round as well? District General Manager Winquest said yes. Chairman Callicrate said any of the employees who live in the village probably have access. Trustee Wong asked about employees who rent? District General Manager Winquest said it depends on who they rent from and that Staff is planning on bring back the employee privileges as a whole later this year since it hasn't been reviewed since 2014 so it is time. Chairman Callicrate said we do want to try and look at it holistically. District General Counsel Nelson said we could write it that way and the underlining is included for emphasis such that it applies to both the employee, spouse and dependent. Chairman Callicrate said he doesn't know the way forward and doesn't want to have an oops and there are things like verbal promises. He doesn't know what the correct answer is. Trustee Wong said she would like to not make any changes tonight and to consider action at a future meeting and that her inclination is to not do anything and not have this come back. Trustee Schmitz said we should take action because of the COVID condition.

Trustee Dent said we should take some action and that he is struggling with the terminology and we could see if it was dependents and Gold/Silver card holders and then there would be a lot less ramifications. Chairman Callicrate said so restrict to employee only and no guests, dependents, etc. and what about part time, etc.? Trustee Schmitz said if we are going to be compromising and take some action – go back to Category 1 employees, full time, full time year round and Union employees, and some of the balance is that some work some limited hours. The beaches are a precious commodity and we are trying to limit access so let's do it by the categories and allow their families and no guests and that is another alternative. We need to take some action because of the COVID restrictions and as a gesture of working together. District General Manager Winquest explained the different employee categories. Trustee Schmitz said Category 1 are allowed to bring their dependents but no guests and that it is restricted for Category 2. District General Manager Winquest asked how does that work for a lot of employees that work at beaches? Trustee Schmitz said that is an absolute valid point. Anxiety is about not having enough Staff to operate these venues and we need to make sure everyone understands that. Chairman Callicrate said it is a tight rope and that by allowing Category 1 and 2 with their dependents and no guests that shows the community we are trying without open Pandora's box. It should be noted that it is hard to keep lifeguards at the beaches. He would like to bring it all back and vet it properly at the end of the season when we have better numbers as part of him says leave it as status quo. He could live with Category 1 and 2 employees and their immediate dependents and no guests. Trustee Schmitz said so you don't want to restrict Category 2? Chairman Callicrate said having Category 1 and 2 and their immediate dependents but no guests will show a compromise to the community. We are going to get grief regardless and when we bring this back we don't want Staff to come back and say they can't staff our venues; he is offering this as a compromise and as a suggestion. Trustee Dent said he could support that and to be a little broader as we don't want to take away the people who staff the beaches and keep our beaches staffed - for non-resident employees who aren't Category 1 or Category 2 employees only and no non-resident Gold/Silver card holders. Trustee Schmitz said another way to address this is beach staff at Category 2 are given access and that is another alternative that would align Staff to where they work which is another way to look at it. Trustee Wong said given how complicated this is and that we are having a hard time communicating, she would want this put down on paper so we are clear on what we are voting on. District General Counsel Nelson said he agrees and he too wants to bring it back. Chairman Callicrate said Category 1 and 2 and no guests, and does Counsel have a clearer idea of what we have been discussing in

order to bring it back? District General Counsel Nelson asked how does the Board want to handle Gold/Silver card holders? Chairman Callicrate asked about ramifications on Gold/Silver cards. District General Manager Winquest said that there are 7 or 8 people who use their Gold/Silver cards at the beaches. Chairman Callicrate said for those Trustees that served that time and were granted that privilege to have it taken away is wrong. The community voted it out in 1996, for those who served prior to that, he doesn't have an issue. For the employees, no issue there either. It was a perk they were granted and they did provide service to the community whether you like them or not so he wouldn't want to take that away from them. Trustee Schmitz said if someone only has access by themselves, they won't use it and Gold/Silver card holders can't bring guests so they can only get themselves into the beaches. District General Manager Winquest said he would agree with Trustee Schmitz on that aspect and would note that they are used more at the golf courses and Diamond Peak to get the discounts for themselves and if they live out of town, it is probably not just themselves. This is a Board decision and it is your job to make the decision. District General Counsel Nelson said he is hearing consequences to not include Gold/Silver card holders in the restrictions so he has enough direction to bring something back. Chairman Callicrate said we are looking at this thoroughly and that he wants to have clear language in the packet for the community to look at so let's bring it back on May 26.

**J.7. Review, discuss and possibly approve a method for handling Board correspondence (Requesting Trustee: Board of Trustees Chairman Tim Callicrate)**

Chairman Callicrate gave an overview of the submitted materials. Trustee Tonking asked what are the perimeters that define Board correspondence? District General Counsel Nelson said that we need to define that in more detail in the policy we bring back. Currently, we have asked individual Board members to forward them and we should have one e-mail address to send in Board correspondence. Trustee Tonking said we do get correspondence that is sent and not to the additional address? District General Counsel Nelson said that is good information to consider. Chairman Callicrate said we receive a number of items that are sent to individuals and all and then we could have an e-mail address to send it to and then allow individual Trustees to have a way to include what they choose. Trustee Dent said he agrees with option number 2 as well as it is a good compromise. District General Counsel Nelson and Chairman Callicrate are to work on a policy.

**J.8. Review, discuss and possibly provide input on the transition back to in-person Board of Trustees meetings – Governor Sisolak’s lifting of Directive 006 (Requesting Staff Member: District General Manager Indra Winquest)**

District General Manager Winquest gave an overview of the submitted materials. Trustee Dent said that the mask mandate is continuing and do we have to wear a mask for seven hours? District Clerk Herron said you have to wear a mask when not speaking. District General Manager Winquest said we will continue to update you. Trustee Dent asked us to confirm the masking wearing mandate. Trustee Tonking asked if we are going to be distanced from each other? Chairman Callicrate said what we feel comfortable with we can do that. Trustee Wong said for other personal reasons she won't be in person for a while. Chairman Callicrate said we can accommodate that request.

**K. REPORTS\* (*Reports are intended to inform the Board and/or public*)**

**There are no Reports for this agenda.**

**L. FINAL PUBLIC COMMENTS\* - Limited to a maximum of three (3) minutes in duration.**

Margaret Martini asked how many parcels does IVGID own and how much of a fee do they pay? She pays a fee on her parcel and she pays a fee on her punch card for her guests and that IVGID pays the same fee? Will IVGID be held to the same punch card. She would like it identified how IVGID is complying and that she would like a guest definition as it needs to be equitable treatment period. Please put that on the agenda and address the definition of guest and get her questions answered at the next meeting.

Frank Wright said first of all he was the litigant in the Wright vs IVGID and nowhere was there any mention of employees and to infer there was is insane. IVGID is not a fee paying parcel owner as they are just like unbuildable parcel and until they pay a fee they can't bring in guests and if the unbuildable parcels fall under this, so can the Sheriff's office, he has said follow the deed. Incline residents and their parcels and their guests are entitled to access and with the access by the employees you have created a monster. The conversation was a circus and a joke and employees having access and those in Crystal Bay and Washoe 1 don't have access. Employees having access is wrong. Follow the deed and you will be right in line.

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

The meeting was adjourned at 10:49 p.m.

Respectfully submitted,

Susan A. Herron  
District Clerk

**Attachments\*:**

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

Submitted by Aaron Katz: Written statement to be included in the written minutes of this May 12, 2021 regular IVGID Board meeting – Agenda Item J(1) – Granite Construction’s, as construction manager as an agent at risk (“CMAR”), initial presentation insofar as construction of Phase 2 of the effluent export pipeline and pond lining projects are concerned

Submitted by Aaron Katz: Written statement to be included in the written minutes of this May 12, 2021 regular IVGID Board meeting – Agenda Item J(4) – Clean Tahoe – another incredible waste!

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF  
THIS MAY 12, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM  
J(4) – CLEAN TAHOE – ANOTHER INCREDIBLE WASTE!**

**Introduction:** Here our Public Works staff seek Board approval to enter into a Memorandum of Understanding (“MOU”) with Clean Tahoe allegedly to secure the latter’s “enforcement (of)...Solid Waste Ordinance (No.) 1<sup>1</sup> violations.”<sup>2</sup> Our administrative staff tell us that they “have become overwhelmed with the paperwork process”<sup>3</sup> because “in January 2020 (a) Solid Waste Technician...resign(ed and)...the (then) Director of Public Works...eliminated (the) position...in the belief...essential Ordinance 1 outreach...could be absorbed by Public Works Administrative staff.”<sup>4</sup> Translation: more staff incompetence! And that’s the purpose of this written statement.

**The Scope of Work Proposed to be Assigned to Clean Tahoe:** According to staff, “an informal regional working group of land managers, environmental organizations and regulatory agencies has been formed to address the increasing concerns of litter, garbage and environmental impacts of improper trash management...Each (agency) partner is submitting separate scopes and contracts to address their own litter abatement, illegal dumping and other trash concerns in this overall regional effort.”<sup>3</sup> And insofar as the District is concerned, “the Services (being contracted for) are as more particularly described in Attachment A (to the SHORT FORM AGREEMENT BETWEEN INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND CLEAN TAHOE, INC. for PROFESSIONAL SERVICES<sup>5</sup>), consisting of providing (the following) contract field enforcement of IVGID's Solid Waste Ordinance No. 1:”<sup>6</sup>

“Task 1”<sup>7</sup>

A. Maintain centralized trash reporting phone and email portals;

B. Through the Clean Tahoe phone and email report portals, respond to District residents' requests of trash spills and Ordinance 1 violations. Clean up the spill and/or contact property owners to clean up the spill. Clean Tahoe shall respond to resident requests within 24 hours;

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<sup>1</sup> Ordinance No. 1 is the District’s Solid Waste Collection, Removal and Disposal Ordinance, and it can be viewed at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/Ordinance\\_1\\_-\\_2016.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/Ordinance_1_-_2016.pdf).

<sup>2</sup> See page 670 of the packet of materials prepared by staff in anticipation of this May 12, 2021 Board meeting [“the 5/12/2021 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0512\\_-\\_Regular\\_-\\_Searchable\\_-\\_Part\\_4.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0512_-_Regular_-_Searchable_-_Part_4.pdf))].

<sup>3</sup> See page 672 of the 5/12/2021 Board packet.

<sup>4</sup> See page 671 of the 5/12/2021 Board packet.

<sup>5</sup> See pages 675-690 of the 5/12/2021 Board packet.

<sup>6</sup> See page 678 of the 5/12/2021 Board packet.

<sup>7</sup> See page 688 of the 5/12/2021 Board packet.



C. At least weekly, Clean Tahoe shall review and response to snapshot violation reports from the Owner's solid waste service provider;

D. Document all trash issues, issue/post courtesy notices and zero tolerance specification sheets to property owners where Ordinance 1 violations are found. Properties will be re-inspected within 10 days. If the problem still exists after 20 days, Clean Tahoe will refer the property to IVGID Public Works;

E. Copies of such notices shall be provided to IVGID Public Works staff; (and,)

F. Maintain logs of on-call responses, inspections, and violations in Excel database and electronic records, including scans, photos, and spreadsheets. Provide such logs to Owner without charge upon request.

### Task 2<sup>7</sup>

A. At least weekly, visually inspect town centers and neighborhoods identified by Owner or Consultant as "hot spots" to inspect solid waste containers for compliance with District Solid Waste Ordinance No. 1. Conduct random and requested site inspections of commercial equipment; inspect solid waste containers for functional operation; (and,)

B. Clean Tahoe will notify the Owner's solid waste service provider and IVGID of any problems, damage, malfunctions, or necessary repairs for solid waste containers.

### Task 3<sup>8</sup>

A. Coordinates with IVGID Public Works to provide in-field solid waste education of IVGID Public Work's Bear Smart program in the community; (and,)

B. Provide one presentation to IVGID Board on the progress of Consultant's Services."

**But the District's Trash Franchise With Waste Management ("W-M") Already Obligates W-M to Perform Many of These Services:** Have any of you read the trash franchise<sup>9</sup>? If you do and concentrate on ¶5, you will find that much of the scope of work assigned to Clean Tahoe is already assigned to W-M. For instance, ¶5.1 obligates W-M to maintain customer service "to administer all requests for service...and complaints." ¶5.2 obligates W-M to provide the district with "written or telephonic customer complaints and resolutions" to those complaints in a timely and reasonable manner. ¶5.6 provides for a "public information program" to encourage "customer compliance with federal, state and local laws and ordinances." The District may request that W-M photograph and document ordinance violations. ¶5.7 provides for "General Public Outreach" which includes billing

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<sup>8</sup> See page 689 of the 5/12/2021 Board packet.

<sup>9</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-public-works/2016-10-01\\_Waste\\_Management\\_Franchise\\_Agreement\\_no\\_Exhibit\\_B.pdf](https://www.yourtahoeplace.com/uploads/pdf-public-works/2016-10-01_Waste_Management_Franchise_Agreement_no_Exhibit_B.pdf).

inserts. And ¶5.3 provides for an Ombudsman to resolve all unresolved customer complaints and disputes other than billing disputes.

**If W-M isn't doing its job, the answer isn't to hire Clean Tahoe at \$75/hour but rather, to secure staff who ensure W-M is doing its job!**

**And the District's Membership in the Bear League<sup>10</sup> Already Obligates the League to Perform Many of These Services:** Did you know we're a dues paying member of the Bear League? That's right! At the Board's September 9, 2020 meeting I submitted a written statement which outlined the District's dues paying membership in this organization<sup>11</sup>.

So listen to the services the League provides to its members<sup>10</sup>:

- **“Education...**We...attempt to teach the public about the true gentle nature of the black bear. In fact, education permeates every function we perform...
- **Aversion** With teams of trained aversion specialists all around Lake Tahoe, the BEAR League works with local Law Enforcement, Animal Control and Fish and Game Officers to keep bears out of places they do not belong and educates them as to where they do belong.
- **Response** The BEAR League hotline (530) 525-PAWS, which is staffed 365 days a year 24 hours a day, is available to help anyone who has a problem with a bear. We will respond whether the bear is there or has gone or we are happy to coach people over the phone. The BEAR League is always ready to help put people at ease and help them prevent future problems.
- **Community Involvement...**Operating autonomously and built at the community level, the BEAR League is ready to come together when a situation arises where we need to reinforce our goals.
- **Policy Development** The BEAR League works to make changes at the state and local levels where we see policies that are deleterious to the lives of bears and the cause of people and bears living in harmony. We also strive to be proactive in initiating programs that are based on our own research and common sense.”

Although the resources of the League are allegedly available to us, our staff are apparently incapable of harnessing them to accomplish what Clean Tahoe will allegedly be able to accomplish. So I say ***either get out of the Bear League, or start making it perform the services represented to its members!***

**The District's Solid Waste Ordinance Already Obligates Our Staff to Perform Many of These Services:** Have any of you read the District's Solid Waste Ordinance No. 1<sup>1</sup>? According to staff,

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<sup>10</sup> Go to <http://www.savebears.org/mission.html>.

<sup>11</sup> See pages 130-137 of the packet of materials prepared by staff in anticipation of the Board's October 14, 2020 Board meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/1014\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/1014_-_Regular_-_Searchable.pdf) (“the 10/14/2022 Board packet”)].

effective August 1, 2017 the District initiated a “zero tolerance solid waste enforcement policy for any violation(s) documented through Waste Management’s Solid Waste Snapshot Program (enforced by W-M) and/or IVGID’s Trash Reporting.”<sup>12</sup> ¶7 of Ordinance No. 1 commencing at page 20 addresses non-compliance and violations which include fines intended to offset the costs of enforcement.

It turns out the proposed services of Clean Tahoe will *not* result in assessing penalties for violations. At the end of the day that responsibility *will still fall on our staff* which asserts it is ill equipped! **So why the middle man?**

**Moreover, IVGID Doesn’t Have the Power to Provide the Enforcement and Outreach Powers the Subject of the Proposed MOU With Clean Tahoe:** Have any of you read NRS 318.116(13)<sup>13</sup> and 318.142<sup>14</sup> to understand what powers the District actually have insofar as the furnishing of facilities for the collection and disposal of garbage and refuse is concerned? Maybe you should! Because if/when you do, you will discover that "the board shall (*only*) have the power to acquire, by purchase or lease, sites for the disposal of garbage and refuse, and to own and operate equipment for the collection and disposal of, and collect and dispose of, garbage and refuse, or to contract, without calling for bids, for the collection and disposal of garbage and refuse from within the district." Does any of this sound like what it is Clean Tahoe proposes providing to the District for \$40K or more?

Remember *Dillon's Rule*. If the power isn't expressly provided for, IT DOESN'T EXIST<sup>15</sup>. And if you have any questions in your mind as to whether or not the power exists, IT DOESN'T<sup>16</sup>! *Any questions?*

This points out another problem with IVGID. We’re not here to provide for the health, safety or welfare of Incline Village’s/Crystal Bay’s citizens. We’re not here to save the Lake, or address climate change. We’re not here to educate the public. We’re not here to clean up our streets (almost all of them have been dedicated to Washoe County). We have no power to pass laws. These are all functions which are provided by our governance; Washoe County. So why is it we so readily assume these functions? And broaden our footprint? And when we don’t have the revenues to perform these functions requiring us to assess local parcel/dwelling unit owners?

**Conclusion:** Please understand what you're really being requested to buy into several of the REAL PROBLEMS we face. What our staff is really telling the Board and the public is that again, *they're incapable of performing their jobs*; jobs they’ve recreated that should be performed by Washoe County rather than IVGID! Allegedly staff used to have an employee doing the work Clean Tahoe proposes doing but the position has remained vacant for 15 months because a former employee

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<sup>12</sup> Go to <https://www.yourtahoeplace.com/public-works/about-public-works/solid-waste-services>.

<sup>13</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec116>.

<sup>14</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec142>.

<sup>15</sup> See ¶3 at <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec137>.

<sup>16</sup> See ¶4 at <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec137>.

decided to eliminate the position! If staff thinks the position is now vital and it cannot fill it within a 15 month period, ***the problem isn't finding a suitable employee. IT'S STAFF!*** To quote from the movie *Ferris Bueller's Day Off*, "wake up and smell the coffee Mrs. Bueller!"<sup>17</sup>

Furthermore, if staff are proposing we outsource this vital function, *I say outsource the entire function*. The cost will be lower and the work product will be vastly enhanced. Create an Request For Proposals ("RFP") and let's see what proposals we get.

In fact. I say take it one step further. Just because we have a power doesn't mean we are required to exercise it. I say turn trash collection over to Washoe County. Let the County deal with the issue and remove us from the subject matter altogether. We don't need to become a larger and larger footprint on the Tahoe Basin. We need to become a smaller one.

**And You Wonder Why Our Trash Disposal Rates Which Finance This Waste Are Out of Control?** I've now provided more answers.

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

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<sup>17</sup> Go to <https://getyarn.io/yarn-clip/8ecff1be-781e-4e32-9203-b49c12b251bd>.

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 12, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM J(1) – GRANITE CONSTRUCTION’S, AS CONSTRUCTION MANAGER AS AN AGENT AT RISK (“CMAR”), INITIAL PRESENTATION INsofar AS CONSTRUCTION OF PHASE 2 OF THE EFFLUENT EXPORT PIPELINE AND POND LINING PROJECTS ARE CONCERNED**

**Introduction:** At the IVGID Board’s January 28, 2021 meeting, at the urging of staff, the Board approved entry into a nearly \$370,000 contract with Granite Construction<sup>1</sup> (“Granite”) to perform pre-construction services associated with Phase II of the effluent export pipeline and pond lining projects<sup>2</sup>. Irrespective of the fancy language and number of tasks identified, those services expressly consisted of<sup>3</sup>:

1. Selecting a design engineer for both projects [task 2(E)] at a cost of \$12,800;
2. Setting the parameters for design documents [task 5(B)] at a cost of \$102,760;
3. Reviewing the schematic design(s) created by others [tasks 4(C) and 4(D)] at a cost of \$18,512 and possibly [task 5(A)] an additional cost of \$52,816;
4. Creating a RFP to possibly select and enter into one or more contracts with one or more subcontractors to actually perform project work [task 4(B)] at a cost of \$5,734;
5. Marginal other works such as budget verifications, proposing cost reductions, innovations and risk mitigation [task 3(B)] at a cost of \$35,780 as well as preparing preliminary cost estimates [task 3(C)] at a cost of \$30,616; and,
6. Giving Granite an unfair advantage over other contractors by paying it \$52,280 to create a guaranteed maximum price for the effluent export pipeline project [Task 6(A)], and an additional \$57,400 to create a guaranteed maximum price for the pond lining project [Task 7(A)] – i.e., paying Granite to prepare and submit a “guaranteed maximum price” bid.

I argued against entry into this contract for a variety of reasons, the most compelling being that the scope of work identified was unnecessary and a complete waste of money inasmuch as we

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<sup>1</sup> See pages 161-172 of the packet of materials prepared by staff in anticipation of the Board’s January 28, 2021 meeting [“the 1/28/2021 Board packet” ([https://www.yourtahoepace.com/uploads/pdf-ivgid/0128\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/0128_-_Regular_-_Searchable.pdf))].

<sup>2</sup> See pages 167-170 of the 1/28/2021 Board packet.

<sup>3</sup> See pages 488-489 of the packet of materials prepared by staff in anticipation of the Board’s March 10, 2021 meeting [“the 3/10/2021 Board packet” ([https://www.yourtahoepace.com/uploads/pdf-ivgid/0310\\_-\\_Regular\\_-\\_Searchable\\_Part2.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/0310_-_Regular_-_Searchable_Part2.pdf))].

*already* had design engineers for both projects, we *already* had set the parameters for design documents<sup>4</sup> insofar as both projects were concerned, and we *already* had pricing which was arguably acceptable to staff<sup>5</sup>. The only reason the Board did not move forward with both of those contracts at the time was because it wanted Trustees Wong and Dent to help staff draft a “scope of work” so that staff could devote its efforts to seeking a construction manager to oversee both projects (and not necessarily a CMAR), via Request For Proposal (“RFP”) or Request For Qualifications (“RFQ”)<sup>6</sup>. But insofar as the identity of design consultants, estimates of cost, and actual design contracts were concerned, *they already existed!*

And now at a wasteful cost, the loss of precious time<sup>7</sup>, and what undoubtedly will be at a higher cost, it turns out the validity of my objections have been confirmed by Granite. And that’s the purpose of this written statement.

**“Granite Recommends Selecting HDR as the Lead Design Engineer For the Project’s Pipeline Portion:”<sup>8</sup> DUH!**

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<sup>4</sup> At the Board’s February 26, 2020 meeting staff presented two proposed contracts for adoption by the Board relating to design of the two projects the subject of the Granite contract: 1. An Effluent Storage Pond Lining Surveying and Design contract with Jacobs Engineering, Inc. (“Jacobs”) at a cost of \$256,300 [see pages 9-12 of the packet of materials prepared by staff in anticipation of the Board’s February 26, 2020 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_2-26-2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_2-26-2020.pdf) (“the 2/26/2020 Board packet”)}}; and, 2. An Effluent Export Pipeline Design services contract with HDR Engineering, Inc. (“HDR”) at a cost of \$161,634 (see pages 22-34 of the 2/26/2020 Board packet). The reason the Board did not move forward with both of these contracts, is because it wanted Trustees Wong and Dent to help staff draft a “scope of work” so that staff could seek a construction manager (not necessarily a CMAR), via RFP or RFQ, to oversee both projects [see page 330 of the packet of materials prepared by staff in anticipation of the Board’s March 11, 2020 meeting {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT\\_Packet\\_Regular.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf) (“the 3/11/2020 Board packet”)}}]. But insofar as design consultants, estimates of cost, and actual design contracts are concerned, *they already existed!*

<sup>5</sup> See pages 490-491 of the packet of materials prepared by staff in anticipation of the Board’s March 11, 2020 meeting [“the 3/11/2020 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT\\_Packet\\_Regular.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf))].

<sup>6</sup> See page 330 of the 3/11/2020 Board packet.

<sup>7</sup> Yesterday (May 11, 2021) our export pipeline experienced another break necessitating band-aid repairs under SR-28.

<sup>8</sup> See page 120 of the packet of materials prepared by staff in anticipation of this May 12, 2021 meeting [“5/12/2021 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0512\\_-\\_Regular\\_-\\_Searchable\\_-\\_Part\\_1.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0512_-_Regular_-_Searchable_-_Part_1.pdf))].

**And What Do You Think the Current Cost is Going to Be?** Listen to Granite: “Granite recommends providing and analyzing multiple preliminary cost estimates based on...preferred design alternatives.”<sup>9</sup> Translation: You can throw out HDR’s February 26, 2020 \$161,634 contract price because it’s going to be *more* (thank you very much staff)!

**“Granite Recommends (Selecting) Jacobs as the Lead Design Engineer For the Pond” Project:**<sup>10</sup> Ditto DUH!

**And What Do You Think the Current Cost is Going to Be?** Listen to Granite: “Jacobs performed preliminary design and costs estimates in 2018. These may not reflect the current construction costs and/or material solutions available in today’s market. (Thus)...we recommend...Jacobs complete preliminary cost estimates.”<sup>10</sup> Translation: You can throw out Jacobs’ February 26, 2020 \$256,300 contract price because it’s going to be *more* (thank you very much staff)!

**Moreover, Granite in Essence Concludes That We Can Forget About Co-Location of Any of Our Replaced Pipeline Under the Tahoe Transportation District’s (“TTD’s”) Shared Use Path:** Again, listen to Granite: “Granite is aware that there have been...discussions as well as preliminary evaluations between IVGID and...TTD with regards to the feasibility of co-locating portions of the IVGID pipeline within the future SR-28...East Shore Trail alignment...Further analysis would need to be done to verify preliminary cost savings estimated by IVGID and TTD (and regardless,) it appears the timing of IVGID’s pipeline project does not align with the trails future construction.” Moreover, “conversations with TTD have led (Granite) to understand that complete funding for the shared use path has not yet been secured, potentially further delaying the...project.”<sup>11</sup>

Based upon the above factors, Granite concludes that ***“it may (very well) be in the best interest(s) of the IVGID Project to proceed with IVGID’s proposed pipeline project independently of co-location.”***

Thank you stupid staff and stupid trustees Wong and Morris for leading us down this wasteful rat hole!

**Moreover, Granite in Essence Concludes That the Cost to Trench the Newly Aligned Pipeline is Going to Total Millions of Dollars More Because Previous Assumptions Insofar as Solid Rock Removal Were Unrealistic:** Again, listen to Granite: “Preliminary estimates provided by HDR concluded that rock will be encountered within the pipe trench zone along (only) approximately 5% to 10% of the alignment. (But)...Granite has concerns...based on our previous experience. We have encountered solid rock of varying degree in most of the trenches excavated along SR 28...We also believe that blasting may not be feasible (n)or...allowed due to the proximity of the existing pipeline and NDOT requirements. (Therefore)...we feel a more realistic assumption is that rock material will

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<sup>9</sup> See Page 132 of the 5/12/2021 Board packet.

<sup>10</sup> See Page 135 of the 5/12/2021 Board packet.

<sup>11</sup> See Page 126 of the 5/12/2021 Board packet.

need to be removed by mechanical means or by using expansive grouts and hydraulic rock splitters (which will)...***dramatically increase construction costs and time required to install new...pipeline... segments.***"

**Conclusion:** We now see that the CMAR contract is a waste because it provides no real services we require prior to entering into one or more contracts for actual construction. And the added costs we have incurred because of the delay in selecting/involving the CMAR have greatly increased our costs.

**And You Wonder Why Our Sewer Rates Which Finance This Waste Are Out of Control?** I've now provided more answers.

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



## MINUTES

### **REGULAR MEETING OF MAY 26, 2021 Incline Village General Improvement District**

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Thursday, May 26, 2021 at 6:00 p.m. This meeting was conducted virtually via Zoom.

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

The pledge of allegiance was recited.

#### **B. ROLL CALL OF TRUSTEES\***

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

Also present were District Staff Members Director of Finance Paul Navazio, Director of Public Works Brad Underwood, Interim Director of Human Resource Erin Feore, Director of Golf/Community Services Darren Howard, and General Manager Diamond Peak Ski Resort Mike Bandelin.

No members of the public were present in accordance with State of Nevada, Executive Directive 006, 016, 018, 021, 026 and 029.

#### **C. INITIAL PUBLIC COMMENTS\***

Dick Warren said this is a terribly concocted Budget, and it should not be approved, period. He will point out 3 examples of why it makes no sense. Pages 123/124 of the Budget Packet delineates Non-Capitalized Items included in the 2022 Capital Improvement Plan. Isn't this a dichotomy? If they are non-capitalized items, what are they doing in the Capital Improvement Plan? They should be expensed! And he understands that they were expensed. But why include them here? They should not be here! Are you deliberately trying to confuse the reader? He thinks so. Page 116 (CIP Summary Report) for 2022 shows CIP for Utilities of \$4.279M; however, Page 75 (Form 4404LGF) the Final Approved Budget column for 2022 shows \$5.216M in cash flows relating to the CIP in the Utility Fund, and page 138 (Cash Flow Statement for Utilities) also shows \$5.216M in cash flows; why the difference? And then on page 130 (CIP Report), for the Utility Fund why isn't the Carry Forward amount of \$3.241M included in Acquisition of Capital Assets shown on page 75? It is his understanding that you started with \$4.279M from the CIP Report, expensed \$612k of utility expenses shown on the Non-Capitalized Items list, and then you added only ONE Carryover project of \$1.550M, which gets you back to the \$5.216M amount. Two questions: isn't this a bit convoluted, and two, why didn't you add back the entire \$3.241M of Carry Forward items? You should have. Additionally, the Utility Fund

(page 137) includes in Charges for Services \$2M related to future projects concerning the Effluent Pipeline. That's not really a current revenue, it's more of a financing for future projects and should be shown as a Non-Operating Revenue. If the Utility Fund's Income Statement on page 137 was adjusted for this, Operating Income would go from \$36k to almost a \$2.0M loss. This is lousy accounting, and quite frankly, it seems to be almost deliberately done to confuse and mislead any reader of these financial statements. As he said upfront, this Budget must be rejected by the Board. Hey District General Manager/Director of Finance, are you ever going to address the fact that you aren't even close to breaking even in the Venues without the subsidization of the Facility Fee? District General Manager, does that cut into the good deals you give your buddies in the Venues? It certainly highlights your inability to manager IVGID properly. Thank you.

Iljosa Dobler said since her comments on 5/12 were not included on the live stream for a while, she wants to repeat a portion of her comment. Most important, she stated that under Board Practice 13.2 regarding Capital Expenditures, District General Manager Winqest chose to ignore the Trustees responsibilities to award and execute design contracts for the Recreation Center lobby bathrooms. Also he asked Trustees to approve a construction contract exceeding \$50,000 prior to Trustees accepting regulatory permit conditions. Trustees Dent and Schmitz brought this up during this May 12th meeting. District General Manager Winqest attempted to trivialize their request by asking if the Trustees wanted every project brought to them even if it's \$ 500. This is not a \$500 project, but far from it. The revised estimate is over \$222,000. Trustee Wong chimed in that it was necessary to be done as quickly as possible since the lobby bathrooms were small and difficult to maneuver. Not a good reason to bypass this practice. Our Director of Public Works helped clarify the project at this time and informed us of the ADA upgrades that would be done with any new construction and due to that, they will eliminate one stall making the remaining ones wider and easier to navigate. There's no doubt in her mind that District General Manager Winqest was familiar with this Board Practice since he followed it in the past for projects such as the Burnt Cedar Pool, Tennis Center clubhouse, Mountain Golf Center clubhouse; to name a few. A threshold of \$50,000 is already established in Board Practice 13.2, so Capital projects over \$50,000 must be brought to the Board for approval. Why not this one? Until you have a new Practice, you follow this one, period. There is no ambiguity. On another matter, referring to page 186 of the Board Packet, note that in Resolution 1889, approving the collection of the Recreation Standby and Service charges, that item 4B of the resolution fails to include the Parks and community programs. These 2 venues are almost fully supported by this Stand-by Fee. So, why are they not mentioned?

Cliff Dobler submitted his written comments which are attached hereto.

Frank Wright said he is wondering if anybody that has power to run our District reads our Board packet. On agenda packet page 191 there is an outline of how we are going to give the beaches away to various groups. This is in violation of the beach deed and assigning this authority to the District General Manager. Being on the GM's Ordinance 7 Committee, it doesn't come up. We see them later on which is unconceivable. We are supposed to be making policy about how the access to our venues is given, there is a free for all, and our Board has lost all power. The Board needs to take back control. Slipping it in the Board packet, the Board will approve, and then District General Manager will do whatever and he can't because it is in violation of the beach deed. We give away so much to those that don't pay. What is the purpose of the Board and the Board packet if it is not read? When will it be pointed out to you? This is insane. The Board is supposed to be our watchdogs and oversee, he doesn't think that happens and it just keeps on coming at you. Eventually, someone will come in and clean it up. We are residents and we are paying for it. Where is our money going – free food, lawyers, lobbyists. Who is overseeing this and when is the Board going to say enough is enough?

Aaron Katz said he is against the budget and wants his e-mail attached to the minutes.

Judith Miller said she just wanted to restate her problem with having the central services cost allocation plan looking just like it has looked in prior years or pretty much like it has. The reason she brings this up is because she thinks it throws off everything. When you use a simplistic, she is sorry but the word simplistic is accurate, plan to distribute these costs, you are getting a very inaccurate estimation of what these costs are for the venues. And when you are not including all of the central services, you are doing the same thing. How can we possibly determine whether or not the services provided are done so in the most efficient way? We can't compare them to any other service because they are not all there, they are not accurately distributed. When you base HR costs just on full time equivalents when you have a Staff that could consist of almost 8 times or 4 times as many part timers, no, it is probably 8 times as you have 100 full time and you have 1,000 employees so you have a lot of part time employees. Those take quite a bit of time to process. 2 part time employees is probably a lot more processing time than 1 full time even though they don't have all the associated benefits. The other thing is the estimating the accounting. Because again when you just say okay it is based on services and supplies, that is not an accurate measure. Get some real world measures and it doesn't necessarily have to be an expensive consulting job and she thinks our new Controller is familiar with central services cost allocation and she thinks the Director of Finance is too. Maybe Moss Adams came up with their determination too late in the year to change it but going forward, this really needs to change. We need accurate central services cost allocations that include all costs that should be distributed to the enterprises. Thank you.

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

Chairman Callicrate asked for changes to the agenda; no changes were requested; the agenda is approved as submitted.

**E. REQUIRED PUBLIC HEARINGS\***

**E.1. REQUIRED PUBLIC HEARING ON THE DISTRICT'S OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS, FISCAL YEAR 2021/2022 (this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)**

Trustee Tonking made a motion to open the scheduled public hearing on the District's Operating and Capital Improvement Program Budgets, Fiscal Year 2021/2022. Trustee Dent seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

Director of Finance Navazio, when asked, stated that the District complied with the required notices. Director of Finance Navazio gave a verbal overview of the submitted materials. Chairman Callicrate opened the matter for comments from the public.

Frank Wright said again we are proposing to approve something that really doesn't include everybody in this community. The people in Crystal Bay don't have a park, they don't really have any kind of amenities, they have nothing that they are getting for their Rec Fee and even if they do get something, it costs more than it should. So he would suggest that maybe the Board take a look at what it isn't in the budget and what isn't in there for capital improvements and what needs to be in there and then come back to the Board, the General Manager and Staff and tell them you need to change the way you do things but the chance of that happening are slim and none but he would like to see maybe there's a chance.

Aaron Katz said but he is confused, is this the public hearing on the budget or on the Rec Fee. Chairman Callicrate said that this is on the budget. Mr. Katz said he was confused because he couldn't get in before and he gave public comment on the budget and he did not give public comment on his public comment – can he give public comment on his public comment now? Chairman Callicrate said go ahead since you were confused as that is fine. Mr. Katz said okay and that he hopes that the clock starts now. Since the failings of the last 50 years are being repeated tonight, all of this talk, from the Board about

bringing a fresh new approach to our problems or rectifying the problems we have had in the past is nothing more than talk. Trustee Tonking is just another version of Peter Morris and Bruce Simonian and he is asking her to take a fresh new approach which is what she represented she would do. The reasons for all of this are because you Board members don't understand what a GID is all about. You don't understand how it differs from a true municipality so you make decisions as if you were providing for the health, safety and welfare of our community when you have no power to do that. That's the power of the county. If you were supposed to do that, you would have been granted the power, you never have. So you refuse to understand the GID's provides services to property not to persons. You refuse to understand that your number 1 obligation is to property owners not to people. You aren't here to provide for the community health and safety. Take a look at NRS 318.201 which is going to deal with the Rec Fee. It specifically states that you are to collect fees that deliver benefits to property not to persons yet what you are doing is proposing to adopt a Rec Fee that provides benefits to people. What benefits to people? You are the ones that told us that you get 5 picture passes or punch cards for your Rec Fee and those are not redeemable by property, they are by people. You refuse to take the side of the property owner. Whenever there is a dispute with Staff, 2 of you don't even have standing to make decisions on community issues for property because you are not property owners who don't pay the Rec Fee. But don't confuse him with the facts, just do because the ends justify the means. He reminds you that 2/3's of the property owners can't vote or against Trustees, you refuse to meaningfully survey property owners as to projects they want like the beach house. Whenever have you ever asked property owners if they are willing to pay \$3.5 to \$5 million for the beach house and increase your Rec Fee to \$680 just for the beaches? Of course you haven't so how can you expect to know what they want. Until you start acting responsibly you can't expect to make responsible decisions; please act responsibly for once. Thank you.

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

Trustee Tonking made a motion to close the scheduled public hearing on the District's Operating and Capital Improvement Program Budgets, Fiscal Year 2021/2022. Trustee Schmitz seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

**E.2. REQUIRED PUBLIC HEARING ON THE REPORT FOR COLLECTION OF RECREATION STANDBY AND SERVICE CHARGES, FISCAL**

**YEAR 2021/2022** *(this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)*

Trustee Tonking made a motion to open the scheduled public hearing for Collection of Recreation Standby and Service Charges, Fiscal Year 2021/2022. Trustee Schmitz seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

Director of Finance Navazio, when asked, stated that the District complied with the required notices. Director of Finance Navazio gave a verbal overview of the submitted materials. Chairman Callicrate opened the matter for comments from the public.

Frank Wright said he wanted to ask a couple of questions – standby service charge for recreational ability for the parcel owners – so you are saying it is for his recreation and we have a standby service charge for recreation. We don't know what a standby service charge is because you are supposed to provide something to the people who live here who are paying it. So let's see, does Tri-Strategies fit under that qualification for recreational venue – no. Does the land under the Parasol building that we spent all that money for and we rent it to them for \$1 per year – does that fit under the recreational standby service charges – no. Does the maintaining of public parks or County parks at the end of Village or Lakeshore, both ends of Lakeshore, does that count as a recreational ability for him – no. Do we get recreation from the paving Tyrolian Village's road to their units – no. So why do you lie? Why is this a lie that is perpetuated year after year after year after year? If you charge the people who live here for their recreation, the costs wouldn't be anywhere where they are. But when you start taking and using this money for other things other than for the recreation of the people living here and he has got another one for you – he doesn't think that the amount of money that is being spent for maintaining the lawns and grass are anywhere near what you are charging for because he thinks you are also comingling the beaches with the other assessment and he doesn't think you have any kind of accurate measurement tool. So again, the standby recreation fee is a lie. Everything you do is a lie and it has been a lie for a long time. When is this Board going to say wait a minute, how are we providing the residents of this community recreation when we are lobbying for stuff, you can't hire lobbyists, lobbyists aren't something that are a part of anybody's recreation. Now how about lawsuits Trustee Wong? Why are we covering your inability to give public records? Massive lawsuits but we don't stop there we have got to go to Mark Smith's lawsuit too don't we? That is still going on and you are still trying to keep the public records from becoming

public. What is in there that is part of his recreation? What is in there that you are hiding? Unbelievable, do your job Board. Thank you.

Aaron Katz said he submitted an e-mail he wants added to these minutes and wanted to know if his questions were going to be answered because you can't pass this resolution. There is a section that states that amounts are required but at the May 5 meeting, Trustees Dent and Schmitz very clearly stated that no amounts are required so why are you adopting a report that is a lie? This is the same kind of lie you did on the budget report. Resolution states that the rec and beach fees are standby service charges which they are not. The only reason for their labels is because the ends justify the means. What evidence do you have that it is a standby service charge? He asked for that and you provided nothing. He has provided evidence that millions of expenses do not pay to make recreation facilities available for his use. Yet they are paid for and in the short for are covered by the rec fee. He challenges the number of assessed parcels which would lower the rec fee for everyone but Staff has ignored him. The report and the resolution both have parcel owners as a right to seek a refund yet the process stated in the resolution doesn't allow for refund so he has asked the Board to adopt an administrative procedure that is fair that provides for a refund; he has been ignored. NRS 318.015 states that the beach fee cannot be adopted to develop private property. 3 court cases have determined that the beaches are private, Trustees Wong and Callicrate have stated on the record that the beaches are private so what is the authority for the beach fee to develop private property? Isn't the Burnt Cedar pool development of property? What about the beach house you want? What about the bathrooms at Ski Beach? These are all development. The beach deed restricts access that Section 1.F. of the report gives away to favored groups that aren't entitled to beach access – why? And why would you ever approve it? The only solution is to force Staff to operate within its means and if that means eliminating the IVGID Quarterly or legislative lobbyists or Communications Coordinator or \$1 million worth of marketing or getting rid of the freebies, that's what you need to do.

Yolanda Knaak thanked the Board for lowering our fees that we pay on our taxes every year and said that she appreciates them going from \$830 to \$780.

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

Trustee Wong made a motion to close the scheduled public hearing for Collection of Recreation Standby and Service Charges, Fiscal Year 2021/2022. Trustee Tonking seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

**F. DISTRICT GENERAL MANAGER UPDATE (for possible action)**

District General Manager Winqest gave an overview of his submitted report. Following are the highlights:

- Had a meeting with the United States Forest Service regarding the parcel across the street from the high school that ended with him being very pleased and optimistic and with both parties working through next steps of issuing the special use permit.
- Strategic plan will be on the agenda on June 9. Feedback will be presented at that same time to the entire body.

Trustee Schmitz asked for an update on the Ordinance 7 survey and that she wanted to share with fellow Trustees that she was grateful to have this opportunity to review the District's Strategic Plan and asked that the Board of Trustees consider adding another section called Administrative because there are a lot of Information Technology incentives which would be objectives for the District and then asked the District General Manager to potentially considering adding that Administrative section. District General Manager Winqest said Staff will include that idea as feedback on June 9. District General Manager Winqest gave a brief update on the General Manager's Ordinance 7 Committee activity to date and noted that the survey launch date was to be May 28 but that he may push it out but that he is going to send out the draft survey to the Board. It is a parcel owner survey that the committee has worked hard on. Trustee Tonking said, regarding the survey, are we sending out in both English and Spanish and are you trying to keep it open for a period of 21 days or until you achieve a certain percentage or are you closing it on a specific target date? District General Manager Winqest said that the committee felt like 21 days was enough and that we can hold it open as we are looking for 20-25% response but we are hoping to hear from as many people as we can. We will also have hard copies available at a variety of locations. There is no reason to be in any hurry on this survey. We will keep you posted on the progress of the survey.

**G. REVIEW OF THE LONG RANGE CALENDAR (for possible action)**

District General Manager Winqest went over the long range calendar. Trustee Schmitz said she will be out of town on June 9 so she can attend but not in person. Trustee Wong said on July 29, she will be traveling and unable to attend. Trustee Tonking said she is gone the week of July 26. Chairman Callicrate said so let's have one meeting, mid-July, and then we usually only have one meeting in August. District General Manager Winqest said Staff will try to hold that meeting on July 21 and that Staff may ask to call a special meeting for Ordinance 7 sometime in July. Trustee

...



Schmitz asked about a detailed financial review of the Utility Fund as we are using funds that have been set aside for the effluent pipeline so we need to understand the financial situation on the Utility Fund at an upcoming meeting. Trustee Wong asked that the Board Chairman let her know when the discussion about removing Mr. Dobler from the Audit Committee will be scheduled. Chairman Callicrate said he will discuss that with Trustee Wong as no decision has been made on that topic and, yes, the whole Board will be informed. Trustee Tonking asked that the Board revisit Policy 3.1.0 regarding Staff time and amend it to address that issue. Chairman Callicrate said we need to have some type of template to address them holistically and perhaps that would be once a quarter so we can attack a couple at a time.

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

**H.1. Review, discuss and possibly Approve Fiscal Year 2021/2022: Budget, Capital Improvement Project Budget, Recreation Facility Fee, Beach Facility Fee and Central Service Cost Allocation (Requesting Staff Member: District General Manager Indra Winquest and Director of Finance Paul Navazio)**

- a. **Review and approve the Central Services Cost Allocation Plan for Fiscal Year 2021/2022 allocating a total of \$1,546,624 in costs from the General Fund to the Utility Fund, Community Services Funds and Beach Fund;**
- b. **Review and adopt the proposed Fiscal Year 2021/2022 Recreation Facility Fee of \$100 per parcel/dwelling unit and the Beach Facility Fee of \$680 per parcel/dwelling unit;**
- c. **Review and approve the Incline Village General Improvement District's Final Operating Budget for Fiscal Year 2021/2022 (Form 4404LGF) as prescribed by the State of Nevada Department of Taxation, and authorized positions; and**
- d. **Review and approve the Incline Village General Improvement District's Capital Improvement Project Budget for Fiscal Year 2021/2022**

District General Manager Winquest gave a brief overview of the submitted materials. Director of Finance Navazio went over the submitted materials and did so via a PowerPoint presentation which is incorporated herewith by reference.

Chairman Callicrate called for a break at 8:00 p.m.; the Board reconvened at 8:11 p.m.

Chairman Callicrate thanked Director of Finance Navazio for his presentation and especially the next steps slide which was very informative. Trustee Schmitz said regarding carry forward, agenda packet page 110, and then agenda packet page 130, looking specifically at carry forward for the Effluent Pipeline, on page 130, has \$11,536,000 but on agenda packet page 110 it is only carrying forward the \$2 million; can you please explain? Director of Finance Navazio explained that the larger number is reserved/restricted within the Utility Fund, not in the current year budget, and will be appropriated once we come up with a spending plan. Trustee Schmitz said thank you for the very thorough presentation and what we are doing going forward. Trustee Dent said on agenda packet page 75, Utility Fund, at the end of next fiscal year, we are showing \$1.7 million but saying we have \$11.8 million for the Effluent Pipeline? Director of Finance Navazio said that is included the budget and in the acquisition of capital assessments – we are spending some of the money in this budget for pond lining, \$3.5 million is actually being appropriated and that Staff will bring back the Utility Fund for full review. Trustee Tonking said thank you for answering all her questions and stated that the Director of Finance did a great job addressing some of the public comments made today. Trustee Wong said she is good with the budget and that all of her questions were answered. Trustee Dent said with next year's budget, he would like to recommend for Staff and the Board, that we have our budget workshop prior to filing our tentative budget; perhaps in April. District General Manager Winqest said that is a great idea and we will have that discussion very early on. Director of Finance Navazio said we have had a number of workshops, both this year and last year. The Recreation and Beach Facility Fees were late and we should move that up in our calendar. Trustee Schmitz said if we could all look at agenda packet page 33, consider for D., request that consider 2021/2022 final capital budget summary, which was page 38 of the Director of Finance's presentation; that this form will tie to the 4404 form and ties to the individual venue budgets. Director of Finance Navazio said the intent is to exclude those items that have expensed. Chairman Callicrate asked, if we were to modify to incorporate page 38 of the Director of Finance's presentation, are there any legal ramifications or alter what we are doing? District General Counsel Nelson said from, an open meeting law perspective, it is legal from that perspective. Chairman Callicrate said ok and that he will leave it up to whomever wants to make the motions for the Board.

Trustee Schmitz made a motion to:

- a. Approve the Central Services Cost Allocation Plan for Fiscal Year 2021/2022 allocating a total of \$1,546,624 in costs from the General Fund to the Utility Fund, Community Services Funds and Beach Fund;
- b. Adopt the proposed Fiscal Year 2021/2022 Recreation Facility Fee of \$100 and the Beach Facility Fee of \$680;
- c. Approve the Incline Village General Improvement District's Final Operating Budget for Fiscal Year 2021/2022 (Form 4404LGF) as prescribed by the State of Nevada Department of Taxation, and authorized positions; and
- d. Approve the 2021/2022 Final Capital budget summary highlighted on agenda packet page 38 of Director of Finance's presentation to the Board of Trustees.

Trustee Dent seconded the motion. Chairman Callicrate asked for further comment, receiving none, he called the question and the motion was unanimously passed.

Director of Finance Navazio thanked all of the Staff who got us here. Chairman Callicrate agreed and hope that next year's process can be tightened up and shortened.

**H.2. Review, discuss and possibly approve Resolution Number 1889: A Resolution Approving the Report for Collection, on the Washoe County Tax Roll, of Recreation Standby and Service Charges per parcel of \$780 with beach privileges and \$100 without beach privileges, Fiscal Year 2021/2022 (Requesting Staff Member: District General Manager Indra Winquest and Director of Finance Paul Navazio)**

Director of Finance Navazio reviewed the submitted materials and noted that one modification to the resolution language, which he shared with the Board, is that the resolution will be modified to mirror the one that preliminary approved the fees. Director of Finance Navazio said that we are substantially complete with our parcel audit and will be working with Washoe County to work out the identified differences. Trustee Schmitz said that there was a comment, made in public comments, regarding paragraph B., such that it excluded Parks. Parks doesn't belong in that paragraph and that she wanted to confirm that she wasn't misunderstanding that paragraph. Director of Finance Navazio said that he

would concur with that understanding. District General Manager Winqest said he too concurs. Director of Finance Navazio said it should be approved as shown; District General Counsel Nelson said that he too concurs. Trustee Schmitz said, on agenda packet page 188, the document is called "Procedure for Collection under NRS 318.201", there is a paragraph on agenda packet page 191, paragraph F., and that she is recommending that we strike paragraph F. as it talks about access to the beaches which is incorporated into Ordinance 7 or another resolution. She also stated that she knows that it has been there for years however it has nothing to do with collection and thus she is recommending that it be removed. Director of Finance Navazio said that agenda packet page 181, intends to do two things – (1) billing and collection process and (2) establish method of collection but neither of those impact what Trustee Schmitz is recommending. District General Manager Winqest said he has no issue with striking it. In response to the public comment made about this topic, he hasn't opened up the beaches and it is not something that we practice. Should we have a request like that, it would go in front of the Board of Trustees. Chairman Callicrate said it belongs in Ordinance 7 so he has no issue in removing it.

Trustee Schmitz made a motion to approve Resolution Number 1889 with language corrections to correspond with Resolution 1887 that is dated May 5, 2021: A Resolution Approving the Report for Collection, on the Washoe County Tax Roll, of Recreation Standby and Service Charges per parcel of \$780 with beach privileges and \$100 without beach privileges, Fiscal Year 2021/2022 and with paragraph I.f. stricken from the attached report. Trustee Wong seconded. Chairman Callicrate asked for further comments, none were received, so he called the question – the motion was passed unanimously.

**H.3. Review, discuss and possibly approve Resolution 1885: Policy and Procedure Resolution No. 140, Resolution Number 1885, An Emergency Resolution to amend Resolution Number 1884 to temporarily limit employees' access to the beaches, located in Incline Village, Nevada known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach (Requesting Trustees: Sara Schmitz and Matthew Dent; Presenting Staff Member: District General Counsel Josh Nelson)**

District General Counsel Nelson gave an overview of the submitted materials. Chairman Callicrate said he would like to have an independent property rights attorney or an attorney of that nature go in and thoroughly vet the beach deed to settle some lingering questions that seem to be out there. He respects District

General Counsel's opinion but would like to have a third party, who is an independent party, take a look at this and noted that he is trying to strike a middle pose here. District General Counsel Nelson said this is something that he and the District General Manager have discussed and it would be of value to explore; the question was when would be the appropriate time? You can have that review as a part of Ordinance 7 and that would be the most efficient time to do that action and that is just one thought. Chairman Callicrate said that there are a lot of issues surrounding this, employee retention being one, and that it is hard to keep the service level that we have as we don't have a huge pool of people to come up and work here. The precedent that was set was done thirty some years ago. He would like to have a legal expert weigh in and get this answered definitively. Trustee Dent said he understands wanting to look at this from a legal perspective and that he is trying to understand where you are going. He is all for having an attorney do this and do so in the fall so he is trying to understand where Chairman Callicrate is coming from. Chairman Callicrate said he is talking about the temporary situation as we are going into peak season and he doesn't know if this will impact our staffing but he knows that we aren't fully staffed. He is trying to find a way to have our emergency resolution and he would like more immediate feedback from an independent attorney and limiting employees. Trustee Schmitz said that this is not about limiting employees, it is about no guests and that this is only about not bringing guests. Chairman Callicrate said it is a volatile situation but that he would like an independent lawyer to weigh in. Trustee Wong said based on what is in the packet, it does take access to on call employees therefore Chairman Callicrate is right and Trustee Schmitz is wrong. Chairman Callicrate said that we are limiting the access to the employees and it needs clarity. District General Counsel Nelson said as proposed on call employees would not have access and all others would keep access but not be able to bring guests. Trustee Schmitz said procedurally how is it that employees bring guests? Procedurally how it is handled, what do they pay and is there a limit? District General Manager Winquest said employees that bring guests and pay the applicable rate so no guests are free. There is no limit on the number of guests they can bring. The impact would be if you have grandkids because they aren't classified as spouse/dependent. Trustee Wong said she wants to circle back to Chairman Callicrate's original comment, thank you for making, as she too has similar concerns especially as it relates to employee morale, recruitment, and retention. It is a prudent move to get another opinion and to get that opinion before we make any changes. If we are going to make changes to employee benefits, it should be a part of larger conversation, and there should be a conversation with our employees before at a Board level. Chairman Callicrate said these are verbal contracts or are parts of the package of benefits. He doesn't want to get us into the situation of a promise that is taken away. If these

are not to be continued in the future, and that is based on legal feedback, then fine. But until we get that feedback, he is hesitant to move forward with these changes. He is fine with the initial resolution but don't want to move forward with these restrictions until he hears from legal. Trustee Tonking said she has a conflict of interest so she won't be voting. Trustee Wong said we should not vote on this item, seek advice from a separate legal counsel who has property rights expertise, and do so with the Ordinance 7 discussion. Chairman Callicrate asked District General Counsel Nelson if a motion was needed or could the Board table this item until next Board meeting without effecting the emergency resolution. District General Counsel Nelson said we can have a motion to pass or a motion to table and that legal counsel will need to be a separate agenda item. Further, he would appreciate if the motion would provide clarification on timing – do now or do with Ordinance 7. Trustee Dent said he was all for going in that direction when we dive into Ordinance 7 but feels like this is two separate issues as this has to do with COVID. If the Board isn't interested in doing that, this won't pass. He won't make a motion if it is dead on arrival. Trustee Schmitz said when this came up, Trustee Dent had his perspective and where she was coming from was specific to COVID. Our parcel owners have been asked to make changes and have some procedures changed for them and she was concerned about the beach deed and access to the beach. We starting talking about non-resident employees at the beach and that this language was a compromise, was the direction that the majority was comfortable with, the root was having all of us feel a little bit of the pain as all of us are in this together, and asking Staff to make a compromise and the other side was the beach deed. If what we need to do is get Ordinance 7 input, do the survey, and let legal weigh in, as the intention was not to punish Staff, rather it was COVID and beach deed related. She agrees a motion is dead on arrival. It is wise to get legal advice and at this point, it is what it is, we are not moving forward. What do we want to move forward with has been pretty clear. District General Manager Winquest said we have received direction about third party counsel at a minimum for non-resident employee access and if there are other things we want them to look at, he will discuss that and timing with the Board Chair. District General Counsel Nelson said, regarding the third party legal review, it will depend upon the scope and there are a couple of options we can talk about and if it is just an opinion, it could be thirty days but we can make sure it fits with the schedule. Trustee Wong asked for a timeline on Ordinance 7 for us to review which will help us with looking at the future and help the public understand what is coming up. Trustee Schmitz said that is a great suggestion and could we put that on our long range calendar? District General Manager Winquest said we can't do for June 9 and that right now the plan for Ordinance 7 is a presentation with recommendations in July and then the Board will be deliberating for 10-12 weeks.

**I. MEETING MINUTES (for possible action)**

**I.1. Meeting Minutes of April 29, 2021**

District Clerk Herron said that on agenda packet page 227, near the bottom, Trustee Wong has asked that the words “racist and sexist” be revised to “homophobic and sexist”; those changes have been made and if accepted, the minutes will be reposted to the website. No Trustee objected to the change and the minutes were approved as amended.

**J. FINAL PUBLIC COMMENTS\***

Yolanda Knaak said she wanted to thank everyone for their hard work and do want to just mention that Cliff Dobler has been a great asset to the Audit Committee and she knows everyone makes mistakes and says something goofy and she doesn't personally think he should be removed from the Audit Committee.

Aaron Katz said he wanted to go to the Director of Finance's explanation of the General Fund because he doesn't think it was accurate. The Director of Finance stated that he didn't reflect the loss of property tax revenue because it will be paid by an excess fund balance – this is not true. The County is going to reduce the tax revenues that IVGID receives by the amount of the tax refund i.e. he can't read. Maybe the loss will be offset by transfers from the excess fund balance but there is going to be a loss of revenue nevertheless and that's not demonstrated at all on the financials. Now look at the fund balance of the General Fund at agenda packet page 61. Beginning fund balance is estimated at \$5.16 million with no indication of a reduction for the property tax refund. In contrast, look at the expenses of the General Fund, agenda packet page 62, there we see a \$100,000 contingency expense. Now Staff doesn't tell us what this is for but he believes it to be future Mark Smith litigation cost so why no similar contingency for the loss of property tax revenues? No one other than the Director of Finance knows there is going to be a \$1.36 million reduction in the fund balance and he is sorry but that is not being honest depicting what is going on in the General Fund. The public wouldn't have a clue that there is going to be \$1.36 million less in the General Fund had people like him not raised the issue and it's not our job to raise the issue, it is the Director of Finance's job to accurately depict what he knows is going to be the revenue in our funds and he has not done his job. He is sorry and thank you very much for considering.

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

The meeting was adjourned at 9:18 p.m.

Respectfully submitted,

Susan A. Herron  
District Clerk

**Attachments\*:**

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

Submitted by Cliff Dobler: Public Comment 5-26-2021 with exhibit A

Submitted by Aaron Katz: Agenda E(2) – Public Hearing on the RFF/BFF For 2021-22

Submitted by Aaron Katz: Written statement to be included in the written minutes of this May 26, 2021 regular IVGID Board meeting – Agenda Items E(2) and H(2) – Opposition and protest to proposed Resolution 1889 approving report adopting 2021-22 Recreation (“RFF”) and Beach (“BFF”) facility fee(s) and electing to have them collected by the Washoe County Treasurer on the County tax roll



From: Cliff Dobler

I request my written statement be included as correspondence in the minutes of this meeting.

I think it would be worthy to provide some historical data on the Diamond Peak Ski resort as it relates to past budgets and actual revenue and expenses. We learn from history. From studying history we can very simply see how wacky the proposed budget is for next fiscal year.

For the five year period from 2016 to 2020 Revenues exceeded the budgets by 29% or \$11.9 million or \$2.4 million per year. Related expenses exceeded budgets by only 5% or \$1.7 million or \$340,000 per year. So for every extra dollar of revenue, expenses were only \$14 cents. Money flowed into the coffers of IVGID.

During this past season of 2021, Revenues hit the budget dead on but remarkably expenses were 25% less than budget and \$2,000,000 was not needed. Good job being able to achieve budgeted revenues with 25% less in expenses. Why? We should find out. We know approximately \$225K in advertizing was severely axed and apparently was well worth it. Diamond Peak never needed advertizing. The reasonable ticket and pass rates is the advertizing. Could it be that various ancillary services are just not needed?

Now comes next year's budget.

It seems management has decided that revenues can only be increased by \$800,000 over the historical 6 year average. In order to accomplish this minor revenue increase management needs an extra \$2.1 million in expenses over last season's estimate.

So for every dollar of increased revenues it will take \$2.68 in expenses. Is this good business? Budget a minor increase in revenues to make less? \$225K for advertizing is back in the budget.

The gross margin defined as operating revenues less operating expenses will only be \$2.7 million far below the 6 year average of \$3.5 million. Last season with COVID, masks, distancing, extra costs and every other inconvenience the gross margin was over \$4,000,000 highest ever.

The budget assumes 130,000 visits which is only 3,000 more visits than last season. So for each additional visit \$700 extra will be spent on expenses.

Conclusion - The budget for this venue should not be approved. In my opinion, based on history revenues are set too low and expenses are set too high. From 2016 to 2020 property owners have been assessed over \$9.8 million in Facility Fee which was never needed to operate the various Community Services venues (which includes Diamond Peak). It is unconscionable not to review recent history and develop a reasonable budget for Diamond Peak .

EXHIBIT "A"

**Incline Village General Improvement District  
Diamond Peak Ski Resort**

Summary of Revenues, Expenses compared to original budgets

*OPERATIONS ONLY - NO CAPITAL PROJECTS OR DEBT SERVICE COSTS*

Fiscal Year	Revenues - Charges for Services		Operating Expenditures		Operating Margin	Expenses Percentage of Revenues		
	Budget	Actual	Budget	Actual				
2016	6,498,000	10,202,972	5,602,106	6,441,024	3,761,948	63%		
2017	7,482,600	11,326,968	6,228,251	6,810,598	4,516,370	60%		
2018	8,268,215	9,155,646	6,701,155	7,024,327	2,131,319	77%		
2019	8,915,000	11,778,871	7,353,714	7,830,948	3,947,923	66%		
2020	9,222,300	9,781,499	7,565,368	7,011,524	2,769,975	72%		
	<u>\$ 40,386,115</u>	<u>52,245,956</u>	129%	<u>33,450,594</u>	<u>\$ 35,118,421</u>	105%	<u>\$ 17,127,535</u>	67%
Five year average	8,077,223	10,449,191		6,690,119	7,023,684		3,425,507	67%
2021	Estimated actuals	10,186,735	<del>10,165,250</del>	8,075,342	<del>6,084,214</del>	<del>4,081,036</del>		60%
2022	Budget	<b>10,958,399</b>		<b>8,214,784</b>		<b>2,743,615</b>		75%
		5% increase from average actuals		22 % increase from average actuals				

2022 Increase from 2021 \$ 793,149 for revenues \$ 2,130,570 for expenses

TO OBTAIN ONE DOLLAR IN EXTRA REVENUES IT REQUIRES \$2.68 IN EXPENSES

*DOES THIS MAKE ANY SENSE?*

**FOR EVERY DOLLAR RECEIVED IN EXCESS OF THE BUDGET OVER THE PAST FIVE YEAR PERIOD THE COST TO DELIVER THE EXCESS REVENUE WAS ONLY 14 CENTS**

Revenues exceeding budget for the five year period	\$ 11,859,841
Expenditures exceeding budget for the five year period	\$ 1,667,827
Cost per dollar of excess revenues	\$ 0.14

Sources - 2016 to 2020 CAFR  
Diamond Peak end of season update provided to Board on 5-7-2021  
Diamond Peak budget for fiscal 2021 provided to Board on 5-7-2021

Other data  
Tickets and Season Passes are 50% of revenues For 2021 Revenues were 29% higher than budget  
F&B, Ski & Ride Center, Child Ski Center, Equipment Rental are 50% of Revenue For 2021 Revenues were 29% lower than budget

## Herron, Susan

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**From:** s4s@ix.netcom.com  
**Sent:** Wednesday, May 26, 2021 12:40 PM  
**To:** Info\_at\_IVGID  
**Cc:** Tim Callicrate; Matthew Dent; Wong, Kendra; Michaela Tonking; Sara Schmitz; Winquest, Indra S.  
**Subject:** Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

The agenda for tonight's public hearings/board meeting states that members of the public may make comments via e-mail to this address by 4 P.M. this afternoon. So I am making a couple of comments I trust the attorney will address this evening.

A. The proposed Report on the Collection of the RFF/BFF (pages 188-193 of the Board packet) which proposed Resolution 1889 seeks to adopt states matter of factly that the RFF/BFF are "recreation standby...charges" for the availability to access and use the District's public recreational and private beach facilities, and involuntary "recreation...service charges." I would like to hear Mr. Nelson's explanation of what facts support the conclusion the RFF/BFF represent these charges? Because I and others I know are of the opinion the RFF/BFF DON'T represent these charges.

In support, I've created a number of past expenditures staff have made with past RFFs/BFFs which are not these charges:

1. Appearance Fees (\$5,000/each) to Tennis Professionals For a Tennis Center Event Open to the Public at No Charge;
2. Fourth of July Fireworks (we used to donate \$10K annually);
3. Litigation Fees. Not just defending Frank Wright's, Steve Kroll's, Aaron Katz's and Mark Smith's lawsuits, but prosecuting litigation against Kevin Lyons;
4. The \$100K "contingency" in the proposed 2021-22 budget assigned to the General Fund reflecting additional litigation fees/possible settlement in the Mark Smith lawsuit;
5. Litigation settlement fees (the \$10K contribution to "we the people");
6. Court Mandated Ad Valorem Tax Refunds. The previous refunds were reflected as "extraordinary expenses" under where does your RFF go, for three (3) years. The current refunds will create a shortage in the District's General Fund which will have to be made up from somewhere assuming staff do not cut their overspending. And that shortage will be made up from disingenuous "central services costs" charged in part to the RFF and the BFF;
7. Private Memberships in Third Party Golf Organizations. I previously provided evidence that IVGID paid for private golf club memberships in the NCGA. Although staff claimed the costs of those memberships were reimbursed, they have refused to provide any written evidence of the same notwithstanding I have asked to examine that evidence. So until staff comply, the private memberships have NOT been reimbursed;
8. Employee Meals Because They've Had a Tough Week (or Season). Or it's someone's birthday. Or someone's going away party. Or someone's welcome on board party. Or you select the improper reason whatever it may be;
9. Vendor Meals and Entertainment. You remember when our staff to SE Group principals out to a \$200 dinner at the Lone Eagle Grill. How many more of these meals and entertainment have staff made/propose making with our RFF/BFF?
10. Consultant Fees For Recreation Master Plans. You know, the plans which come up with a generic wish list of capital improvements which you and I could have come up with in half an hour if we sat around a table and threw out wish list recommendations. And BTW, how did the Global Golf Advisors plan work out given we've ignored most of the recommendations? Or the DPMP which is now 8 years old and we're no closer to doing anything than we were 8 years ago - and the timing was so critical for that plan, wasn't it?
11. Memberships in Dozens of Meaningless Third Party Organizations like the Bear League, STOKE and almost POW;
12. Defensible Space Expenses to Protect the Visitors and Guests to Incline Village. Know these efforts are not targeted to protecting IVGID's recreational facilities from catastrophic fire. They're targeted to creating a halo surrounding IV and CB to protect EVERYTHING including "things" belonging to those who don't pay the RFF;
13. The giveaway of approximately 2.3 acres under the Parasol Community Center restricted to recreation and park purposes only. \$1/year for up to 99 years;
14. The giveaway of approximately .5 acres under the Visitor's Center building restricted to recreation and park purposes only. \$1/year for up to 99 years;

15. Maintenance and upgrades to the Reno-Sparks Visitors' and Convention Authority's park adjacent to the Visitor's Center;
16. Maintenance and repair of the two Washoe County parks at either end of the intersections of Lakeshore Blvd. and State Highway 28. Since at least 1994, if not before;
17. Maintenance, upgrades and use of the athletic fields for the Washoe County School District's Middle School's physical education programs - i.e., Incline Park;
18. Maintenance and repair of the WCSD's upper high school athletic field. Staff claims IVGID owns this field. But it does not. Staff claims its costs are reimbursed by the WCSD. But the reimbursement amount is insufficient to cover IVGID's actual costs. And besides, are IVGID staff so under utilized so we can make them available to every private Tom, Dick and Harry who wants to avail itself of those services?
19. Maintenance, repair and renovation of public parks such as Preston Field, Village Green, Incline Park, Incline Skateboard Park, the Disc Golf Course, the Incline Bike Park, the Bocce Ball Park, and the Incline Fitness Trail. We lose more than \$1 million annually maintaining and repairing these public parks which in essence generate no user fee revenues;
20. Regional Transportation System. Hundreds of thousands of dollars of vehicles providing all sorts of mostly free transportation in/from/to our community including on demand shuttles to/from the Reno-Tahoe Airport;
21. Over 100 money losing community programs operated Out of the Recreation Center including pre and post school child care;
22. Maintenance, repair, upgrades and renovations to Ski Way for the benefit of approximately 330 Tyrolean Village homeowners, their tenants, invitees and guests;
23. Massive public philanthropy so local non-profits can use the public's recreational facilities to generate funds for their flavors of the month at local parcel/dwelling unit owners' expense. The most recent example is the TFC's June 6, 2021 Champ Golf tournament where the public's costs are \$41K+ per day, on average, and the revenue received from the tournament will be \$2K;
24. And don't forget DPSEF. I've already documented where the cost to the public totals \$200K+ per year. And now they want another Parasol/Visitor's Center \$1/year sweet deal at Diamond Peak;
25. CMAR costs because our professional engineering staff are not competent to perform construction management duties notwithstanding the cost of every CIP reimburses for such staff under the guise of "unreimbursed staff time." Don't we remember the \$200K+ of unreimbursed staff time assigned to the pond lining project which it turns out was never prosecuted?
26. Public relations for staff propaganda purposes. First it was Misty Moga as Communications Coordinator. Then it was Tri-Strategies at \$4K/month. And now it's Kari Ferguson as Communications Coordinator;
27. Lobbyist fees to influence legislation. \$3K/month to Tri-Strategies for what? And nearly \$5K/month to Marcus Faust for what?
28. The IVGID Quarterly (another staff propaganda tool). I've already documented where our costs are at least \$10K/issue, and there are at least six (6) issues/year (so why do we call it the "quarterly?") I guess our staff are so "under-utilized" that we have to find meaningless extraneous jobs for them to do to justify the fact they are full time, fully benefited employees;
29. Our Marketing Department. Notwithstanding NRS 318.015(1) instructs that our recreational facilities are supposed to be here for our use, staff spend \$1M or more annually on billboard, television commercial, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways selling IV to the world's tourists;
30. Credit card processing charges. Over \$425K annually and for the benefit of what?
31. Loomis armored car bank transporting charges. Over \$1,700/month and for the benefit of what?
32. Restaurants and food courts. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?
33. Bars selling alcoholic beverages. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?
34. Food and beverage/catering department(s). Food is not recreation for most of us;
35. The Hyatt Sport shop retail sales;
36. Acting as an insurer for Village Ski Loft merchandise sold in the Sport Shop by IVGID employees which is lost, stolen or damaged;
37. Retail clothing/soft good sales. Besides the Hyatt Sport Shop, both golf pro shops, the Tennis and Recreation Centers. I guess shopping is now recreation.
38. Wedding and event facilities sales. And staff won't tell you they have used paragraph I(F) of the proposed Rec Fee Report to SELL our beaches for weddings. Some employee with beach access declares that a wedding customer is his/her guest for beach access which opens the beaches to wedding sales; and,
39. IVGID currencies. IVGID bucks, Diamond Peak bucks, "PERK" program bucks, and when all else fails, fully transferable Diamond Peak ski lift vouchers.

NONE of this has anything to do with making the public's recreational facilities available for my use, as opposed to anyone else's use, yet you Board members call the RFF which finances all of this an alleged standby service charge. Or a plain old involuntary service charge.

B. Or let's take the BFF.

40. Ordinance 7 says the BFF pays for my ability to access and use the beaches and if I don't pay, I don't get access. Really? Since the beach deed grants local property owners as well as their properties the grant of easement, how can the Board and staff state that the BFF is a legitimate standby service charge?

41. Or let's go one step further. 3 court cases have determined that the beaches are private. Trustees Callicrate and Wong have both announced on the record that the beaches are private. So how can the BFF be used to develop the beaches (Burnt Cedar Pool, the Beach House, the Incline Beach bathrooms, the beach overflow parking lot) given NRS 318.015(2) expressly prohibits this?

C. Seeking Refund of the RFF/BFF.

42. Section VI of the proposed Report for the collection of the RFF/BFF as well as paragraph 8 of proposed Resolution 1889 both declare that those who are assessed the RFF/BFF are entitled to seek its refund yet there is no administrative means of so doing? I have demonstrated that since the laws pertaining to refund of a county's general taxes do not apply to IVGID's RFF/BFF, because the RFF/BFF are uniform in amount and not dependent upon an assessed parcel's valuation, there is no remedy to seek their refund. So I am asking the Board create its own administrative remedy the way it has done in Ordinance 7 whenever a picture pass or punch card holder's recreation privileges are proposed to be suspended or revoked. Or is the language nothing more than "hollow words?"

Thank you for accommodating my request.

And please include this e-mail as an attachment to the written minutes to be prepared of tonight's meeting.

Aaron Katz

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 26, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEMS E(2) AND H(2) – OPPOSITION AND PROTEST TO PROPOSED RESOLUTION 1889 APPROVING REPORT ADOPTING 2021-22 RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEE(S) AND ELECTING TO HAVE THEM COLLECTED BY THE WASHOE COUNTY TREASURER ON THE COUNTY TAX ROLL**

**Introduction:** On May 5, 2020 the IVGID Board of Trustees (“the Board”) passed Resolution 1887<sup>1</sup> which preliminarily adopted a “Report For Collection on the County Tax Roll of...the RFF and BFF” (“Report”) which: proposed a not to exceed \$100 RFF and not to exceed \$680 BFF for the upcoming 2021-22 fiscal year<sup>2</sup>; and, ordering their involuntary collection on the county tax roll<sup>3</sup> against all non-exempt parcels/residential dwelling units within IVGID’s boundaries. The Board labeled the RFF/BFF “recreation standby and service charges” purportedly paying for nothing more than *those parcels which have been assessed’s*<sup>4</sup> “use of Burnt Cedar and Incline Beaches as well as the availability of use<sup>5</sup> of the Incline Village Championship and Mountain Golf Courses, Diamond Peak Ski Resort, Recreation Center, Tennis Center, Event Facilities, Parks, and other recreational properties, facilities and programs,”<sup>6</sup> respectively, as well as the services offered thereat. This agenda item now proposes adoption of a final Report<sup>7</sup> which proposes a \$100 RFF, \$680 BFF<sup>8</sup>, and orders their collection on the county tax roll<sup>9</sup>. As a resident and local property owner proposed to be assessed, I protest and object.

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<sup>1</sup> See pages 263-269 of the packet of materials prepared by staff in anticipation of the Board’s May 5, 2021 special meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505\\_-\\_Special\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505_-_Special_-_Searchable.pdf) (“the 5/5/2021 Board packet”)].

<sup>2</sup> See page 182 of the packet of materials prepared by staff in anticipation of this May 26, 2021 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/H.2.\\_-\\_Rec\\_Roll.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/H.2._-_Rec_Roll.pdf) (“the 5/26/2021 Board packet”)].

<sup>3</sup> “The charges contained in said report (are to) be collected by the District in accordance with the provisions of NRS 318.201(11)” (see page 263 of the 5/5/2021 Board packet, and <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec201>).

<sup>4</sup> NRS 318.201(1) and (7) make clear that the rates adopted by the Board pursuant to this chapter NRS 318 which may be collected pursuant to NRS 318.201, et seq. are for facilities and services *received by “parcel(s) of real property” rather than persons*. In my opposition I have included a more detailed discussion of this topic hereafter.

<sup>5</sup> “Available” means “capable of use for the accomplishment of a purpose” [see *McMillan v. Texas National Resources Conservation Comm'n*, 983 S.W.2d 359, 363 (1998) - <https://www.casemine.com/judgement/us/59148012add7b0493446c701>].

<sup>6</sup> See pages 265-266 of the 5/5/2021 Board packet.

<sup>7</sup> See pages 188-193 of the 5/26/2021 Board packet.

<sup>8</sup> See ¶II at page 191 of the 5/26/2021 Board packet.

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<sup>9</sup> See ¶IV at page 191 of the 5/26/2021 Board packet.

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**Because IVGID Staff Will Offer No Evidence in Support of Any of the Findings Incorporated Into Proposed Resolution No. 1889, the Board’s Adoption of the Resolution Represents a Voidable Abuse of Discretion:** A careful examination of proposed Resolution 1889<sup>10</sup> reveals a series of factual findings will be made that are incorporated thereunto:

1. Although Proposed Resolution 1889 recites that the District’s Recreation and Beach Facility Fees are “Recreation Standby and Service Charges” (see page 184 of the 5/26/2021 Board packet), protestor predicts no evidence will be presented to support either conclusion;

2. Although ¶¶4 and 4(b) of proposed Resolution 1889 at pages 185 and 186 of the 5/26/2021 Board packet recite that “the Board of Trustees finds that each parcel assessed...is specially benefited,” protestor predicts no evidence will be presented to explain how each parcel to be assessed, rather than its owner(s) is so benefited. Although ¶4(a) of proposed Resolution 1889 at page 185 of the 5/26/2021 Board packet recites that “Ordinance No. 7<sup>11</sup> sets forth...the specifics of the benefits available to property *owners*,” the Board knows that Ordinance No. 7 sets forth *nothing whatsoever* insofar as the alleged benefits available to the assessed *parcels* themselves;

3. Although ¶4(b) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet goes on to recite that benefits “which inure to the *owners* of properties assessed...are provided to said *properties*” themselves, protestor predicts no evidence will be presented to explain how exactly each parcel is so benefited;

4. And because of ¶4(c) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet, the Board has really *not* proposed a finding that “each parcel assessed...is specially benefited.” Rather, it proposes a finding that “the *owners* of the parcels set forth (t)herein are (the ones)... benefited;”

5. Although ¶4(c) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites that “the owners of the parcels (assessed) are directly benefited in a fair and reasonable way,” protestor predicts no evidence will be presented to explain how exactly it is fair and reasonable to involuntarily assess an owners’ property for charges imposed for the lack of benefits provided;

6. Although ¶5 of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites that “the rates charged” to an owners’ property are “reasonable in their relation to the object of the charges imposed,” protestor predicts no evidence will be presented to explain how exactly those rates are “reasonable in their relation to” anything, let alone “the object of the charges imposed;”

7. Although ¶III of the Report’s assertion of fact at page 191 of the 5/26/2021 Board packet “ha(ve) been apportioned among...(assessed) lots, pieces or parcels of real property, and dwelling

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<sup>10</sup> See pages 183-187 of the 5/26/2021 Board packet.

<sup>11</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec\\_ordinance\\_7\\_1998.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf).

units within the District,” protestor predicts no evidence whatsoever will be presented to demonstrate any apportionment whatsoever;

8. Although ¶15 of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites “that said charges have been apportioned in relation to said natural, intrinsic, fundamental and reasonable distinctions among said rates,” protestor predicts no evidence whatsoever will be presented to explain what those “natural, intrinsic, fundamental and reasonable distinctions” actually are, how they have been apportioned, and how that apportionment is fair and reasonable;

9. Although ¶12 of proposed Resolution 1899 at page 185 of the 5/26/2021 Board packet recites that the proposed RFF/BFF will have been “equitably distributed among the (assessed) parcels of property contained” in the Report, protestor predicts no evidence whatsoever will be presented to demonstrate that the proposed distribution is equitable;

10. Although ¶13 of proposed Resolution 1899 at page 185 of the 5/26/2021 Board packet recites that the Report “contain(s)...all of the properties within the District that will (allegedly) be benefited by being charged” the proposed RFF/BFF, protestor already knows this representation is false and he predicts no evidence whatsoever will be presented to demonstrate that the representation is true;

11. Although ¶18 of proposed Resolution 1899 at page 187 of the 5/26/2021 Board packet recites that “all laws applicable to the levy, collection, and enforcement of general taxes of the District, including but not limited to, those pertaining to...refund...are applicable to such charges,” given they are not applicable, protestor predicts no evidence will be presented to explain how one whose property is assessed can seek refund;

Without such evidence, notwithstanding the burden to produce the same falls squarely upon IVGID staff, the Board’s adoption of proposed Resolution 1889 will be arbitrary, capricious, and a voidable abuse of discretion. Protestor and others he knows therefore protest and object.

**Because IVGID Staff Will Offer No Evidence That the RFF/BFF Pay For "Services" or "Facilities" Delivered or Capable of Being Delivered to Those Parcels/Dwelling Units Which Are Proposed to be Assessed<sup>12</sup>, the Board Has No Power to Assess Those Parcels/Dwelling Units Nor to Involuntarily**

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<sup>12</sup> For instance, ¶14 of proposed Resolution 1899 recites that “the Board...finds that each parcel assessed ...is specially benefited (and that)...Ordinance No. 7 sets forth in detail the specifics of th(os)e benefits” (see page 185 of the 5/26/2021 Board packet). ¶14(b) of proposed Resolution 1899 recites that persons’ “availability of the use of IVGID’s beach (and recreation facilities)...are...benefits...provided to said properties” (see page 186 of the 5/26/2021 Board packet). ¶11(E) of the Report adopted by ¶16 of proposed Resolution 1899 recites that “each parcel which is charged a (RFF) and/or (BFF) is entitled to recreation privileges as described in...Ordinance No. 7” (see page 191 of the 5/26/2021 Board packet).

**Collect the Subject Charges on the County Tax Roll:** Although NRS 318.201(1)<sup>13</sup> allows the Board to elect to have any *rates* it adopts collected on the county tax roll, this election is *only* available where “each parcel of real property (assessed is capable of actually) *receiving...services and facilities*” [also see NRS 318.201(9)<sup>13</sup>]. But here no recreation facility, beach facility, nor service IVGID offers thereat is delivered or capable of being delivered to real property. And for this reason, IVGID staff will fail to present evidence to the contrary. Moreover, no recreation or beach facility is physically connected to private property (similar to a sewer or water lateral) nor for the vast majority of properties, none is adjacent to and thus capable of being physically connected to private property. Given proposed Resolution 1899’s representations to the contrary are false, the Board has no power to collect the RFF/BFF against parcels of real property. The undersigned protests and objects.

**Moreover, the RFF/BFF Are Not “Standby Service Charges:”** Although NRS 318.197(1)<sup>14</sup> allows a GID Board to fix “standby service” and “service charges,” *nowhere* in the NRS is the term “standby service charge” defined. Putting aside the fact IVGID staff have an incentive for the RFF/BFF to be such charges (“the ends justify the means” because other than *ad valorem* taxes<sup>15</sup>, standby service fees are the *only* kinds of charges general improvement districts (“GIDs”) are arguably authorized to *involuntarily* assess), just because IVGID staff affix this “label” *doesn’t* necessarily mean that is what they are. For these reasons, “courts will (instead) determine and classify (exactions such as these) on the basis of realities” [*Hukle v. City of Huntington*<sup>16</sup>, 134 W.Va. 249, 58 S.E.2d 780, 783 (1950)] looking to their “operative effect” [*Emerson College v. City of Boston*<sup>17</sup>, 39 Mass. 415, 462 N.E.2d 1098, 1105 (1984)].

Notwithstanding Nevada has not defined the terms, other states have as some sort of property levy imposed for the mere availability of water/sewer [*State v. Medeiros*<sup>18</sup>, 89 Haw. 361, 367, 973 P.2d 736, 742 (1999); *Chapman v. City of Albuquerque*<sup>19</sup>, 65 N.M. 228, 335 P.2d 558, 562 (1959); *Graham v. City of Lakewood Village*<sup>20</sup>, 796 S.W.2d 800, 801 (1990); *Lakeside Utilities Corp. v. Bernum*<sup>21</sup>, 5 Ohio.St.3d 99, 449 N.E.2d 430, 431 (1983)] *services* [*Kellerman v. Chowchilla Water Dist.*<sup>22</sup>, 80 Cal.App.4th 1006, 1011, 96 Cal.Rptr. 246, 250-51 (2000)] delivered or capable of delivery to property

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<sup>13</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec201>.

<sup>14</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec197>.

<sup>15</sup> See NRS 318.225 (go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec225>).

<sup>16</sup> Go to <https://www.casemine.com/judgement/us/5914a0d7add7b0493467f97d>.

<sup>17</sup> Go to <https://www.casemine.com/judgement/us/59148f70add7b04934565682>.

<sup>18</sup> Go to <https://www.casemine.com/judgement/us/59148001add7b0493446b7b7#p364>.

<sup>19</sup> Go to <https://www.casemine.com/judgement/us/59149dfdadd7b04934655896>.

<sup>20</sup> Go to <https://www.casemine.com/judgement/us/5914896dadd7b04934502465>.

<sup>21</sup> Go to <https://www.casemine.com/judgement/us/5914901cadd7b04934571125>.

<sup>22</sup> Go to <https://www.casemine.com/judgement/us/5914ba6badd7b04934790b07>.

[*State v. City of Port Orange*<sup>23</sup>, 650 So.2d 1, 3 (1994); *Chapman, supra*, at 335 P.2d 561], whether or not *those services* are actually used [*San Diego Cty. Water Auth. v. Metro Water Dist.*<sup>24</sup>, 117 Cal.App.4th 13, 27, 11 Cal.Rptr. 446, 457 (2004)]. In other words, charges assessed where a landowner has the ability to become an actual customer of a municipal corporation's health or sanitation services<sup>25</sup> which are capable of being delivered<sup>6</sup> to the landowner's real property due to the fact those services are immediately available because that property is either physically connected or immediately adjacent to (i.e., abutted<sup>26</sup>) and capable of physical connection (*Chapman, supra*, at 335 P. 564) to a municipal corporation's public health or sanitation system, and the landowners have elected to not become actual customer(s) for those services.

Here protestor's property as well as the overwhelming majority of other Incline Village/Crystal Bay properties proposed to be assessed, are neither physically connected or capable of physical connection to Burnt Cedar and Incline Beaches, or the Incline Village Championship and Mountain Golf Courses, Diamond Peak Ski Resort, the Recreation or Tennis Center(s), Event Facilities, Parks, and other District recreational properties or facilities. And if they were, the District would be compelled to "prescribe and enforce regulations for the connection with and...disconnection from properties of the facilities of the district and the taking of its services" [NRS 318.197(3)<sup>14</sup>] which it has not (see discussion *infra*)..Nor do the facilities and services offered thereat address public health or sanitation such as water and sewer. Consequently, the RFF/BFF are not "standby service charges." And if not standby service charges, the Board cannot elect to have them collected on the tax roll pursuant to NRS 318.201<sup>13</sup>, et seq., or otherwise<sup>27</sup>.

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<sup>23</sup> Go to <https://www.casemine.com/judgement/us/59148472add7b049344b73d3>.

<sup>24</sup> Go to <https://www.casemine.com/judgement/us/5914b74badd7b0493477e437>.

<sup>25</sup> Namely public water, sewerage and solid waste disposal services.

<sup>26</sup> This is a concept incorporated into NRS 318.350(1) [go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec350>] insofar as levying special assessments "upon lands and premises abutting upon that part of the street or alley so improved or proposed so to be, or the lands abutting upon the improvement and the other lands as in the opinion of the board may be specially benefited by the improvement."

<sup>27</sup> See *McMillan, supra*, at 983 S.W.2d 365. Moreover, I have previously commented that because Nevada is a *Dillon's Rule* State [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43, 65 P.2d 133 (1937) - <https://www.casemine.com/judgement/us/5914cc62add7b0493480a220>], IVGID's basic powers are limited to those "stated in (its) initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of...chapter (NRS 318) designated therein" [NRS 318.055(4)(b)] *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be "any fair, reasonable (or) substantial doubt concerning the existence of power (it) is (to be) resolved...*against* the (municipal) corporation...[see NRS 244.137(4) - <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec137> (and)] all acts beyond the scope of...powers (expressly) granted are void" (*Ronnow, supra*, at 57 Nev. 343).

**Nor Are the RFF/BFF “Service Charges:”** Given the RFF/BFF purportedly pay for the availability to use recreational *facilities*, no actual *service* is being provided. Moreover if a *service* were actually being provided, it must [“benefit the payers of the charge...rather (than as here)...society at large” (*Medeiros, supra*, at 89 Haw. 368)]. And if not service charges, the IVGID Board cannot elect to have them collected on the tax roll pursuant to NRS 318.201, et seq., or otherwise<sup>27</sup>.

**Nevertheless, Protestor Gave the Board and Staff Every Opportunity to Make the Case That the RFF/BFF Are Legitimate “Standby Service” or “Service” Charges:** Because the proposed Report labels the RFF/BFF “Recreation Standby and Service Charges,”<sup>28</sup> and the agenda for this meeting instructs that “public comment is allowed...via e-mail (please send your comments to *info@ivgid.org* by 4:00 p.m. on Wednesday, May 26, 2021), on May 26, 2021 at 12:40 P.M. I sent an e-mail as instructed to *info@ivgid.org*<sup>29</sup> asking the Board through its attorney: to explain “what facts support the conclusion the RFF/BFF represent...recreation standby charges for the availability to access and use the District’s public recreational and private beach facilities and involuntary recreation...service charges because I and others I know are of the opinion the RFF/BFF don’t represent these charges;” and, to recommend inclusion of an administrative remedy (in proposed Resolution 1889) for those seeking refund of the RFF/BFF given although “section VI of the proposed Report...as well as paragraph 8 of proposed Resolution 1889 both declare...entitle(ment) to seek...refund yet there is no administrative means of so doing.” Notwithstanding, I have every reason to believe both requests will be ignored.

**With That Said, and Contrary to ¶I of the Report’s Assertion of Fact<sup>30</sup>, the RFF Does Not Pay For the “Availability of Use of the (District’s) Recreational Facilities:”** because *all* of IVGID’s recreation venues *are public facilities*. In other words, they are just as “available” to be used by *any* member of the public whether or not a local resident or property owner, as those whose parcels/dwelling units are involuntarily assessed (the RFF).

**Nor Does the BFF Pay For the “Availability of Use of the (District’s) Beach Facilities:”** Has the reader of this written statement ever read the deed to the beaches<sup>31</sup> by which IVGID asserts ownership? In case you haven’t, the beach deed states that all property that was within IVGID’s boundaries in June of 1968 when the beaches were conveyed, as well as their then owners, successors and assigns, were and are all granted a beach *use easement* which runs with their lands. In other words, the owners, successors and assignees of properties with beach access have the right to access and use the beaches *not* because of their forced payment of the BFF. But because of a property right (the grant of a beach deed easement)!

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<sup>28</sup> See page 188 of the 5/26/2021 Board packet.

<sup>29</sup> A copy of that e-mail is attached as Exhibit “A” to this written statement.

<sup>30</sup> See page 190 of the 5/26/2021 Board packet.

<sup>31</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach\\_Deed.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach_Deed.pdf).

Moreover, the availability to access and use the beaches is neither monitored nor staffed but for approximately four (4) months of the year<sup>32</sup> at best, between the hours of 8:00 o'clock A.M. and 7:00 o'clock P.M. This means that outside of these days/hours, the beaches are just as "available" to be used by *any* member of the public whether or not a local property owner with beach access, or his/her successor, as those whose parcels/dwelling units are involuntarily assessed the BFF.

Moreover still, NRS 318.015(2)<sup>33</sup> prevents IVGID from using "the provisions of this chapter (NRS 318)...to provide a method for financing the costs of developing *private* property."<sup>34</sup> At least three courts have determined IVGID's beaches are in essence "private property" [see *Wright v. Incline Village General Improvement District*<sup>35</sup>, 597 F.Supp.2d 1191, 1197 (2009); *Kroll v. Incline Village General Improvement District*<sup>36</sup>, 598 F.Supp.2d 1118, 1126-28 (2009); and, *Wright v. Incline Vill. Gen. Improvement Dist.*<sup>37</sup>, 665 F.3d 1128, 1137-38 (9th Cir. 2011)]. And at least two current Board members have admitted, on the record no less, that our beaches are "private." At the Board's May 7, 2020 workshop meeting Trustee Wong expressly described the beaches as "private property" ("because our beaches *are private*..."<sup>38</sup>). And then at the Board's May 19, 2020 meeting Chairperson Callicrate similarly referred to the beaches at least three times:

"I understand we have an odd or peculiar situation obviously at the beaches *because they are private*...I agree with you it would be great if we could say 'yah, let's pay for this over the course of several years.' I don't believe we have the luxury at the beaches to do that. The rest of the community I believe we do, but at the beaches we're precluded because *of the private nature*...(Question to attorney Alex:) What are we able to do as far as long term debt for our *beaches...because they are private*?"<sup>39</sup>

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<sup>32</sup> Traditionally Memorial Day through Labor Day weekends.

<sup>33</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec.015>.

<sup>34</sup> Does not reconstruction of the Burnt Cedar Pool represent development of private property? What about the planned Beach House? And what about the recent Incline Beach restrooms?

<sup>35</sup> Go to <https://www.courtlistener.com/opinion/2447540/wright-v-incline-village-general-imp-dist/>.

<sup>36</sup> Go to <https://www.casemine.com/judgement/us/5914b204add7b0493475d247>.

<sup>37</sup> Go to <https://www.casemine.com/judgement/us/5914f589add7b0493498adbe>.

<sup>38</sup> IVGID livestreams its Board meetings (<https://livestream.com/accounts/3411104>). The livestream of the Board's May 7, 2020 meeting where Trustee Wong made the admission quoted appears at 2:44:16-19 at <https://livestream.com/ivgid/events/9119222/videos/205728870> ("the 5/7/2020 livestream").

<sup>39</sup> See 2:20:59-2:21:53 of the livestream of the Board's May 19, 2020 meeting [<https://livestream.com/ivgid/events/9139017/videos/206286426> ("the 5/19/2020 livestream")].



Moreover, it's not just our trustees. Listen to two esteemed pairs [for a total of four (4)] local real estate agents who assert the same thing. First, agents Chris and Patti Plastiras of Lakeshore Realty:

"Incline Village is a master planned community featuring 3 *private beaches* ...Crystal Bay property owners enjoy all of Incline's amenities with the exception of the *private beaches*."<sup>40</sup>

And second, Don Kanare and Sebrina Belleci of RE/Max Realty:

Property owners in Incline Village are entitled to partake in a broad array of recreational facilities...(For instance) there are three *private beaches*..."<sup>41</sup>

If our Trustees and the esteemed real estate licensees/professionals in our community don't even know that our beaches are *not* public property, then who does? Therefore contrary to the Report's representations, I submit these facts demonstrate that the BFF does *not* and *cannot* pay for the availability of use of the District's private beach facilities as staff represent. Moreover,

**COVID-19 Clearly Demonstrated That the RFF/BFF Do *Not* Pay For Access to and Use of *Anything*:** When the Governor issued his emergency order on April 8, 2020<sup>42</sup>, if not before<sup>43</sup>, which ordered the closing of the District's recreation and beach facilities in response to the COVID-19 pandemic, we all learned firsthand that the RFF/BFF really do *not* pay for "the availability to use" *anything*! That's because the public's recreation and beach facilities were closed to local property owners, notwithstanding the District continued to charge the RFF/BFF. If these fees do not pay for the "availability to use" recreation and beach facilities, *then exactly what do they pay for?*

**Moreover, Contrary to Article 4, §§20 and 21 of the Nevada Constitution, Proposed Resolution 1889 Must Fail Because it Represents Creates Impermissible Local and Special Taxes:** Article 4, §20 of the Constitution instructs that "the legislature shall not pass local or special laws in any of the following enumerated cases — that is to say...for the assessment and collection of taxes for state, county, and township purposes."<sup>44</sup> Article 4, §21 of the Constitution instructs that "in all cases enumerated in

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<sup>40</sup> I have attached as Exhibit "B" to this written statement a sales brochure for one of the Plastiras' past listings on Cristina Drive, and I have placed an asterisk next to the language quoted.

<sup>41</sup> I have attached as Exhibit "C" to this written statement a copy of an article authored by these agents at page 22 of the July 19, 2020 edition of the Tahoe Daily Tribune Newspaper, and I have placed an asterisk next to the language quoted.

<sup>42</sup> Go to [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-04-08\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency\\_Directive\\_013\\_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-08_-_COVID-19_Declaration_of_Emergency_Directive_013_(Attachments)/).

<sup>43</sup> Go to [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/).

<sup>44</sup> Go to <https://www.leg.state.nv.us/const/nvconst.html#Art4Sec20>.

the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.” Putting aside the fact that GIDs have no power to legislate nor pass laws, *Clean Water Coalition v. The M Resort, LLC*<sup>45</sup>, 127 Nev. 301, 255 P.3d 247, 254 (2011) instructs that a law represents “special legislation if it confers particular privileges or imposes peculiar disabilities, or burdensome conditions in the exercise of a common right, upon a class of persons arbitrarily selected, from the general body of those who stand in precisely the same relation to the subject of the law.”

In *Clean Water Coalition, supra*, at 255 P.3d 255 “The CWC and The M Resort argue(d) that because A.B. 6, section 18 applie(d) in only a single Nevada county, and only to users of the municipal or county sewer systems in that county, it (wa)s a local law. And because it applie(d) specifically and directly to a single entity in the state to the exclusion of all others similarly situated, it (wa)s a special law.” Our Supreme Court agreed (*Id.*, at 255 P.3d 256). Here because proposed Resolution 1899 applies only to parcels/dwelling units within IVGID’s boundaries, to the exclusion of all others similarly situated<sup>46</sup>, proposed Resolution 1899 is both a local and special law. Moreover, the purpose of proposed Resolution 1899 is to help correct the District’s revenue shortfall. Since revenue-raising acts are defined as taxes (see discussion *infra*), proposed Resolution 1899 takes the revenue obtained from the RFF/BFF collected from local parcel/dwelling units with the intention of applying those exactions to unrestricted broad-range-intended uses, the charges are impermissible local and special taxes prohibited under Article 4, §20 of the Nevada Constitution (*Id.*, at 255 P.3d 258-259).

**Staff and the Board Fail to Acknowledge That the Costs to Merely Make the Public’s Recreation and Beach Facilities “Available For Use” by Those Who Are Assessed Are Not the Same as the Costs “For the Proper Servicing of (Outstanding)…Bonds (Nor)…the Administration, Operation, Maintenance and Improvement of (District) Real Properties, Equipment and Facilities:”** And for this reason protestor predicts that staff will fail to provide evidence of the former costs in the Report. Without such evidence, notwithstanding the burden to produce the same falls squarely upon IVGID staff, the Board’s proposed finding that a greater sum than is actually required will be arbitrary, capricious, and a voidable abuse of discretion.

**In Point-of-Fact, the RFF/BFF Are Nothing More Than Financial “Subsidies.” They Subsidize the Difference Between Budgeted Revenues and Overspending Unilaterally Assigned by Staff to “Recreation” and the “Beaches,” Respectively:** Protestor has demonstrated this truism so many times before<sup>47</sup>. Contrary to the Board’s representations, the RFF pays for nothing more than the estimated

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<sup>45</sup> Go to <https://www.courtlistener.com/opinion/2460291/clean-water-coalition-v-the-m-resort-llc/?q=Clean%20Water%20Coalition%20v.%20The%20M%20Resort%2C%20LLC%2C%20127%20Nev.%20301>.

<sup>46</sup> The public’s recreation venues are just as available to be accessed and used by the world’s tourists, as the owners of those parcels/dwelling units which are proposed to be assessed expressly for that availability.

<sup>47</sup> See page 339 of the packet of materials prepared by staff in anticipation of the Board’s July 22, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722_-_Regular_-_Searchable.pdf)] (“the

annual difference between revenues and overspending<sup>48</sup> assigned by staff to the District's various recreation venues. And the BFF similarly pays for nothing more than the estimated annual difference between revenues and overspending assigned by staff to the District's beaches. Therefore as budgeted overspending increases, so do the RFF/BFF. If the reader would like further evidence of this truism, he/she need look no further than page 113 of the 5/26/2021 Board packet.

This page depicts proposed 2021-22 capital improvement project ("CIP") costs assigned to the Beach Fund. The first such CIP is Burnt Cedar Swimming Pool where \$3.35 million in new appropriations are proposed. Where does staff propose the money come from? Go to page 164 of the 5/26/2021 Board packet. There the reader will find a summary of income ("sources") and expenses ("uses") proposed by staff to be assigned to the District's Beach Fund<sup>49</sup>. I have placed asterisks next to "Facility Fees," total expenses, "Capital Improvements" and net revenues ("sources") left over. The reader can see where compared to the current 2020-21 fiscal year, budgeted expenses are proposed to *increase* by \$3,689,451 (the difference between \$5,595,750 and \$1,906,299 in expenses). And whereas expenses have exceeded revenues by \$404,514 in the current fiscal year, revenues are proposed to exceed expenses by \$571,015 (a net difference of \$975,529) for fiscal year 2021-22. Add these two changes and one gets \$4,664,980. Now to pay for this increase in spending compared to the current 2020-21 fiscal year, the reader can see where facility fee revenues are proposed to increase by \$4,610,060 (the difference between \$5,268,640 and \$658,580 in revenues). In other words, staff have proposed that the BFF be increased from \$125 in fiscal year 2019-20 to \$680 in fiscal year 2021-22<sup>50</sup> to offset an almost identical increase in expenditures. In other words *just as I have represented*, here the BFF pays for nothing more than the estimated annual difference between revenues and overspending assigned to the District's beaches!

**Moreover, the RFF/BFF Pay For *More* Than Simply the Difference Between Budgeted Revenues and Overspending:** How else can one explain the excess build-up of fund balances in the Community Services and Beach Funds? Listen to Trustee Schmitz:

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7/22/2020 Board packet"). Or footnote 5 at pages 468-469 of the packet of materials prepared by staff in anticipation of the Board's April 10, 2019 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_4-10-19.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-10-19.pdf) ("the 4/10/2020 Board packet"). Or pages 82-83 of the packet of materials prepared by staff in anticipation of the Board's June 13, 2018 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_6-13-2018.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_6-13-2018.pdf) ("the 6/13/2018 Board packet").

<sup>48</sup> A nice way of saying what the Incline Village/Crystal Bay parcel owner market will bear.

<sup>49</sup> This page is attached as Exhibit "D" to this written statement.

<sup>50</sup> See page 183 of the 5/26/2021 Board packet.

“Every year we keep building [our fund balance(s)] up. *That’s not how we’re supposed to be using these fees...*We need to spend down this fund balance in Community Services”<sup>51</sup> rather than continuing to assess *more* than what is actually required.

This sentiment was similarly stated by Trustee Dent:

“We’ve been *over collecting*...our standby services charge for several years and I think the right thing to do is...(if) we don’t need it *we don’t collect it*... I don’t like the idea of somehow (saying)...we need this money and then at the end of the year we don’t need the money.”<sup>52</sup>

**For Instance, the RFF/BFF Have Become the Funding Source For a *Lifetime* of Never Ending CIPs:** In recent years staff have been successful in reducing the deficiency between operational revenues and expenditures at some recreation venues<sup>53</sup>. Not wanting to reduce the RFF/BFF, staff have advanced the narrative that the RFF essentially pays for debt service and CIPs. In this regard staff maintain a 20 year CIP plan<sup>54</sup> whereby they “practice *perpetual* asset renewal, replacement and improvement,”<sup>55</sup> whether reasonable or necessarily “required.” Listen to staff’s description:

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<sup>51</sup> See 3:42:00-3:42:52 of the 5/5/2021 livestream.

<sup>52</sup> See 3:37:39-3:38:42 of the 5/5/2021 livestream.

<sup>53</sup> For instance, for 2021-22 staff have budgeted \$1,798,720 of revenues and \$1,828,688 of operating expenses less depreciation, CIPs and debt service without any RFF subsidy for the Facilities sub-fund (see page 150 of the 5/26/2021 Board packet). Similarly, staff have budgeted \$10,973,384 of revenues and \$8,214,874 of operating expenses less depreciation, CIPs and debt service without any RFF subsidy for the Ski sub-fund (see page 152 of the 5/26/2021 Board packet).

<sup>54</sup> See page 60 of the 2017 Budget ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016-2017\\_Operating\\_Budget\\_2.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016-2017_Operating_Budget_2.pdf)).

<sup>55</sup> See page 98 of the 2017 Budget.

“The District’s capital improvement plan is the culmination of input... from groups such as District managers...Senior Team, and public input...The...process identifies essential projects and procurements ...to maintain or enhance...District facilities and physical assets to meet...service levels...The Senior Team, in cooperation with... Department Managers, puts together a Multi Year Capital Plan (‘MYCP’) that addresses capital infrastructure, operational equipment...rolling stock and other requests *over the next 20 years*...The MYCP process...identifies funding source(s) as cash, charges for services/user fees, the Recreation (and)...Beach Facility Fee(s), debt issuance or grant funding and sets the budget for each...project budget from the first year of the MYCP...Considerable effort has gone into reviewing the scheduling for projects, with a goal of scheduling...*while maintaining...current Facility Fee levels.*”<sup>56</sup>

Although staff used to publish their 20MYCP, now it is hidden from the public as an alleged “internal document.” When it was last published it evidenced *in excess of \$125 million of CIPs* (in excess of \$6.25 million annually)! Please understand that following this schedule, according to staff, rather than paying for “the administration, operation, maintenance and improvement of (District Recreational) real properties, equipment and facilities,” as well as the proper servicing of recreation bonds, the RFF/BFF are expected to fund CIPs for *the remainder of local parcel/dwelling unit owners’ lives, and well beyond!* In other words, each year staff budget CIPs to a constant, level and reliable RFF/BFF subsidy meaning they cannot *ever be reduced or eliminated.*

Don’t believe me? The current 5/26/2021 Board packet (pages 115-128) includes schedules for the next five (5) years’ worth of CIPs/quasi-CIPs broken down into CIPs proper; maintenance, repair and studies; and, rolling stock. Pages 121, 124 and 128 include summaries of these budgeted items for the District’s Community Services and Beach Funds. And here’s a spreadsheet (below) depicting all of those proposed CIP costs in one place:

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<sup>56</sup> See pages 98-99 of the 2017 Budget.

Five Year Proposed CIP Schedule Reliant Upon RFF/BFF For Funding						
Fund	2021-22	2022-23	2023-24	2024-25	2025-26	5 Year Totals
Community Services Capital <sup>57</sup>	\$ 3,870,130	\$ 6,299,700	\$ 3,796,020	\$ 3,553,820	\$ 4,445,853	\$ 21,965,523
Community Services Maintenance <sup>58</sup>	\$ 326,700	\$ 364,000	\$ 842,000	\$ 271,500	\$ 459,900	\$ 2,264,100
Community Services Rolling Stock <sup>59</sup>	\$ 1,227,050	\$ 231,000	\$ 1,011,300	\$ 1,165,500	\$ 2,038,700	\$ 5,673,550
<b>Total Reliant Upon RFF For Funding</b>	<b>\$ 5,423,880</b>	<b>\$ 6,894,700</b>	<b>\$ 5,649,320</b>	<b>\$ 4,990,820</b>	<b>\$ 6,944,453</b>	<b>\$ 29,903,173</b>
<b>Annual Amount Per 8,203 Parcels<sup>60</sup></b>	<b>\$ 661.21</b>	<b>\$ 840.51</b>	<b>\$ 688.69</b>	<b>\$ 608.41</b>	<b>\$ 846.57</b>	<b>\$ 729.08</b>
Beaches Capital <sup>57</sup>	\$ 3,520,060	\$ 349,000	\$ 449,500	\$ 283,100	\$ 1,757,700	\$ 6,359,360
Beaches Maintenance <sup>58</sup>	\$ 101,000	\$ 166,500	\$ 25,000	\$ 54,100	\$ 18,500	\$ 365,100
Beaches Rolling Stock <sup>59</sup>				\$ 54,000		\$ 54,000
<b>Total Reliant Upon BFF For Funding</b>	<b>\$ 3,621,060</b>	<b>\$ 515,500</b>	<b>\$ 474,500</b>	<b>\$ 391,200</b>	<b>\$ 1,776,200</b>	<b>\$ 6,778,460</b>
<b>Annual Amount Per 7,748 Parcels<sup>60</sup></b>	<b>\$ 467.35</b>	<b>\$ 66.53</b>	<b>\$ 61.24</b>	<b>\$ 50.49</b>	<b>\$ 229.25</b>	<b>\$ 174.97</b>

These summaries demonstrate staff's absolute reliance upon the RFF/BFF to pay for the aggressive multi-year CIP plan they have created, much of which has nothing to do with making the District's recreational venues simply available to be accessed and used by anyone! And if the District's recreation venues are not able to operate on a break even or positive cash flow basis, staff expects the RFF/ BFF to subsidize that negative cash flow. Protestor is sorry. ***These proposed expenditures are not the purpose of a legitimate standby service fee!***

**And the RFF/BFF Pay For All Sorts of Things Having Absolutely Nothing to Do With the "Availability of Use of the (District's) Recreational (and Beach) Facilities:"** Because the RFF/BFF are really financial subsidies for staff overspending assigned to recreation and the beaches, consider the past expenditures below as detailed in Exhibit "A" having *nothing* to do with the availability of those facilities to you<sup>61</sup>:

**Regional Transportation System:** That's right. Disingenuously staff label this system "the Diamond Peak shuttle." Or "the Hyatt shuttle." Or "senior transportation." Or for several years, "the kiddie shuttle" which freely transported riders to/from our beaches. Or on demand transportation

<sup>57</sup> See page 121 of the 5/26/2021 Board packet.

<sup>58</sup> See page 124 of the 5/26/2021 Board packet.

<sup>59</sup> See page 128 of the 5/26/2021 Board packet.

<sup>60</sup> See page 183 of the 5/26/2021 Board packet.

<sup>61</sup> This is just a sampling of the hundreds and hundreds of inappropriate expenditures funded/subsidized by the RFF/BFF.

to/from the Reno/Tahoe Airport. Hundreds of thousands of dollars of buses, mini and maxi vans, SUVs and automobiles. And who knows how much in unreimbursed staff time?

**Public Relations:** We used to pay Tri-Strategies \$4,000/month to issue press releases and spew staff propoganda until these functions turned into an employed position; Communications Coordinator;

**Lobbyist Fees to Influence Legislation:** Notwithstanding general improvement districts have no power to pass laws nor lobby legislators to influence legislation (see NRS 318.116<sup>62</sup>), that's exactly what IVGID does! For years IVGID hired Mary Walker of Carson City to lobby the Nevada State Legislature. More recently it has hired Tri-Strategies at a cost to local parcel/dwelling unit owners of \$3,000 monthly! But it's not just State Legislature lobbying. For over a decade, and at a cost of close to \$5,000 monthly, we've hired Marcus Faust to lobby Congress!

**Defensible Space Expenses to Protect the Visitors and Guests to Incline Village:** Notwithstanding local property owners already pay the North Lake Tahoe Fire Protection District ("NLTFPD") millions of dollars annually for these services, and IVGID has no power to provide the same because it hasn't been granted the same by Washoe County, the RFF and the water rates local property owners are charged are used for this purpose;

**The IVGID Quarterly:** We're in the magazine publication business! Because many of our staff positions are part-time, we need to find something more for them to do during the work day since staff pay them full-time salaries and benefits. So we've created an advertising laden magazine published at least six (6) times yearly so our employees can create articles, recognize fellow employees, and spew subliminal propoganda. Although staff will tell you there's no cost to the public, protestor has previously documented how the out-of-pocket costs exceed \$10,000 per issue;

**Restaurants and Food Courts:** What municipality operates its own restaurants? And no when it's all said and done, ours make no money;

**Bars Selling Alcoholic Beverages:** What municipality operates its own bars selling alcoholic beverages? And staffed by public employees? Soliciting gratuities in addition to their public salaries? And no when it's all said and done, ours make no money;

**Food and Beverage/Catering Department:** Of course we need such a department to coordinate our sales of food and beverages! And no when it's all said and done, our food and beverage department makes no money;

**Retail Clothing/Soft Good/Recreational Equipment/Accessory Sales:** At both golf pro shops, the Recreation and Tennis Centers. And no when it's all said and done, our retail sales make no money;

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<sup>62</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec116>.

**The Hyatt Sport Shop:** A retail sales and rental facility inside the Hyatt Hotel's shopping mall. And no when it's all said and done, the Sport Shop makes no money;

**Insurer For Damage and Theft of The Village Ski Loft's ("VSL's") Retail Clothing/Soft Goods We Sell in the Hyatt Sport Shop:** It wouldn't be fair to charge VSL, would it?

**Hospitality Booth at the Jackson-Barrett Auto Auction:** When these auctions took place in Reno as part of Hot August Nights, guess who paid \$10,000 for a hospitality booth? If you guessed IVGID, you're right! And of course this fee to Jackson-Barrett didn't include unreimbursed staff time;

**Hospitality Booth at the Annual Warren-Miller Ski Film:** See the auto auction discussion above because we were a major sponsor of the ski film;

**Wedding and Event Facilities Sales:** That's right! IVGID operates a wedding and event sales department inside The Chateau. And that means our staff attend annual wedding shows throughout the country! And no when it's all said and done, our facility sales and the unreimbursed staff and advertising it takes to operate the same, make no money;

**IVGID and Diamond Peak Currencies:** It's called "IVGID Bucks" and "Diamond Peak Bucks" (Staff actually print their own currency. On copy machines. And they don't even assign unique identification numbers to ensure illegal copying doesn't take place)! And for years we used to sell gift cards in various Costcos! Or Diamond Peak lift ticket vouchers! Staff use these currencies in lieu of United States currency to reward them-selves and their colleagues! And no there's no accounting of the number nor use of any of this alternative currency use;

**Marketing Department:** Notwithstanding the public's recreational facilities are supposed to exist for the benefit of "the inhabitants...of (Incline Village, Crystal Bay) and of the State of Nevada" [see NRS 318.015(1)<sup>63</sup>], can you believe we have a marketing department which advertises them to the world's tourists? Staff admits the cost to local parcel/dwelling unit owners paying for things like billboards, television commercials, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways *exceeds \$1 million annually*;

**CMAR<sup>64</sup> Expenses Because Our Professional Engineering Staff Are Not Competent to Perform Construction Management Duties Notwithstanding the Cost of Every CIP Reimburses For Such Staff Under the Guise of "Unreimbursed Staff Time:"**

**Litigation Fees:** totaling hundreds of thousands of dollars over things like beach access, the RFF/BFF, public records, parcel owner surveys, etc. In addition, litigation initiated by staff against

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<sup>63</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec015>.

<sup>64</sup> Construction Manager at Risk [see NRS 338.1685, et seq. (go to <https://www.leg.state.nv.us/nrs/NRS-338.html#NRS338Sec1685>)].



local citizen Kevin Lyons. In fact one year the Board increased the BFF specifically for litigation defense costs in the Frank Wright litigation;

**Litigation Settlement Costs** (\$10,000 to “We the People”): in the Kevin Lyons litigation;

**Court Mandated *Ad Valorem* Tax Refunds:** When Washoe County settled both lawsuits, it unilaterally deducted a total of \$2.5 million from IVGID’s *ad valorem* taxes it was collecting on the latter’s behalf. And how was this loss of revenue the District had wrongfully received and spent addressed? The RFF;

**Consultant Fees For Meaningless Master Plans:** intended to create nothing more than a “wish list” for future recreation and beach CIPs without regard to cost;

**Memberships in Dozens and Dozens of Meaningless Third Party Organizations:** all of which charge membership fees and require unreimbursed staff time. Examples: The Bear League<sup>65</sup>, POW<sup>66</sup> (“Protect Our Winters”), STOKE<sup>67</sup> (“Sustainable Tourism and Outdoors Kit for Evaluation”), RSVCA<sup>68</sup> (“Reno Sparks Visitors and Convention Authority”), NTBA<sup>69</sup> (“North Tahoe Business Association”), IVCBA<sup>70</sup> (“Incline Village Crystal Bay Community & Business Association”), NLTRA<sup>71</sup> (“North Lake Tahoe Convention and Visitors Bureau”), Nevada League of Cities<sup>72</sup> (we’re *not* a city), AGM<sup>73</sup> (“Association of Golf Merchandisers”), ISA<sup>74</sup> (“Int’l Society of Arboriculture”), Tree City USA<sup>75</sup>, Save the Lake, Save the Planet, etc., etc;

**Fourth of July Fireworks:** The District contributed \$10,000 for several years to the RSVCA and Red, White and Tahoe Blue (“RWTB”) notwithstanding the fireworks are admittedly for the benefit of the Hyatt Hotel, and they were viewable for free by the general public as a whole;

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<sup>65</sup> Go to <http://www.savebears.org/>.

<sup>66</sup> Go to <https://protectourwinters.org/>.

<sup>67</sup> Go to <https://www.stokecertified.com/>.

<sup>68</sup> Go to <https://www.rscva.com/>.

<sup>69</sup> Go to <https://northtahoebusiness.org/>.

<sup>70</sup> Go to <https://inclinevillagecrystalbay.com/>.

<sup>71</sup> Go to <https://www.nltra.org/>.

<sup>72</sup> Go to <https://nvleague.com/>.

<sup>73</sup> Go to <https://www.agmgolf.org/>.

<sup>74</sup> Go to <https://www.isa-arbor.com/>.

<sup>75</sup> Go to <https://www.arborday.org/programs/treecityusa/>.

**Approximately 2.3 Acres Under the Parasol Community Center:** we gave away for \$1/year for up to ninety-nine (99) years notwithstanding it was purchased with the RFF;

**Approximately .5 Acres Under the Visitor's Center:** we gave away for \$1/year for up to ninety-nine (99) years. And let's not forget the...

**Maintenance and Repair of the RSVCA's Park Adjacent to the Visitor's Center:** Years ago IVGID leased the ground underneath the current Visitor's Center on State Highway 28 to Washoe County for \$1 per year for up to ninety-nine (99) years (see above). As part of the lease, IVGID agreed to pay for construction of an adjacent park, and to maintain and improve that park at IVGID's expense for the term of the lease. Several years ago tens of thousands of dollars of RFF funds were spent on major upgrades and improvements to this park;

**Maintenance and Repair of the Washoe County School District's ("WCSD's") Upper High School Athletic Field:** Staff just doesn't have enough of a landscape footprint to maintain. So they have entered into an agreement with the WCSD to maintain the upper high school athletic field. Although staff represent IVGID has purchased this field, in truth it has not. And although the WCSD is paying IVGID to maintain this field, I and others believe the payment is nowhere near parcel/dwelling unit owners' cost. And besides, this field is not IVGID's responsibility!

**Maintenance and Repair of the Two County Parks at Either End of the Intersections of Lakeshore Blvd. and State Highway 28:** There are two small parks at either end of Lakeshore Blvd. where it intersects with SR 28. Although the County is supposed to be reimbursing IVGID to maintain and repair these costs, since 1994 it hasn't paid anything. And in the current proposed 2021-22 tentative budget staff have proposed nearly \$40,000 of CIPs proposed to be paid by the RFF;

**Athletic Fields For the Washoe County School District's Middle School's Physical Education Programs:** When IVGID sold the land under the middle school to the WCSD, it entered into an inter local agreement with the WCSD whereby in part, IVGID would construct what is now Incline Park (adjacent to the middle school), and allow the WCSD to freely use it for free! So now IVGID maintains this field for the middle school to use it for its physical education programs;

**Public Parks Such as Preston Field<sup>76</sup>, Village Green<sup>76</sup>, Incline Park<sup>76</sup>, Incline Skateboard Park<sup>77</sup>, the Disc Golf Course<sup>78</sup>, the Incline Bike Park<sup>79</sup>, the Bocce Ball Park<sup>80</sup>, and the Incline Fitness**

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<sup>76</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/parks-fields>.

<sup>77</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/incline-village-skate-park>.

<sup>78</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/disc-golf-course>.

<sup>79</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/community-bike-park>.

<sup>80</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/bocce-ball-park>.

**Trail<sup>81</sup>:** Notwithstanding all of these parks are free-to-use by members of the general public, their maintenance, repair and renovation are all paid for by the RFF. In fact, more than \$1 million annually is spent maintaining these various parks and for which essentially no user fees are collected! Moreover, in the last several years IVGID has spent over \$500,000 on irrigation upgrades to Village Green and Incline Park, and nearly \$1 million on improvements to Preston Field. And this doesn't even take into account the \$50,000 lawn mowers, baseball field spreaders, pick-up trucks, and other CIP rolling stock which is spent attending to these municipal park facilities. Whereas most municipalities I am familiar with pay for these kinds of costs with the *ad valorem* tax revenues they received, that's not what happens here in Incline Village/Crystal Bay. If one studies General Fund expenses which are in part funded from IVGID's *ad valorem* tax revenue, one will discover that *ad valorem* tax revenues pay for employee over compensation and over benefits;

**Tennis Professional Appearance Fees (\$10,000):** at a Tennis Center exhibition match available for viewing for free to the general public as a whole;

**Weather Forecasting Charges (\$700/Month):** for Diamond Peak;

**Credit Card Bank Processing Fees:** in excess of \$425,000 annually;

**Loomis Armored Car Transport Fees:** close to \$2,000/month;

**Diamond Peak Employee Uniforms:** in excess of \$100,000 every four (4) years. Plus we pay over \$5,000 to give away the old uniforms;

**Employee Meals Because Our Employees Have Had a Tough Week (or Season):** Tens of thousands of such expenditures hidden on procurement card charges made by in excess of fifty (50) employees who staff have entrusted with IVGID credit cards;

**Vendor Meals and Entertainment:** It's not just our employees. Staff routinely take our paid consultants out for pricey dinners at the Lone Eagle Grille and entertainment hidden on procurement card charges;

**Maintenance, Repair, Upgrades and Renovations to Ski Way For the Benefit of Approximately 330 Tyrolean Village Homeowners, Their Tenants, Invitees and Guests<sup>82</sup>:** The portion of Ski Way which connects at First Green and Tirol Drive is privately owned by IVGID. It serves as the major ingress/egress route to/from Tyrolean Village. Yet the residents of Tyrolean Village pay *nothing* towards its maintenance, renovation, repair nor snow plowing! And now IVGID is talking of a \$5 million or more re-pavement project funded by a general obligation bond repaid by the RFF;

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<sup>81</sup> Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/incline-fitness-trail>.

<sup>82</sup> Read about it in more detail at pages 511-519 of the third packet of materials prepared by staff in anticipation of the Board's April 29, 2021 meeting ["the third 4/29/2021 Board packet" ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429\\_-\\_Regular\\_-\\_Searchable\\_-\\_Part\\_3.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429_-_Regular_-_Searchable_-_Part_3.pdf))].

**Over 100 Money Losing Programs<sup>83</sup> Operated Out of the Recreation Center Including Pre and Post School Child Care:** When protestor first moved to Incline Village, former GM Bill Horn was even sending IVGID employees to the WCSD's elementary school to staff before as well as after school child care [also known as "Kid Zone Child Care" (see page 67 of the first 4/29/2021 Board packet)]. And then of course there is on demand senior transportation to the Reno-Tahoe Airport nonetheless;

**Massive Public Philanthropy so Local Charities and Non-Profits Can Generate Revenues at Local Parcel/Dwelling Unit Owners' Expense:** Besides the fact there is *nothing* in NRS 318 which allows GIDs to give away or donate public property, past Boards have adopted Resolutions 1619<sup>84</sup> and 1701<sup>85</sup>. Resolution 1619 governs the giveaway of access to and use of the public's recreational facilities without the assessment of user fees. Resolution 1701 governs the giveaway or severe discounting of access to and use of the public's recreational facilities so the recipients can make money off their use of these facilities at local parcel/dwelling unit owners' expense.

To get an idea of the magnitude of cost to local parcel/dwelling unit owners, check out staff's 2021-22 budget. For the first time they have revealed some "line-item details" and a "charitable allowances" expense entry! Namely, \$205,717 of those allowances<sup>86</sup>. Stated differently, here staff tell us they propose giving away \$205,717 of potential rent revenues to favored charities, non-profits and others at local parcel/dwelling unit owners' expense.

**Personnel and Benefit Costs For 1012 or More IVGID Employees<sup>87</sup>!** If IVGID were a city, it would have the fifth (5<sup>th</sup>) largest municipal work force [out of eighteen (18) cities] in the State! Or if IVGID were a county, it would have the fourth (4<sup>th</sup>) largest county work force [out of seventeen (17) counties] in the State! Why? Because according to staff,

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<sup>83</sup> Staff admit there are "over 75 Community Recreation Programs...offered daily...(out of) the Recreation Center...on a year-round basis" [see page 066 of the first packet of materials prepared by staff in anticipation of the Board's April 29, 2021 meeting {"the first 4/29/2021 Board packet ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429\\_-\\_Regular\\_-\\_Searchable\\_-\\_Part\\_1.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429_-_Regular_-_Searchable_-_Part_1.pdf))}], and there are dozens of additional programs offered on a seasonable basis.

<sup>84</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_PolicyAndProcedure127\\_Resolution1619.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure127_Resolution1619.pdf).

<sup>85</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_PolicyAndProcedure132\\_Resolution1701.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure132_Resolution1701.pdf).

<sup>86</sup> See pages 134-135 of the first 4/29/2021 Board packet. Copies of these pages are attached as Exhibit "E" to this written statement.

<sup>87</sup> That's right! For 2019 IVGID reported a whopping 1012 employees to [transparentnevada.com](https://transparentnevada.com) (go to <https://transparentnevada.com/salaries/2019/incline-village-general-improvement-district/>).

“The employees of the District continue to be our most important and valued asset. (Therefore,) we continue to communicate how valuable our employees are for the current and future success of the District.”<sup>88</sup>

Protestor submits that the reader doesn’t need to know anything else about IVGID to know from these numbers that there is something very, very wrong. Because being a general improvement (see NRS 318.010<sup>89</sup>, et seq.) and special [see NRS 308.020(2)<sup>90</sup>] district IVGID is the equivalent of a mosquito district. So has protestor provided enough evidence, or do you the reader require more?

**And the RFF/BFF Pay For a Majority of the General Fund’s Alleged Central Services Costs:** Staff represent that these costs are associated with the “central services” the General Fund allegedly provides to the Utility, Community Services and Beach Funds. Yet they have *nothing* to do with the costs required to make the public’s recreational facilities merely “available to be used” by those parcels/dwelling units which are assessed. This truism was documented in protestor’s written statement submitted at the IVGID Board’s May 19, 2020 meeting for inclusion in the minutes of that meeting. To restate, not all staff overspending assigned to the General Fund represents “services provided by the General Fund” which allegedly require allocated central services transfers from the Community Services, Beach and Utility Funds. Besides the more obvious examples<sup>91</sup>, consider the following: \$474,855 of “General Government” expenditures<sup>92</sup>. Or \$216,420 of “Trustees” expenses<sup>92</sup>. Or \$456,289 of “General Manager”<sup>93</sup> expenses<sup>92</sup>. Or \$216,673 of “Communication” expenses<sup>92</sup>. Or

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<sup>88</sup> See page 126 of the 2018-19 Budget [go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Annual\\_Budget\\_FY2018-19\\_03122019.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Annual_Budget_FY2018-19_03122019.pdf) (“the 2018-19 Budget”).

<sup>89</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec010>.

<sup>90</sup> Go to <https://www.leg.state.nv.us/NRS/NRS-308.html#NRS308Sec020>.

<sup>91</sup> Such as \$48,000 annually to a public relations firm to spew staff propaganda, \$24,000-\$36,000 annually to a lobbyist to influence State legislation, tens of thousands of dollars in attorney’s fees to fight citizens (like Mark Smith) seeking public records and citizens (like Kevin Lyons) for retaliation purposes, hundreds of thousands of dollars in attorney’s fees to fight citizens (like Aaron Katz) petitioning the courts to address grievances, etc.

<sup>92</sup> See page 21 of the 2019-20 Budget. This page with asterisks next to “General Government,” “Trustees,” “General Manager,” “Communications,” “Health & Wellness,” and “Capital Outlay” sub-total is attached as Exhibit “E” to the aforementioned written statement attached to the minutes of the Board’s May 19, 2020 meeting [see page 606 of the packet of materials prepared by staff in anticipation of the Board’s June 23, 2020 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_Part2\\_06\\_23\\_2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf) (“the 6/23/2020 Board packet”)].

<sup>93</sup> Our General Manager renders little if any services directly to our Community Services and Beach Venues because each has its own venue manager (Mike Bandelin for Diamond Peak, Darren Howard

\$45,376 of “Health & Wellness” expenses<sup>92</sup>. Or \$566,445 of “Capital Outlay” expenses<sup>92</sup>. Or rent paid/transferred to the Facilities sub-fund<sup>94</sup> (part of “charges for services”) for the Board’s public/other meetings held at The Chateau<sup>95</sup>. Or the unknown food, beverage and personnel costs to lay out/tear down that food and beverage protestor has objected to in the past which is provided to the public at those meetings.

Given staff allege that the General Fund provides \$1,546,624 worth of central services to the District’s other funds<sup>96</sup>, \$980,404 is assigned to the Community Services Fund<sup>96</sup>, the RFF subsidizes overspending in the Community Services Fund<sup>97</sup>, \$118,680 is assigned to Beach Fund<sup>96</sup>, and the BFF subsidizes overspending in the Beach Fund<sup>98</sup>, the RFF/BFF pay for a majority of the General Fund’s alleged central services costs (71%+) just as protestor has represented;

**Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because the Charges Sought to be Collected Have *Not* Yet Been Adopted:**

Although the Board has the power under NRS 318.201, et seq. to elect to have its rates, tolls and charges collected on the county tax roll, that power *only* exists *after* a it “has (first) adopted rates pursuant to this chapter.” How does a GID Board adopt rates pursuant to chapter NRS 318? NRS 318.199(2)<sup>99</sup> provides the answer:

“Whenever the board of trustees proposes to change any individual or joint rate, toll, charge, service or product, or any individual or joint practice which will affect any rate, toll, charge, service or product, the board of trustees shall hold public hearings after 30 days’ notice has been given to all users of the service or product within the district.”

Here the Board proposes to change both the RFF (from \$330 to \$100) and the BFF (from \$500 to \$680)<sup>50</sup>. However, it has *never* adopted a resolution changing those fees, let alone after “public hearings after 30 days’ notice.” As such the Board has no jurisdiction to initiate the NRS 318.201 process to both change the RFF/BFF, and order their collection on the county tax roll, because it has

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for the golf courses, Pandora Bahlman for Parks and Recreation Center, and Susan Mandio for the beaches).

<sup>94</sup> See page 112 of the 3/11/2020 Board packet.

<sup>95</sup> Most people don’t realize the General Fund is charged to rent The Chateau for the Board’s public meetings. Some years ago protestor made a public records request and Susan Herron responded with the then particulars.

<sup>96</sup> See page 47 of the 5/26/2021 Board packet.

<sup>97</sup> See page 144 of the 5/26/2021 Board packet.

<sup>98</sup> See page 163 of the 5/26/2021 Board packet.

<sup>99</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec199>.

not first “adopted rates pursuant to...chapter” NRS 318.199. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

**Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because the Charges Sought to be Collected Are *Not* Delinquent:** The proposed RFF/BFF are *prospective* charges for fiscal year 2021-22<sup>100</sup>. But NRS 318.201(4) instructs:

“The Board may make the election specified in subsection 1 (to collect the RFF/BFF on the county tax roll) with respect *only* to *delinquent charges* and may do so by preparing and filing the written report, giving notice and holding the hearing therein required *only as to such delinquencies*.”

Given ¶4 of proposed Resolution 1889 makes clear that the proposed RFF/BFF pertains to prospective “standby and service charges for the fiscal year 2021-22,”<sup>101</sup> rather than *delinquent charges*, the Board has no power to order their collection against the county tax roll. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

**Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because it Neglects to “Prescribe...Regulations for the Connection With and...Disconnection From Properties of the Facilities of the District and the Taking of its Services:”** NRS 318.197(3)<sup>14</sup> instructs that in connection with the rates, tolls and charges it is authorized to fix [see NRS 318.197(1)<sup>14</sup>], “the board *shall* prescribe and enforce regulations for the connection with and the disconnection from properties of the facilities of the district and the taking of its services.” Although ¶II(D) of the Report at page 190 of the 5/26/2021 Board packet allows

“any...undeveloped...parcel...whose owner agrees to waive in perpetuity... any right to demand...future...recreation privileges arising from or associated with said parcel (to be)...excepted and excluded from the” RFF/BFF,

nowhere are developed parcels offered the same or a similar option of “disconnection from properties of the facilities of the district and the taking of its services” and thus avoiding the BFF and/or the RFF. Given the Board is required to prescribe regulations which allow those whose properties are assessed the RFF/BFF to disconnect the District’s facilities and the taking of its services, protestor and others have asked the Board to adopt such regulations, and here it refuses, proposed Resolution 1899 should be withdrawn or rejected.

**Contrary to ¶II of the Report’s Assertion of Fact<sup>30</sup>, NRS 318.201(1) Does *Not* Permit the RFF/BFF to be Collected Against the Properties Proposed to be Assessed Because the “Availability of Use of the (District’s Proposed) Recreational Facilities Are Arguably Benefits to *Persons* Rather Than *Property*:** Because the Board relies upon NRS 318.201(1) for collection of the RFF/BFF on the county

<sup>100</sup> See page 181 of the 5/26/2021 Board packet.

<sup>101</sup> See page 185 of the 5/26/2021 Board packet.

tax roll<sup>102</sup>, by definition, it represents that these “fees” pay for recreation “*services and facilities*” actually “received” by the “*parcel(s) of real property*” which are assessed. So ask yourself: what recreation “services” or “facilities” does IVGID furnish to your parcel of real property/dwelling unit? Given the answer is *none*, to the extent Resolution 1889 proposes assessing for “services and facilities” *not* “received,” protestor submits the Board is without authority. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

**Contrary to ¶I(A) of the Report’s Assertion of Fact<sup>30</sup>, NRS 318.201(1) Does Not Permit the RFF/BFF to be Collected Against “Dwelling Units” as Opposed to “Parcel(s) of Real Property.”** Putting aside the fact NRS 318.201 does not allow assessing *real property* for the availability of recreational facilities and services *provided to persons* (see discussion *infra*), ¶I(A) of the Report proposes assessing the RFF/BFF against “each *dwelling unit*, whether such unit stands alone or is part of a multiple unit residential structure.” Dwelling unit is defined by Policy 16.1.0.2.4<sup>103</sup> as “any building or portion thereof, which contains living facilities with provisions for sleeping, eating, cooking, and sanitation.”

But as aforesaid, NRS 318.201(1) speaks to assessing “*each parcel of real property* receiving... services and facilities.” And NRS 318.201(9) instructs that “after the (public) hearing...the secretary shall prepare and file a final report, which shall contain a description of *each parcel receiving...services* and the amount of the charge.” And NRS 318.201(10) instructs that “the amount of the charges shall constitute a lien against *the lot or parcel of land* against which the charge has been imposed.” And NRS 318.201(11) instructs that “the county treasurer shall include the amount of the charges on bills for taxes levied against...*lots and parcels of land.*” In each of these sections the powers described therein apply to “parcels” rather than “dwelling units.” Therefore the power to collect fees and charges like the RFF/BFF pursuant to the authority of NRS 318.201(1), et seq. is *only* authorized when we speak of “parcel(s) of real property (actually) receiving...services” rather than dwelling units receiving services.

Moreover, given there can be multiple “dwelling units” assessed multiple RFFs/BFFs on a single parcel of real property, multiple assessments on a single parcel violates the uniformity provisions of Article IV, section 21 of the Nevada Constitution<sup>104</sup> which states that,

“In all cases...where a general law can be made applicable, all laws shall be general and of *uniform operation* throughout the State.”

For these reasons, to the extent proposed Resolution 1889 assesses some parcels a single RFF/BFF, and others multiple RFFs/BFFs based upon the number of “dwelling units” constructed thereon, for facilities and services furnished to *parcels of real property* rather than dwelling units,

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<sup>102</sup> See ¶8 of proposed Resolution 1889 at pages 186-187 of the 5/26/2021 Board packet, and ¶V at page 191 of the 5/26/2021 Board packet.

<sup>103</sup> See page 42 at [https://www.yourtahoepalace.com/uploads/pdf-ivgid/IVGID\\_Board\\_Policies\\_5-12-2020.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf).

<sup>104</sup> Go to <https://www.leg.state.nv.us/const/nvconst.html#Art4Sec21>.



protestor submits the Board is without authority. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

**Contrary to ¶I(D) of the Report's Assertion of Fact<sup>30</sup>, the Board Has No Power to Exempt Any Parcel/Dwelling Unit, Including the District's, From Paying the RFF/BFF:** ¶I(D) of the Report grants a RFF/BFF exemption to:

“Lots, parcels and areas of land used...or intended to be used for religious ...or educational purposes; common areas without occupied structures appurtenant to a condominium or townhouse cluster...publicly owned lands (and,)...any...undeveloped...parcel...whose owner agrees to waive in perpetuity...any right to demand...recreation privileges arising from or associated with said parcel.”

But to exempt property, there must be *express* constitutional or statutory authority [*Chapman, supra*, at 335 P.2d 563]. Because here (see NRS 318) there is *none*, the doctrine of preemption<sup>105</sup> prohibits IVGID from making up its own exemptions, *including exempting itself* [*Storrie Project Water User's Ass'n. v. Gonzales*<sup>106</sup>, 53 N.M. 421, 427, 209 P.2d 530, 534 (1949); *Lake Arthur Drainage Dist. v. Board of Com'rs. of Chaves County*<sup>107</sup>, 29 N.M. 219, 223, 222 P. 389, 390 (1924); *Town of Clayton v. Colorado & S.R. Co.*<sup>108</sup>, 51 F.2d 977, 980 (10th Cir. 1931)].

Additionally, notwithstanding its own bases for exempting parcels/dwelling units from being assessed the RFF/BFF, the Board reserves the right to exempt any other parcel/dwelling unit on a case-by-case/discriminatory basis. How else can one explain the Board's exemption of a Pet Network parcel from the RFF/BFF? For these reasons, proposed Resolution 1899 should be withdrawn or rejected.

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<sup>105</sup> Preemption occurs when a higher level of government removes regulatory power from a lower level of government. Intrastate preemption occurs where a municipality's authority in a particular area has been supplanted by State law [87 BLR 1113, 1114, *Intrastate Preemption* (2007)]. Because: preemption only occurs when two levels of government operate within the same sphere (*Id.*, 1122), Nevada is a *Dillon's Rule* regime [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 343, 65 P.2d 133 (1937) – go to <https://cite.case.law/nev/57/332/>], GIDs are *limited* forms of government *not* vested with general powers [A.G.O. 63-61, 102, 103 (August 12, 1963) – go to [https://ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/opinions/1963\\_AGO.pdf](https://ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/opinions/1963_AGO.pdf)], and express grants of authority to GIDs from the Legislature are virtually nonexistent, IVGID is effectively precluded from engaging in *any* substantive policymaking.

<sup>106</sup> Go to <https://casetext.com/case/storrie-project-water-users-assn-v-gonzales>.

<sup>107</sup> Go to <https://cite.case.law/nm/29/219/>.

<sup>108</sup> Go to [https://www.courtlistener.com/opinion/1489157/town-of-clayton-v-colorado-s-ry-co/?q=Town%20of%20Clayton%20v.%20Colorado%20%26%20S.R.%20Co.%2C%2051%20F.2d%20977%2C%20980%20\(10th%20Cir.%201931\)](https://www.courtlistener.com/opinion/1489157/town-of-clayton-v-colorado-s-ry-co/?q=Town%20of%20Clayton%20v.%20Colorado%20%26%20S.R.%20Co.%2C%2051%20F.2d%20977%2C%20980%20(10th%20Cir.%201931)).

**Contrary to ¶I(F) of the Report's Assertion of Fact<sup>109</sup>, the Board Has No Power to Grant Beach Access to Anyone Not Otherwise Entitled to That Access Under the Beach Deed: ¶I(F) of the Report purports to allow:**

“Any group of persons which participates (an) IVGID property owner group, governmental, civic, or social group...in recreation or (any) other community project...beach privileges” as a “sponsoring group...guest.”

Given the IVGID Board has never defined such groups to be a “guest” of a parcel owner with beach access, this provision is in clear violation of the beach deed<sup>31</sup>. Moreover, this language has no business being inserted into a Report whose purposes is merely to direct collection on the county tax roll pursuant to NRS 318.201(1). Staff knows this! Therefore, for these reasons proposed Resolution 1899 should be withdrawn or rejected.

**Notwithstanding All of the Above, the RFF/BFF Pay For the Equivalent of Up to Five (5) Membership Cards Which Themselves *Do Not* Make Any Recreational or Beach Facility Available to Be Used:** Listen to what IVGID's former Finance Director, Gerry Eick, told the public for years [answering the question “What...Parcel Owners (*rather than* their parcels which are involuntarily assessed *really*) Get for Paying their Facility Fees”<sup>110</sup>] in his Budget Letters “to the Board of Trustees and Citizens of Incline Village and Crystal Bay:”<sup>111</sup>

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<sup>109</sup> See page 191 of the 5/26/2021 Board packet.

<sup>110</sup> See pages 46-47 of the packet of materials prepared by staff in anticipation of the Board's May 23, 2018 Meeting [[https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_5-23-18.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-23-18.pdf) (“5/23/2018 Board packet”)]. Interestingly, staff's Budget Letter for 2019-20 [see pages 180-184 of the packet of materials prepared by staff in anticipation of the Board's May 22, 2019 meeting {[https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_5-22-19.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-22-19.pdf) (“the 5/22/2019 Board packet”)}], and the lack of similar letters for 2020-21 [see pages 1-6 at [https://www.yourtahoepalace.com/uploads/pdf-ivgid/FINAL\\_IVGID\\_2020.2021\\_APPROVED\\_BUDGET\\_FORM\\_4404LGF.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/FINAL_IVGID_2020.2021_APPROVED_BUDGET_FORM_4404LGF.pdf) (“the 2020-21 Budget”)] and now 2021-22 [see pages 33-39 of the packet of budget materials prepared in anticipation of the Board's May 26, 2021 meeting (“the 5/26/2021 budget Board packet”), *all* omit this admission which obviously is prejudicial to their current position.

<sup>111</sup> See pages 40-48 of the 5/23/2018 Board packet.

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

**Contrary to ¶II of the Report’s Assertion of Fact<sup>109</sup>, a RFF of \$820,300 is *Not* Required “For the Proper Servicing of (Outstanding Recreation)...Bonds (Nor)...the Administration, Operation, Maintenance and Improvement of (District Recreation) Real Properties, Equipment and Facilities.” *Nor* is a BFF of \$5,268,640 Required For the Payment of Similar Costs Insofar as District Beach Real Properties, Equipment and Facilities Are Concerned:** The steady growth of the fund balances in the Community Services and Beach Funds prove that for at least the last ten (10) years the RFF/BFF subsidies local parcel/dwelling unit owners have been *involuntarily* assessed have been *excessive*. In fact at the IVGID Board’s May 5, 2021 meeting both members of the IVGID Board<sup>112</sup> and staff admitted that *no sums* whatsoever are required “for the proper servicing of (outstanding)...bonds (nor)...the administration, operation, maintenance and improvement of (District recreation) real properties, equipment and facilities” because the District has an excess balance in its Community Services Fund<sup>113</sup> available to be used for these purposes.

By way of example, on June 30, 2011 the unrestricted balance assigned by staff to the District’s Community Services Fund was reported to total \$4,226,167<sup>114</sup>. Yet as of June 30, 2021 staff estimate that that fund balance<sup>115</sup> will have mushroomed to a whopping \$10,684,999<sup>116</sup>! How did the fund balance in the District’s Community Services Fund increase by \$6,458,832 (on average, \$645,883/year) in ten (10) short years? The simple answer is Gerry Eick’s “smoothing” or “re-purposing” (see discussion below). The more complicated answer is:

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<sup>112</sup> Trustees Dent and Schmitz in particular.

<sup>113</sup> “Fund Balance” is defined in our budget as “the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes” [see page 159 of the 2019-20 Budget {[https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf) (“the 2019-20 Budget”)}}].

<sup>114</sup> See page 25 of the CAFR ending June 30, 2011 (“the 2011 CAFR”).

<sup>115</sup> “Fund Balance” is defined in the District’s budgets as “the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes” [see page 159 of the 2019-20 Budget ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20\\_Operating\\_Budget.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf))].

<sup>116</sup> See page 41 of the 5/26/2021 Board budget packet. A copy of this page with an asterisk next to the entry which confirms the represented fact is attached as Exhibit “D” to this written statement.

1. Intentionally budgeting a higher than necessary RFF to pay for “virtual bonds” which exist in cyberspace rather than the real world. In other words, retired recreation general obligation bonds (“GOBs”);
2. Budgeting for capital improvement projects (“CIPs”) never prosecuted or perpetually carried-forward and in essence never prosecuted (a good example being the Diamond Peak Master Plan). Notwithstanding, since these CIPs were actually funded, these monies were added to the Community Services fund balance;
3. Estimating CIP costs at excessive amounts guarantying excess budgeted sums after completion which get swept into the Community Services fund balance: and,
4. Budgeting for expenses [like retired bond servicing and the Administration sub-fund costs (see discussion below)] which were never incurred/expended. But since they were funded, from local parcel/dwelling unit owners' perspective they might as well have been incurred/spent because they're the ones who paid.

At the Board’s May 5, 2021 meeting Trustees Dent and Schmitz acknowledged that the District *doesn’t* “require” any RFF for 2021-22. Listen to Trustee Schmitz:

“I’d like us all if we could please to look at board packet page 255<sup>117</sup> ...This is the Community Services Fund. So I’d like you to look at operating revenue. Operating revenue is \$18 million...If you look down at operating expenditures it’s roughly \$18 million. So *we do not need a facility fee for operations* ...Then you’ve got capital projects for \$3 million and \$410K for debt service ...Let’s just say that’s (a total of) \$4 million...We have over \$7 million in excess over what our policy has for fund balance. We could take that \$4 million... reducing our excess down to \$3 million...(thus) *completely eliminating the standby charges for Community Services.*”<sup>118</sup>

**To Accomplish Staff’s Agenda of Collecting a Greater RFF/BFF Than Simply the Difference Between Budgeted Revenues and Overspending Assigned to the District’s Community Services and Beach Funds, Respectively, They Report Non-Existent Servicing Costs on Retired General Obligation Bonds (“GOBs”) [the Notion of “Smoothing”] as an Expense:** For some time Mr. Eick hid the truth from the public that this was what he was doing. For example, until 2013 IVGID published a document titled “About the...Recreation...and Beach Facility Fee(s).” This document told the public where their

<sup>117</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505\\_-\\_Special\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505_-_Special_-_Searchable.pdf).

<sup>118</sup> See 3:40:15-3:41:48 of the of the 5/5/2021 livestream [“the 5/5/2021 livestream” (<https://livestream.com/ivgid/events/9647360/videos/220786312>)].

RFFs/BFFs were allegedly being spent, on a per recreation venue basis<sup>119</sup>. The 2012-13 version of this document is attached as Exhibit “F” to this written statement.

Of the \$290 which represented the “debt service component (of facility fees allocated)...to pay for bonds used for capital purchases,”<sup>120</sup> the reader can see that according to staff: \$85 was spent on the servicing costs for the 2003 \$5.5 million Recreation Golf Imp. Bond<sup>121</sup>, \$110 was spent on the servicing costs for the 2008 \$7 Million “Recreation Imp. (Ski)” Bond<sup>121</sup>, and \$78 for the servicing costs on the 2004 \$4.445 Million “Recreation Refunding” Bond<sup>121</sup>.

If one examines page 75 of IVGID’s 2014 CAFR<sup>122</sup>, the reader can see where Mr. Eick represented to the State Department of Taxation (“NDOT”), the IVGID Board, and the public, that \$85 of 2013-14’s RFF went to pay this GOB<sup>123</sup> notwithstanding the fact the bond *was retired*<sup>124</sup>! And at the Board’s regular December 10, 2014 meeting the Board unanimously approved the 2014 CAFR in its then presented form, *including the aforesaid page 75!* Finally, if one examines page 75 of IVGID’s 2015 CAFR<sup>125</sup>, one will see where Mr. Eick *again* represented that \$85 of 2014-15’s RFF went to pay *this retired GOB!*

If one examines page 89 of IVGID’s revised 2016 CAFR<sup>126</sup>, one will see where the subject \$85 charge was finally removed. But given the RFF was not reduced for fiscal year 2015-16, Mr. Eick’s

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<sup>119</sup> This document has been replaced by a “Facility Fee Allocation by Parcel” (see page 183 of the 5/26/2021 Board budget packet).

<sup>120</sup> Asterisks have been placed next to each debt service component on Exhibit “F.”

<sup>121</sup> See asterisk on page 38 of the District’s 2012 CAFR next to this entry. A copy of the page is attached as Exhibit “G” to this written statement.

<sup>122</sup> Go to <https://www.yourtahoeplace.com/uploads/pdf-ivgid/2014CAFReport.pdf> (“the 2014 CAFR”).

<sup>123</sup> This page with an asterisk next to the \$85 representation is attached as Exhibit “H” to this written statement.

<sup>124</sup> I have placed an asterisk next to the \$695,000 of principal outstanding and due date (2012-13) on Exhibit “F” which demonstrates this bond was retired on March 1, 2013.

<sup>125</sup> See [https://www.yourtahoeplace.com/uploads/pdf-ivgid/2015CAFReport\\_IVGID\\_.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2015CAFReport_IVGID_.pdf) (“the 2015 CAFR”). This page with an asterisk next to the \$85 representation is attached as Exhibit “I” to this written statement.

<sup>126</sup> See [https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016CAFReport\\_Revised\\_5\\_11\\_2017.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016CAFReport_Revised_5_11_2017.pdf) (“the 2016 CAFR”). This page is attached as Exhibit “J” to this written statement.

November 14, 2014 Memorandum<sup>127</sup> declared this charge had been “smoothed” “to...reserves<sup>128</sup> for future projects” rather than diverted to any of the expense categories represented.

And because the RFF was not reduced for fiscal year 2016-17, *nor any fiscal year thereafter*<sup>129</sup>, it has been smoothed “to...reserves for future projects” rather than diverted to any of the expense categories represented.

In other words, rather than the represented costs IVGID allegedly incurs to make its recreation facilities and the services offered thereat “available to (be) used” by those *parcels* involuntarily assessed, by keeping the RFF/BFF at a “level, consistent amount” notwithstanding GOBs have been retired, staff can continue to accumulate the former servicing costs<sup>130</sup> so they can be made available to fund future unidentified, unbudgeted, and unappropriated “pet” capital projects. Which explains the steady “creep upwards” in the Community Services, Beach and General Fund balances.

**To Hide Staff’s Agenda of Collecting a Greater RFF/BFF Than Simply the Difference Between Budgeted Revenues and Overspending Assigned to the Community Services and Beach Funds, Respectively, They Report These Non-Existent Servicing Costs on Retired GOBs to the District’s Community Services Administration Sub-Fund:** Putting aside the fact GOBs are supposed to be paid from a local government’s *ad valorem* taxes where *ad valorem* taxes are collected<sup>131</sup>, prior to commencement of the 2013-14 fiscal year the RFF paid the servicing costs on a 2003 \$5.5 Million Recreation GOB<sup>132</sup>. And prior to commencement of the 2015-16 fiscal year, the RFF paid the servicing costs on a 2004 \$4.445 Million Recreation Refunding GOB plus the 2003 \$5.5 Million Recreation GOB<sup>121</sup>. Although the 2003 Recreation GOB matured on March 1, 2013<sup>121</sup>, and the 2004 Recreation

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<sup>127</sup> See that November 14, 2014 memorandum from Mr. Eick to Kelly Langley of the NDOT proffered in an effort to secure the NDOT’s “concurrence...as (IVGID’s) oversight agency...for (Mr. Eick’s) planned action” to convert IVGID’s recreation *enterprise* funds to *special revenue* funds effective July 1, 2015.

<sup>128</sup> Notwithstanding, since fiscal year 2013-14 the Board has *never* budgeted for reserves.

<sup>129</sup> See page 52 of the packet of materials prepared by staff in anticipation of the Board’s May 19, 2020 meeting [<https://www.yourtahoeplace.com/uploads/pdf-ivgid/Packet-Workshop-5-19-2020.pdf> (“the 5/19/2020 Board packet”)].

<sup>130</sup> Notwithstanding GOBs are retired, in Mr. Eick’s mind they continue in his version of “virtual reality.” Protestor calls this phenomena “virtual bonding.”

<sup>131</sup> NRS 350.590(2) [go to <https://www.leg.state.nv.us/nrs/nrs-350.html#NRS350Sec590>] instructs that “municipal securities...constituting general obligations shall...state that they are payable *from taxes*.”

<sup>132</sup> ¶II of the 2012-13 Report for the collection of the RFF on the county tax roll misrepresented that the RFF was required “for the proper servicing of said identified bonds.”

Refunding GOB matured on October 1, 2014<sup>133</sup>, then Board(s) did *not* reduce each parcel/dwelling unit owner's RFF by like amounts. Instead, they continued to order the collection of former servicing costs on both bonds notwithstanding neither existed. Mr. Eick coined this technique "smoothing"<sup>127</sup> or "repurposing."

*So what has happened to the portions of the 2013-present RFF which collected servicing costs on GOBs which were instead retired? They were assigned to the District's Community Services Administration sub-fund and hidden by phony reported expenses (see discussion below) of like amount. Which explains the "creep upwards" in the Community Services Fund balance.*

#### **And Staff Report Other Non-Existent Expenses to the District's Community Services**

**Administration Sub-Fund:** Represented costs associated with the District's Community Services, Recreation, Other Recreation and Administration sub-funds<sup>134</sup>, formerly known as ("fka") the Administration sub-fund<sup>135</sup>, have *nothing* to do with those costs which allegedly make the public's recreational facilities "available to be used" nor for that matter, "the proper servicing of (outstanding) ...bonds (nor)...the administration, operation, maintenance and improvement of (District recreation) real properties, equipment and facilities." Instead, they represent non-existing funding concocted to hide a "discretionary reserve" for all recreational venues as a consequence of "smoothing" (discussed below). Protestor's written statement submitted at the Board's May 19, 2020 meeting for inclusion in the minutes of that meeting<sup>136</sup> recounted how the RFF assigned to this sub-fund represents nothing more than a discretionary "reserve" or "cushion." Again, listen to Mr. Eick's admission in answer to former Trustee Hammerel's April 17, 2016 questions pertaining to the particulars of this sub-fund<sup>137</sup>:

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

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<sup>133</sup> Protestor has placed an asterisk next to the \$735,000 of principal outstanding and due date (2014-15) on page 41 of the 2014 CAFR. This page is attached as Exhibit "K" to this written statement which demonstrates this bond was retired on October 1, 2014.

<sup>134</sup> See pages 154-157 of the 5/26/2021 Board budget packet.

<sup>135</sup> See page 143 of the packet of materials prepared by staff in anticipation of the Board's March 11, 2020 meeting [[https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020-BOT\\_Packet\\_Regular.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf) ("the 3/11/2020 Board packet")].

<sup>136</sup> See page 588 of the 6/23/2020 Board packet.

<sup>137</sup> This portion of the Board's April 17, 2016 meeting can be viewed at 43:37-53:28 of the 4/17/2016 livestream (<http://livestream.com/IVGID/events/5144683>).

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

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

**And Staff Instruct Those Whose Parcels/Dwelling Units Are Paying the RFF to Consider it a Substitution For User Fees at Those Recreation Venues, Like the District's Parks, Where No User Fees Are Assessed:** Unbelievably, staff contend that the RFF represents, in part, a user fee substitute at the District's recreation venues such as the public's parks, athletic fields, disc golf course, skateboard park, mountain bike pump track, fitness track, beach overflow parking lot, and other miscellaneous lesser District recreational venues where no user fees are charged. At the IVGID Board's March 3, 2016 meeting Mr. Eick provided an "executive summary" he intended to give Board members the "context... need(ed) for (then upcoming 2016-17) budget deliberations." In that summary Mr. Eick presented a series of descriptive slides<sup>138</sup> depicting his testimony to the IVGID Board as to the alleged benefits, importance of and reliance upon the RFF/BFF. Insofar as recreational venues where no user fees are assessed, Mr. Eick testified that because there is essentially no other "user fee process to generate a source" of revenue *other than the RFF*, those whose properties are assessed should consider the RFF/BFF to be a user fee substitute<sup>139</sup>. In other words, rather than being a legitimate standby service charge for the mere "availability to use" the public's recreational facilities as well as the services offered thereat, at venues where no user fees are charged, *just like a tax* (see discussion below), the Board collects the RFF to pay the costs associated with these public venues whose use(s) are "available" *for free* to the general public as a whole.

**So How Much of the Upcoming Fiscal Year's (2021-22's) RFF is Earmarked to Add to This "Discretionary Fund?"** Actually, none of it! At page 41 of the 5/26/2021 Board budget packet<sup>140</sup> staff reveal that the current excess fund balance is budgeted to be *reduced* by \$3,757,941. This fact helps to explain why the RFF has been reduced from \$330 to \$100 for fiscal year 2021-22<sup>47</sup>. And it helps to

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<sup>138</sup> See pages 127 and 129 at [https://www.yourtahoepace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Special\\_3-3-2016.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/BOT_Packet_Special_3-3-2016.pdf) ("the 3/3/2016 Board packet").

<sup>139</sup> The Board livestreams its meetings (<http://new.livestream.com/accounts/3411104>). The portion of the Board's March 3, 2016 meeting [<https://livestream.com/IVGID/events/4912422/videos/114195041> ("the 3/3/2016 livestream")] where Mr. Eick gave the testimony attributed to him can be viewed at 29:24-29:38 of the 3/3/2016 livestream.

<sup>140</sup> This page is attached as Exhibit "L" to this written statement which demonstrates this bond was retired on October 1, 2014.



explain that prior to fiscal year 2020-21, staff and the Board were guilty of “smoothing” which unnecessarily built up the Community Services Fund balance.

**How Much of the Upcoming Fiscal Year’s (2020-21’s) BFF is Earmarked to Add to This “Discretionary Fund?”** Similarly at page 41 of the 5/26/2021 Board budget packet<sup>137</sup> staff reveal that the current excess fund balance is budgeted to be *increased* by \$571,015. And it explains that even today, staff and the Board are guilty of “smoothing” which unnecessarily builds up the Beach Fund balance.

**Staff and the Board Have Admitted the RFF/BFF Are "Taxes" Rather Than the "Fees"**

**Represented:** Notwithstanding all of the above, the RFF/BFF are really invalid special taxes against real property. Invalid because NRS 361.445<sup>141</sup> instructs that “the *only* basis for property taxation by any city, town, school district, road district or *other district in that county*...shall be...the assessment made by the county assessor and by the Department (of Taxation), as equalized according to law.” Given the RFF/BFF are uniform in amount<sup>142</sup>, secured by property<sup>143</sup>, not based upon assessed valuation, let alone made by the county assessor and/or the State Department of Taxation<sup>144</sup>, the RFF/BFF are invalid. And they are taxes because:

1. “Enforced contributions” are taxes [*United States v. Tax Comm'n*<sup>145</sup>, 421 U.S. 599, 606, 95 S.Ct. 1872 (1975)] and the RFF/BFF are *involuntarily* liened/collected against *all* non-exempt parcels/dwelling units<sup>142</sup>;

2. Where as here their collection “entitles the taxpayer to receive nothing except the governmental rights enjoyed by all citizens”<sup>146</sup> (*City of Huntington*<sup>16</sup>, *supra*, at 999 F.2d 74; *Clean Water Coalition*<sup>45</sup>, *supra*, at 255 P.3d 256); and,

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<sup>141</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-361.html#NRS361Sec445>.

<sup>142</sup> “The (RFF) of \$100 *per property* will be collected from all properties within the District...and the (BFF) of \$680 will be collected from (all) applicable properties” with beach access (see page 181 of the 5/26/2021 Board packet).

<sup>143</sup> See ¶VI of the Report at page 192 of the 5/26/2021 Board packet which states “the amounts of the (RFF/BFF) shall constitute a lien against (each) lot or parcel of real property against which the charge has been imposed,” and ¶16 of proposed Resolution 1899 at page 186 of the 5/26/2021 Board packet which states “that all of the charges herein (shall) constitute a perpetual lien on and against each of the parcels of property...descri(bed) in (the) Report.”

<sup>144</sup> ¶III of the Report at page 191 of the 5/26/2021 Board packet states that “this Board...as...determined ...the amount of moneys required for...fiscal year...July 1, 2021, to June 30, 2021.”

<sup>145</sup> Go to <https://www.casemine.com/judgement/us/591491bcadd7b0493458d109>.

3. Their true purpose is to generate revenue<sup>147</sup> [*Douglas Co. Contractors v. Douglas Co.*<sup>148</sup>, 112 Nev. 1452, 929 P.2d 253, 256 (1996); *State v. Boyd*<sup>149</sup>, 27 Nev. 249, 256, 74 P. 654, 655 (1903); *Hawaii Insurers Council v. Lingle*<sup>150</sup>, 120 Haw. 51, 201 P.3d 564 (2008)].

Fees on the other hand “appl(y) to the direct beneficiary of a particular service, (are) allocated directly to defraying the costs of providing the service, and (are) reasonably proportionate to the benefit received” [*State v. Medeiros*<sup>151</sup>, 89 Haw. 361, 367, 973 P.2d 736, 742 (1999); *Clean Water Coalition*<sup>45</sup>, *supra*, at 255 P.3d 257]. “If those criteria fit the charge, it is a fee” (*Medeiros, supra*, at 973 P.2d 742-745; *Clean Water Coalition, Id.*). Because here they do not, the RFF/BFF are taxes.

Moreover, District staff have in essence admitted this truism. Consider the following:

**User Fees to Make the Public’s Parks and Athletic Fields "Available" For Access and Use Where No User Fees Are Assessed:** Protestor has already addressed this subject above. Because there is essentially no other “user fee process to generate a source” of revenue to pay for expenses associated with the District’s public parks and athletic fields *other than the RFF*, that’s where such revenue comes from. In other words, enforced contributions which entitle those whose parcels are involuntarily assessed nothing except the governmental rights enjoyed by all citizens;

**The Public Views the RFF/BFF as Taxes:** On numerous occasions when budget matters have been discussed and Mr. Eick gave testimony to the Board, he volunteered that “most people think the RFF/BFF are taxes.” Knowing this is the way the public views the RFF/BFF, and staff do nothing to educate them to the contrary (assuming there are facts which would educate them

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<sup>146</sup> Remember that the parcels/dwelling units which are assessed the RFF/BFF receive nothing in consideration of forced payment. Moreover, their owners receive nothing. Although they can received up to five (5) picture passes or punch cards, those cards themselves do *not* entitle the holder(s) to access and use any of the District’s recreation or beach facilities, nor to receive any service.

<sup>147</sup> Remember, the Board budgets to the steady, dependable, until recently level RFF/BFF which subsidize the deficiency between revenues and overspending assigned by staff to the Community Services (i.e., recreation) and Beach Funds, respectively. In other words, their purpose is to generate revenue.

<sup>148</sup> Go to [https://www.courtlistener.com/opinion/1407681/douglas-co-contractors-v-douglas-cty/?q=Douglas%20Co.%20Contractors%20v.%20Douglas%20Co.%20\(1996\)%20112%20Nev.%201452%2C%20929%20P.2d%20253%2C%20254&type=o&order\\_by=score%20desc&stat\\_Precedential=on](https://www.courtlistener.com/opinion/1407681/douglas-co-contractors-v-douglas-cty/?q=Douglas%20Co.%20Contractors%20v.%20Douglas%20Co.%20(1996)%20112%20Nev.%201452%2C%20929%20P.2d%20253%2C%20254&type=o&order_by=score%20desc&stat_Precedential=on).

<sup>149</sup> Go to [https://www.courtlistener.com/opinion/3568571/state-v-boyd/?q=State%20v.%20Boyd%20\(1903\)%2027%20Nev.%20249%2C%20256%2C%2074%20P.%20654](https://www.courtlistener.com/opinion/3568571/state-v-boyd/?q=State%20v.%20Boyd%20(1903)%2027%20Nev.%20249%2C%20256%2C%2074%20P.%20654).

<sup>150</sup> Go to [https://www.courtlistener.com/opinion/2634942/hawaii-insurers-council-v-lingle/?q=Hawaii%20Insurers%20Council%20v.%20Lingle%2C%20120%20Haw.%2051%2C%20201%20P.3d%20564%20\(2008\)&type=o&order\\_by=score%20desc&stat\\_Precedential=on](https://www.courtlistener.com/opinion/2634942/hawaii-insurers-council-v-lingle/?q=Hawaii%20Insurers%20Council%20v.%20Lingle%2C%20120%20Haw.%2051%2C%20201%20P.3d%20564%20(2008)&type=o&order_by=score%20desc&stat_Precedential=on).

<sup>151</sup> Go to <https://www.courtlistener.com/opinion/1301986/state-v-medeiros/>.

otherwise), staff are guilty of omitting material facts as to the true nature of the RFF/BFF which they know perpetuates the public's view;

**Representations to the IRS That the RFF/BFF are Taxes:** It's not just staff's representations to the Board and the public which demonstrate they know the RFF/BFF are not "fees." Mr. Eick has owned Incline Village property assessed the RFF and the BFF. As do most past and current Board trustees. Presumably they file federal income taxes. And until recent tax law changes, those claiming itemized personal deductions did so on Schedule A of those returns. One of those deductions was for real estate taxes paid. And what number does the reader think Mr. Eick and Board members inserted (i.e., the number with or without inclusion of the RFF/BFF)? Assuming it's the number which includes the RFF/BFF, hasn't Mr. Eick and past Board members declared to the IRS that the RFF/BFF represent real estate taxes paid? Assuming the answer is yes, how can they now assert anything different?

**IVGID's General Manager's Admissions:** Sometimes a "slip of the tongue" can reveal the truth. And our former GM, Steve Pinkerton, slipped. Agenda item G(5) for the Board's regular April 11, 2015 meeting asked for approval to pay the County Treasurer \$33,177.81 in *delinquent taxes*<sup>152</sup> which were waived against three parcels conveyed by the County Treasurer to IVGID pursuant to NRS 361.603(4)<sup>153</sup> in 2014. But in Mr. Pinkerton's memorandum in support of this action item, he described how most of this sum (\$31,584) represents delinquent "back taxes" (i.e., RFFs/BFFs): "IVGID's recreation and beach fees comprise \$31,584 of the total due with the balance of \$1,593.81 owed to the respective taxing entities...Therefore, the net cost (to IVGID will)...be less than \$1,593.81."<sup>154</sup> So what were they Mr. Pinkerton? Taxes or fees? Or to him is there really any difference?

**IVGID's Auditor Admissions:** Testifying in support of IVGID's Special Revenue Fund reporting, on December 16, 2015 Dan Carter, EideBailly Audit Engagement Partner, represented to the Board's Audit Committee that the RFF/BFF are taxes. According to Mr. Carter the fact there's a restriction on their use means they "meet...the definition of...imposed non-exchange revenue."<sup>155</sup> On May 23, 2016, in a memo to the Chairman of the Audit Committee, Mr. Carter "clarified" his prior testimony: "enterprise fund accounting is primarily used when exchange fees (for example, the fee to play a round of golf) support (enterprise)...fund(s)." Special revenue fund accounting on the other hand is used when "imposed non-exchange [fees {'for example, property tax or other assessment(s)'}] ...result from assessments imposed by governments on individuals." Because the payer(s) of these fees receive *nothing* of value in return, Mr. Carter testified that "**classification...may be more appropriately accounted for in...Special Revenue Fund(s)**" which again demonstrates the RFF/BFF are taxes.

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<sup>152</sup> See page 211 of the 4/11/2018 Board packet.

<sup>153</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-361.html#NRS361Sec603>.

<sup>154</sup> See pages 212-213 of the 4/11/2018 Board packet.

<sup>155</sup> Protestor has a written transcript of that testimony should it be deemed useful or necessary.

**IVGID's Conversion of Community Services and Beach Enterprise Funds Into Like Named Special Revenue Funds:** At the Board's regular April 11, 2018 meeting protestor submitted a written statement<sup>156</sup> wherein he made the case that the *only* revenues a public agency can report in a special revenue fund are:

1. Derived tax revenues, which result from assessments imposed on exchange transactions (for example, income taxes, sales taxes, and other assessments on earnings or consumption);
2. Imposed non-exchange revenues, which result from assessments imposed on nongovernmental entities, including individuals, other than assessments on exchange transactions (for example, property taxes and fines);
3. Government-mandated non-exchange transactions, which occur when a government at one level provides resources to a government at another level and requires the recipient to use the resources for a specific purpose (for example, federal programs that state or local governments are mandated to perform); and,
4. Voluntary non-exchange transactions, which result from legislative or contractual agreements, other than exchanges, entered into willingly by the parties to the agreement (for example, certain grants and private donations).

Since the RFF/BFF represent involuntarily imposed non-exchange revenue, totaling twenty percent (20%) or more of the total revenue flow assigned to IVGID's special revenue funds, and it has reported the same to the DOT, protestor concluded that IVGID must admit these fees represent revenue derived from either property taxes or assessments. In other words, since by definition the RFF/BFF cannot be assessments<sup>157</sup>, they must be taxes.

**Staff Admit the RFF/BFF Represent "Imposed Non-Exchange" Revenue:** According to page 54 of the 2016 CAFR, at Note 17, IVGID states: "The District provides recreation functions through two individual *special revenue funds*." Since GASB 33<sup>158</sup> states that in order to qualify for Special Revenue fund accounting a substantial portion of the fund's revenues must come from non-exchange transactions, the RFF/BFF revenue IVGID assigns to its Community Services and Beach Special Revenue funds must come from taxes.

**Conclusion:** Protestor asks that each of you to take a look around town. In the last ten (10) years local property owners have involuntarily contributed nearly \$70 million to subsidize staff's overspending assigned to recreation and the beaches. Do you see \$70 million? Let's ask the question a bit differently. If we as local property owners are the equitable owners of let's say Diamond Peak

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<sup>156</sup> See pages 135-142 of the 4/25/2018 Board packet.

<sup>157</sup> NRS 318.197(1) states that "the board may fix, and from time to time increase or decrease...rates, tolls or charges *other than special assessments*..."

<sup>158</sup> Go to [https://www.gasb.org/jsp/GASB/Document\\_C/DocumentPage?cid=1176160029148&acceptedDisclaimer=true](https://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176160029148&acceptedDisclaimer=true).

(which is what staff tell us), and Diamond Peak generates \$2 million or more of positive cash flow in a single season (which is what staff tell us), why isn't any portion of this financial windfall shared with us either as either a cash dividend or a reduction in next year's RFF/BFF? The fact it isn't speaks volumes.

So what should the Board do in response to this agenda item? DO NOT ADOPT A RFF/BFF. Send the message to staff that the time has come to stop propagating untruths to local property owners, and for the District to live within its financial means. It may be hard medicine for staff to swallow but have they stopped to consider the detriment to local property owners by perpetrating the fraud of the RFF/BFF? Actually these facts harken back to another one of my more fundamental criticisms: exactly who's working for whom? Does our staff work for the public, or is their real boss our GM and because of Resolution 1480<sup>159</sup>, the Board acts as nothing more than staff's rubber stamp?

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

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

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<sup>159</sup> Go to [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_PolicyAndProcedure105\\_Resolution1480.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure105_Resolution1480.pdf).

**EXHIBIT "A"**

## Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22

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**From:** s4s@ix.netcom.com  
**To:** "info@ivgid.org"  
**Cc:** Callicrate Tim <tim2tahoe@msn.com>, Dent Matthew <dent\_trustee@ivgid.org>, Wong Kendra Trustee <wong\_trustee@ivgid.org>, Tonking Michaela <tonking\_trustee@ivgid.org>, Schmitz Sara <schmitz\_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>  
**Subject:** Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22  
**Date:** May 26, 2021 12:40 PM

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

The agenda for tonight's public hearings/board meeting states that members of the public may make comments via e-mail to this address by 4 P.M. this afternoon. So I am making a couple of comments I trust the attorney will address this evening.

A. The proposed Report on the Collection of the RFF/BFF (pages 188-193 of the Board packet) which proposed Resolution 1889 seeks to adopt states matter of factly that the RFF/BFF are "recreation standby...charges" for the availability to access and use the District's public recreational and private beach facilities, and involuntary "recreation...service charges." I would like to hear Mr. Nelson's explanation of what facts support the conclusion the RFF/BFF represent these charges? Because I and others I know are of the opinion the RFF/BFF DON'T represent these charges.

In support, I've created a number of past expenditures staff have made with past RFFs/BFFs which are not these charges:

1. Appearance Fees (\$5,000/each) to Tennis Professionals For a Tennis Center Event Open to the Public at No Charge;
2. Fourth of July Fireworks (we used to donate \$10K annually);
3. Litigation Fees. Not just defending Frank Wright's, Steve Kroll's, Aaron Katz's and Mark Smith's lawsuits, but prosecuting litigation against Kevin Lyons;
4. The \$100K "contingency" in the proposed 2021-22 budget assigned to the General Fund reflecting additional litigation fees/possible settlement in the Mark Smith lawsuit;
5. Litigation settlement fees (the \$10K contribution to "we the people");
6. Court Mandated Ad Valorem Tax Refunds. The previous refunds were reflected as "extraordinary expenses" under where does your RFF go, for three (3) years. The current refunds will create a shortage in the District's General Fund which will have to be made up from somewhere assuming staff do not cut their overspending. And that shortage will be made up from disingenuous "central services costs" charged in part to the RFF and the BFF;
7. Private Memberships in Third Party Golf Organizations. I previously provided evidence that IVGID paid for private golf club memberships in the NCGA. Although staff claimed the costs of those memberships were reimbursed, they have refused to provide any written evidence of the same notwithstanding I have asked to examine that evidence. So until staff comply, the private memberships have NOT been reimbursed;
8. Employee Meals Because They've Had a Tough Week (or Season). Or it's someone's birthday. Or someone's going away party. Or someone's welcome on board party. Or you select the improper reason whatever it may be;
9. Vendor Meals and Entertainment. You remember when our staff to SE Group principals out to a \$200 dinner at the Lone Eagle Grill. How many more of these meals and entertainment have staff made/propose making with our RFF/BFF?
10. Consultant Fees For Recreation Master Plans. You know, the plans which come up with a generic wish list of capital improvements which you and I could have come up with in half an hour if we sat around a table and threw out wish list recommendations. And BTW, how did the Global Golf Advisors plan work out given we've ignored most of the recommendations? Or the DPMP which is now 8 years old and we're no closer to doing anything than we were 8 years ago - and the timing was so critical for that plan, wasn't it?
11. Memberships in Dozens of Meaningless Third Party Organizations like the Bear League, STOKE and almost POW;
12. Defensible Space Expenses to Protect the Visitors and Guests to Incline Village. Know these efforts are not targeted to protecting IVGID's recreational facilities from catastrophic fire. They're targeted to creating a halo surrounding IV and CB to protect EVERYTHING including "things" belonging to those who don't pay the RFF;
13. The giveaway of approximately 2.3 acres under the Parasol Community Center restricted to recreation and park purposes only. \$1/year for up to 99 years;
14. The giveaway of approximately .5 acres under the Visitor's Center building restricted to recreation and park purposes only. \$1/year for up to 99 years;
15. Maintenance and upgrades to the Reno-Sparks Visitors' and Convention Authority's park adjacent to the Visitor's Center;
16. Maintenance and repair of the two Washoe County parks at either end of the intersections of Lakeshore Blvd. and State Highway 28. Since at least 1994, if not before;
17. Maintenance, upgrades and use of the athletic fields for the Washoe County School District's Middle School's physical education programs - i.e., Incline Park;
18. Maintenance and repair of the WCSD's upper high school athletic field. Staff claims IVGID owns this field. But it does not. Staff claims its costs are reimbursed by the WCSD. But the reimbursement amount is insufficient to cover IVGID's actual

costs. And besides, are IVGID staff so under utilized so we can make them available to every private Tom, Dick and Harry who wants to avail itself of those services?

19. Maintenance, repair and renovation of public parks such as Preston Field, Village Green, Incline Park, Incline Skateboard Park, the Disc Golf Course, the Incline Bike Park, the Bocce Ball Park, and the Incline Fitness Trail. We lose more than \$1 million annually maintaining and repairing these public parks which in essence generate no user fee revenues;

20. Regional Transportation System. Hundreds of thousands of dollars of vehicles providing all sorts of mostly free transportation in/from/to our community including on demand shuttles to/from the Reno-Tahoe Airport;

21. Over 100 money losing community programs operated Out of the Recreation Center including pre and post school child care;

22. Maintenance, repair, upgrades and renovations to Ski Way for the benefit of approximately 330 Tyrolean Village homeowners, their tenants, invitees and guests;

23. Massive public philanthropy so local non-profits can use the public's recreational facilities to generate funds for their flavors of the month at local parcel/dwelling unit owners' expense. The most recent example is the TFC's June 6, 2021 Champ Golf tournament where the public's costs are \$41K+ per day, on average, and the revenue received from the tournament will be \$2K;

24. And don't forget DPSEF. I've already documented where the cost to the public totals \$200K+ per year. And now they want another Parasol/Visitor's Center \$1/year sweet deal at Diamond Peak;

25. CMAR costs because our professional engineering staff are not competent to perform construction management duties notwithstanding the cost of every CIP reimburses for such staff under the guise of "unreimbursed staff time." Don't we remember the \$200K+ of unreimbursed staff time assigned to the pond lining project which it turns out was never prosecuted?

26. Public relations for staff propaganda purposes. First it was Misty Moga as Communications Coordinator. Then it was Tri-Strategies at \$4K/month. And now it's Kari Ferguson as Communications Coordinator;

27. Lobbyist fees to influence legislation. \$3K/month to Tri-Strategies for what? And nearly \$5K/month to Marcus Faust for what?

28. The IVGID Quarterly (another staff propaganda tool). I've already documented where our costs are at least \$10K/issue, and there are at least six (6) issues/year (so why do we call it the "quarterly?" I guess our staff are so "under-utilized" that we have to find meaningless extraneous jobs for them to do to justify the fact they are full time, fully benefited employees;

29. Our Marketing Department. Notwithstanding NRS 318.015(1) instructs that our recreational facilities are supposed to be here for our use, staff spend \$1M or more annually on billboard, television commercial, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways selling IV to the world's tourists;

30. Credit card processing charges. Over \$425K annually and for the benefit of what?

31. Loomis armored car bank transporting charges. Over \$1,700/month and for the benefit of what?

32. Restaurants and food courts. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?

33. Bars selling alcoholic beverages. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?

34. Food and beverage/catering department(s). Food is not recreation for most of us;

35. The Hyatt Sport shop retail sales;

36. Acting as an insurer for Village Ski Loft merchandise sold in the Sport Shop by IVGID employees which is lost, stolen or damaged;

37. Retail clothing/soft good sales. Besides the Hyatt Sport Shop, both golf pro shops, the Tennis and Recreation Centers. I guess shopping is now recreation.

38. Wedding and event facilities sales. And staff won't tell you they have used paragraph I(F) of the proposed Rec Fee Report to SELL our beaches for weddings. Some employee with beach access declares that a wedding customer is his/her guest for beach access which opens the beaches to wedding sales; and,

39. IVGID currencies. IVGID bucks, Diamond Peak bucks, "PERK" program bucks, and when all else fails, fully transferable Diamond Peak ski lift vouchers.

NONE of this has anything to do with making the public's recreational facilities available for my use, as opposed to anyone else's use, yet you Board members call the RFF which finances all of this an alleged standby service charge. Or a plain old involuntary service charge.

B. Or let's take the BFF.

40. Ordinance 7 says the BFF pays for my ability to access and use the beaches and if I don't pay, I don't get access. Really? Since the beach deed grants local property owners as well as their properties the grant of easement, how can the Board and staff state that the BFF is a legitimate standby service charge?

41. Or let's go one step further. 3 court cases have determined that the beaches are private. Trustees Callicrate and Wong have both announced on the record that the beaches are private. So how can the BFF be used to develop the beaches (Burnt Cedar Pool, the Beach House, the Incline Beach bathrooms, the beach overflow parking lot) given NRS 318.015(2) expressly prohibits this?

C. Seeking Refund of the RFF/BFF.

42. Section VI of the proposed Report for the collection of the RFF/BFF as well as paragraph 8 of proposed Resolution 1889 both declare that those who are assessed the RFF/BFF are entitled to seek its refund yes there is no administrative means of



5/26/2021

Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22

so doing? I have demonstrated that since the laws pertaining to refund of a county's general taxes do not apply to IVGID's RFF/BFF, because the RFF/BFF are uniform in amount and not dependent upon an assessed parcel's valuation, there is no remedy to seek their refund. So I am asking the Board create its own administrative remedy the way it has done in Ordinance 7 whenever a picture pass or punch card holder's recreation privileges are proposed to be suspended or revoked. Or is the language nothing more than "hollow words?"

Thank you for accommodating my request.

And please include this e-mail as an attachment to the written minutes to be prepared of tonight's meeting.

Aaron Katz

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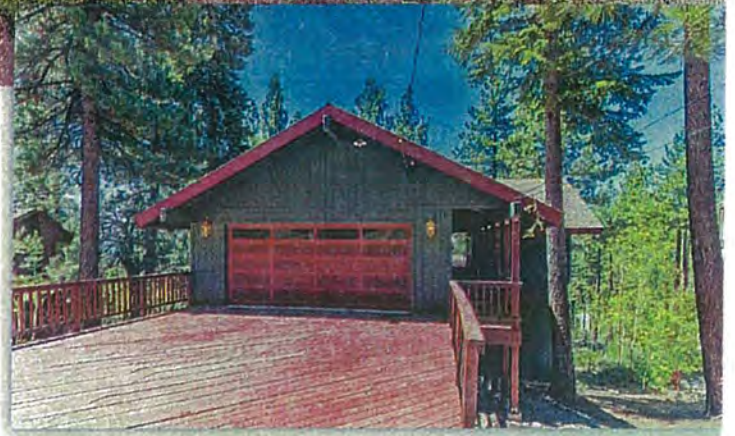
**EXHIBIT "B"**

# LAKE SHORE

REALTY



## *Desirable Eastern Slope 711 Cristina Drive*



Fabulous setting! Main level living. Well size bedroom on the main living level. Step down living room with wood burning fireplace and direct access to the spacious deck overlooking the fenced backyard, filtered lake views and forest service lots. Kitchen opens to the dining area and living room. Downstairs is the master bedroom, walk-in closet, full bathroom with double sinks. Deck off the master bedroom. Two additional bedrooms, full bath, family room w/deck, laundry room, exercise or storage room all on the second level.

*Offered for \$1,289,000*



## Property Features:

- 4 Bedrooms, 3 Bathrooms, 2,946 sq. ft.,
- 2 car attached garage, level driveway
- .36 acre parcel, surrounded by Forest Land
- Fully fenced backyard, filtered lake views
- Large open living, bedroom on main level
- Oversized deck perfect for entertaining
- Exercise or large storage room on 2nd level
- Property Taxes; \$9,470 (2018)



Incline Village is a master planned community featuring 3 private beaches one with an outdoor swimming pool, access to the state-of-the-art fitness and recreation center with indoor swimming pool, basketball courts, tennis facility, Diamond Peak Ski Resort and two amazing golf courses - Mountain Golf Course designed by Robert Trent Jones Jr. and Championship Golf Course designed by Robert Trent Jones Sr. As a property owner in Incline Village and Crystal Bay, your taxes include 'membership' to all these amenities, either free of charge or at a reduced resident rate. Crystal Bay property owners enjoy all of Incline's amenities with the exception of the private beaches.



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Please contact Chris or Patti if you have any questions on this property. They have assisted buyers and sellers for over 40 years.



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Chris@LakeshoreRealty.com

Patti Plastiras  
775.843.7002  
Patti@LakeshoreRealty.com

LakeshoreRealty.com

LAKESHORE  
REALTY



# EXHIBIT "C"

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**HOME**

# The benefits of owning in Nevada

During the past several years a significant percentage of the people purchasing property on the Nevada side of Lake Tahoe are relocating from California and other states with high income tax rates.

But it's not just the favorable business climate and lower levels of personal income and business taxes that are attracting new residents to our community. It's also the quality of life and all the amenities that are available for property owners to enjoy on a year-round basis that are enticing individuals and families to move to Incline Village.

Property owners in Incline Village are entitled to partake in a broad array of recreational facilities far superior to anything found elsewhere at Lake Tahoe. There are three private beaches, two magnificent golf courses, a modern ski area with a nice base lodge, a 34,000 square foot recreation center, tennis complex, disc golf course, and numerous parks



**Don Kanare & Sabrina Belleci**  
Special to the Tribune

(including one for skateboarding).

You will also discover lots of open space for people and their pets to roam and fantastic hiking and mountain biking trails with some of the best views found anywhere in the world.

High income residents of California are subjected to a state income tax rate of over 13% after the passage of Proposition 30 in November 2012. What this means for the Incline Village real estate market is that many business people every year contemplate whether or not they should remain in California or consider relocating

## WEEKLY REAL ESTATE UPDATE

	Houses	Condos	PUDs
For Sale	121	70	20
Under \$1 million	16	46	11
Median Price For Sale	\$2,100,000	\$699,000	\$747,500
YTD Sales 2019	74	73	29
YTD Sales 2018	94	96	31
New Listings	17		
In Escrow	13		
Closed Escrow	5		
Range in Escrow	\$319,900 – 3,500,000		

*These statistics are based on information from the Incline Village Board of Realtors or its Multiple Listing Service as of July 14.*

to another state that could provide greater economic benefits.

Housing is much more affordable in Northern Nevada than in most parts of the Bay Area and when coupled with the Tahoe lifestyle it is a very attractive option.

One of the most important things for a business owner to consider is the health and well-being of their employees. If a move to the Nevada side of Lake Tahoe makes sense both economically and psychologically for a particular employer it makes relocating a lot easier for everyone involved.

The uptrend of price increases for Incline Village and Crystal Bay real estate over the past several years has been fueled by a combination of purchases by vacation homeowners and high income California residents looking to relocate to our community for both the economic benefits and quality-of-life advantages.

As long as people feel that moving to the Nevada side of Lake Tahoe has significant benefits, the demand for homes and condos will remain strong.

For the past several years Nevada

has been at or near the top of the list for anyone considering moving from a state with a high tax burden and a complex regulatory environment. The Reno-Tahoe area is in close proximity to the major urban centers in California and the Reno airport is one of the most accessible in the nation.

It is only natural that businesses ranging from a salesperson working at home to Google and Tesla are moving some or all of their operations to Northern Nevada.

Other factors that make Incline Village attractive to individuals and businesses relocating from California are the relatively inexpensive cost of electricity, total labor costs and the great variety of housing.

Recreational opportunities are abundant making the Nevada side of Lake Tahoe a great place to work and play.

*Don Kanare is the founder and Sabrina Belleci is the owner and broker of RE/MAX North Lake in Incline Village. You can follow their blog at [www.InsideIncline.com](http://www.InsideIncline.com).*

# Prevent the hazard of overloaded electrical circuits

## Metro Creative

A home is a safe haven for its residents. No matter what's going on at school or the office, many people know they can relax in comfort and safety when they arrive home at the end of a day.

Safety at home is something that can be taken for granted until it's too late. The National Fire Protection Association notes that each year more than 47,000 home fires in the United States are caused by electrical failure or malfunction.

Overloaded electrical circuits are a frequent culprit in residential fires. Fortunately, overloaded circuits are preventable. According to the Electrical Safety Foundation International, the following are some potential indicators that circuits are overloaded.

- Flickering, blinking or dimming lights
- Frequently tripped circuit breakers or blown fuses
- Warm or discolored wall plates
- Cracking, sizzling or buzzing from receptacles
- Burning odor coming

from receptacles or wall switches

- Mild shock or tingle from appliances, receptacles or switches.

Learning to recognize the signs of overloaded circuits is an important step in making homes safe, as the NFPA notes that home fires contribute to hundreds of deaths and more than 1,500 injuries each year.

Such fires also hit homeowners in their pocket-books, causing an estimated \$1.4 billion in property damage annually.

Prevention is another key

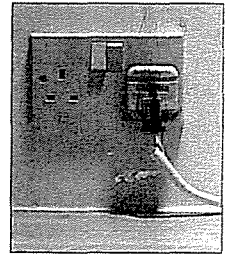
component when safeguarding a home and its residents from fires sparked by electrical failures of malfunctions. The ESFI offers the following tips to prevent electrical overloads.

- Never use extension cords or multi-outlet converters for appliances.
- All major appliances should be plugged directly into a wall receptacle outlet. Only one heat-producing appliance should be plugged into a receptacle outlet at any given time.
- Consider adding new outlets to your home.

Heavy reliance on extension cords indicates that your home does not have enough outlets. Bring in a qualified electrician to inspect your home to determine if more outlets are necessary.

Recognize that power strips only add additional outlets; they do not change the amount of power being received from the outlet.

Fires sparked by electrical circuit overload pose a significant threat. Thankfully, such fires are preventable. Learn more at [www.esfi.org](http://www.esfi.org).

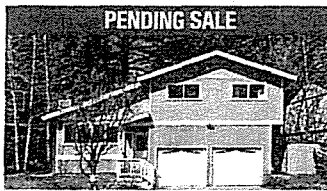


METRO CREATIVE

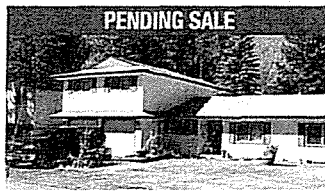
More than 47,000 home fires in the United States are caused by electrical failure or malfunction, according to the National Fire Protection Association.



**TAHOE ISLAND PARK#4** Steps to School Bus Stop, Meadow & River., Access to Tahoe Keys Beach & Pier. Remodel started & Buyers can finish to their taste. Two good sized bedrooms & large Master Bedroom/Bath; & Guest Bath. Roof is good; newer double pane windows, Heated Double Garage w/Auto opener. NOW \$399,000



**PENDING SALE**  
NEW LISTING! Highland Woods Contemporary 3 Bdrm. plus large Family room & Foyer. Large kitchen., 2.5 Baths, double garage, decks & hot tub & large fenced yard. Walk to the Meadow & River; a little longer walk to the Lake! \$573,000 By appointment only.



**PENDING SALE**  
Three large bedrooms, 2 large living/family rooms (one with its own entrance), & a Den and large double garage! Fenced & landscaped. Quiet family neighborhood with longtime Locals in it! Short distance to Heavenly Ski Area, Farmers Market, Restaurants & Schools.

## FEATURED LISTING

### Ready to Build Lot

Building permit included and most fees paid for, including Architect's floorplans & additional coverage paid for. Near meadow & the college. Listing \$150,000



**PRIME LOCATION** @ spotlight of Al Tahoe Blvd. & Hwy 50; Modern Passive Solar Commercial Building w/6 suites/4 baths, 2 lobby's & storage rooms. Owners may finance qualified Buyer. Call Davey for pricing.

## INCOME & LAND LISTINGS

Well Established Alterations business, great lease \$60,000  
\$289,000 HALF ACRE COMMERCIAL/MIXED USE parcel. SITE ASSESSMENT & CITY BLDG DEPT DETAILS IN FILE. Flat, with not many trees. Depending on your planned use, City may have floor area available.  
Near Meadow; Ready to build lot in town; includes Allocation & most fees paid \$150,000



BEST RENTALS

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 VIEW ALL MLS LISTINGS @ [www.laketahoe4sale.com](http://www.laketahoe4sale.com) BROKER/OWNER/REALTOR

**EXHIBIT "D"**

**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT  
STATEMENT OF SOURCES AND USES  
BY CLASS  
BEACH FUND**

**Prior Fiscal Year - Current Fiscal Year - Final**

	Actuals FY2019-20	Current Budget FY2020-21	Tentative Working Budget FY 2021-22	Final Working Budget FY 2021-22
<b>SOURCES</b>				
Charges for Services	1,619,582	831,955	892,500	892,500
Facility Fees	966,817	658,580	1,394,640	5,268,640 ★
Investment Earnings	28,422	11,250	5,625	5,625
Funded Capital Resources	-	-	4,335,212	-
Transfers In	13,125	-	-	-
<b>TOTAL SOURCES</b>	<u>2,627,946</u>	<u>1,501,785</u>	<u>6,627,977</u>	<u>6,166,765</u>
<b>USES</b>				
Salaries and Wages	801,253	810,930	885,579	885,579
Employee Fringe	185,239	221,093	229,705	229,705
<b>Total Personnel Cost</b>	<u>986,492</u>	<u>1,032,023</u>	<u>1,115,284</u>	<u>1,115,284</u>
Professional Services	5,700	14,765	17,850	17,850
Services and Supplies	432,541	500,991	538,716	639,716
Insurance	29,533	37,980	39,300	39,300
Utilities	131,362	130,894	139,064	139,064
Cost of Goods Sold	95,122	83,600	100,500	100,500
Central Services Cost	110,500	106,046	118,680	118,680
Capital Improvements	-	-	4,520,060	3,419,060 ★
Debt Service	-	-	6,296	6,296
Transfers Out	88,299	-	-	-
<b>TOTAL USES</b>	<u>1,879,548</u>	<u>1,906,299</u>	<u>6,595,750</u>	<u>5,595,750</u> ★
<b>SOURCES(USES)</b>	<u>748,399</u>	<u>(404,514)</u>	<u>32,227</u>	<u>571,015</u> ★



**EXHIBIT "E"**

# **FY2021-22 TENTATIVE BUDGET**

## **LINE-ITEM DETAILS**

### **District-Wide**

### **By Fund**

Golf Facilities

Sum of Signed Requested Amount	100	200	320	330	340	350	360	370	380	390	410	420	430	450	Grand Total
<b>Revenue</b>															
Ad Valorem		(1,924,000)													(1,924,000)
Consolidated Tax		(1,803,362)													(1,803,362)
<b>Charges for Services</b>	(2,400)	(12,783,176)	(4,277,646)	(1,798,720)	(11,134,914)	(1,131,654)	270,000	(60,615)	(141,351)	(892,500)					(31,952,976)
Back Flow Tests		(120,000)													(120,000)
Capital Improvement Monthly		(4,859,639)													(4,859,639)
Capital Improvement Retro		(14,000)													(14,000)
Defensible Space Charges		(100,200)													(100,200)
Effluent Disposal Sales		(75,000)													(75,000)
Fines & Penalties		(25,200)													(25,200)
Fire Protection		(18,096)													(18,096)
Hunting Fees		(20,000)													(20,000)
Inspection/Plan Fees		(40,000)													(40,000)
Interfund Revenue Transfers		-													-
Misc- Water Rights		-													-
Other Sewer		(15,000)													(15,000)
Other Water		(28,800)													(28,800)
Rental Income	(2,400)			(889,475)	(5,000)	(3,000)		(60,615)		(175,700)					(1,136,190)
Sewer Base		(2,349,214)													(2,349,214)
Sewer Connection		(31,500)													(31,500)
Sewer Consumption		(1,242,640)													(1,242,640)
Tier 1		(194,480)													(194,480)
Tier 2		(84,112)													(84,112)
Water Base		(1,600,000)													(1,600,000)
Water Connection		(20,000)													(20,000)
Water Consumption		(1,486,290)													(1,486,290)
Franchise Fee		(324,500)													(324,500)
Service & User Fees		(134,505)	(88,834)	(27,000)	(1,508,300)	(10,350)	(27,000)								(1,795,989)
Passes			(651,433)		(1,925,909)				(56,929)						(2,634,271)
Admissions & Fees			(2,092,392)		(4,974,347)	(835,000)			(12,055)	(907,000)					(8,820,794)
Parcel Owner Allowances			214,600							600					215,200
Parcel Owner Allowance for Golf Passes															-
Charitable Allowances			8,800	170,717	26,200										205,717
Employee Allowances			23,630		124,600	1,300			400	5,600					155,530
Promotional Discounts			70,363	127,399		1,800			3,700						203,262
Yield Management Allowances															-
Sponsorships						(3,700)			(500)						(4,200)
Promotional Allowances			7,370		579,200										586,570
Personal Services			(62,500)		(1,663,558)	(66,000)			(27,791)						(1,819,849)
Merchandise Sales			(774,000)		(56,400)	(25,820)			(14,215)						(870,435)
Food Sales			(568,850)	(958,300)	(1,282,300)	(19,400)				(346,000)					(3,174,850)
Beer Sales			(161,200)	(85,100)	(279,300)				(8,426)						(534,026)
Wine Sales			(53,500)	(168,800)	(47,100)				(1,425)						(270,825)
Liquor Sales			(149,700)	(157,100)	(161,600)				(714)						(469,114)
Allocated to others					45,900										45,900
Insurance Proceeds - Operating															-
Inter-District Program Allowan				176,239											176,239
Inter-District Program Allowances				12,700	46,500										59,200
Concessions					(42,900)					(47,000)					(89,900)
COSTCO Allowance															-
Repairs for Customers					(10,600)										(10,600)
Program Registration						(163,484)			(23,396)	(26,000)					(212,880)
Scholarship Allowances															-

## EXHIBIT "F"

EXHIBIT "F"  
PAGE 1 OF 1



ABOUT THE 2012-2013 RECREATION FACILITY FEE AND BEACH FACILITY FEE

	Components			Total Facility Fee
	Operating	Capital	Debt Service	
<b>Recreation (8248 Parcels)</b>				
Championship Golf	\$ 26	\$ 29	\$ 32 <del>*</del>	\$ 87
Mountain Golf	10	30	-	40
Chateau	8	-	23 <del>*</del>	31
Aspen Grove	4	-	-	4
Catering <sup>(1)</sup>	(14)	6	-	(8)
Diamond Peak Ski Resort <sup>(1)</sup>	(196)	87	21 <del>*</del>	(88)
Parks	60	40	2 <del>*</del>	102
Tennis	4	2	-	6
All Youth	15	-	-	15
All Adult Programs	2	-	-	2
Senior Programs	16	-	-	16
Recreation Center	99	5	-	104
Recreation Admin	137	-	-	137
Reserves	75	-	-	75
Defensible Space	12	-	-	12
Debt Service 2003 Bond <sup>(2)</sup>	-	-	85 <del>*</del>	85
Debt Service 2008 Bond <sup>(3)</sup>	-	-	110 <del>*</del>	110
<b>Recreation Facility Fee</b>	<b>\$ 258</b>	<b>\$ 199</b>	<b>\$ 273</b>	<b>\$ 730</b>
<b>Beach (7811 Parcels)</b>				
<b>Beach Facility Fee</b>	<b>\$ 66</b>	<b>\$ 17</b>	<b>\$ 17<del>*</del></b>	<b>\$ 100</b>

(1) Bracketed numbers indicate a reduction in RFF/BFF

(2) Bond Payments is completed in 2013 for Champ Golf, Diamond Peak Quad, and Tennis Courts

(3) Bond payments is completed in 2018 for Diamond Peak Phase 1 & 2 renovation, Snowmaking, and BMPs

## EXHIBIT "G"

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## 6. LONG-TERM DEBT

All of the District's Long Term Bonds are collateralized by a pledge of revenues derived and to be derived from the operation of either the Utility, Community Services or Beach venues, after deduction there from of the amount necessary to pay all operating and maintenance charges as required by applicable bond agreements. The District is also required to maintain rates sufficient to pay all maintenance, depreciation, replacement, betterment, and interest charges.

Business Type Activities:

### Outstanding Long-Term Debt as of June 30, 2012

Issue	Issue Date	Maturity Date	Interest Rate	Amount Issued	Principal Outstanding	Due 2012-13
<b>Medium-Term General Obligation Bonds Recreation</b>						
★ Recreation Golf Imp. 2003	03/01/03	03/01/13	★ 2.8-3.6%	\$5,500,000	\$ 695,000	\$695,000
★ Recreation Impr. (Ski) 2008	06/18/08	06/01/18	3.5-7%	7,000,000	4,500,000	675,000
<b>General Obligation Revenue Bonds Recreation</b>						
Recreation Facilities and Recreation						
Refunding 2002	09/01/02	09/01/22	2.5-4.75%	6,205,000	3,745,000	270,000
★ Recreation Refunding 2004	02/01/04	10/01/14	2-3.25%	4,445,000	<u>1,750,000</u>	<u>300,000</u>
<b>Total Recreation Revenue Supported Debt</b>					<b><u>\$10,690,000</u></b>	<b><u>\$1,940,000</u></b>
<b>Utility</b>						
State of Nevada						
Utility C32-1006	10/29/92	07/01/12	4%	3,925,398	\$157,107	\$157,107
Utility Water Bonds of 2003	06/01/03	06/01/13	2-3.5%	2,130,000	245,000	245,000
Sewer C32-0204	10/28/02	01/01/23	3.14%	1,687,402	1,187,922	91,949
Water IVGID-1	09/01/04	07/01/25	3.082%	1,702,380	1,247,359	75,784
Sewer CS32-0404	08/01/06	09/01/26	2.73%	3,000,000	2,402,111	143,046
Water DW-1201	03/16/12	01/01/32	2.39%	3,000,000**	<u>691,161</u>	<u>60,836</u>
<b>Total Utility Revenue Supported Debt</b>					<b><u>\$5,930,660</u></b>	<b><u>773,722</u></b>
<b>Total Business Type Activities Debt</b>					<b><u>\$16,620,660</u></b>	<b><u>\$2,713,722</u></b>

\*\* The State of Nevada Water Contract DW-1201 has been authorized at \$3,000,000. As of June 30, 2012 only \$691,161 had been drawn. A request for a draw of \$1,613,509 was pending and funded July 13, 2012. The remaining \$695,330 is expected to be drawn by November 30, 2012. Debt service disclosures have been prepared based on the bond being fully issued and amortization beginning with the payment due January 1, 2013.

### Long-Term bonded debt activity for the year ended June 30, 2012

	Beginning Balance	New Issues	Principal Reductions	Ending Balance	Due Within One Year
Business Type Activities:					
General Obligation Revenue	\$16,048,477	\$ 691,161	\$ 2,554,259	\$14,185,379	\$2,545,989
Total	<u>18,646,385</u>	<u>691,161</u>	<u>2,716,886</u>	<u>16,620,660</u>	<u>\$2,713,722</u>
Bond discounts	(18,647)	-	1,667	(16,980)	
Bond Premiums	<u>307,707</u>	-	<u>(73,063)</u>	<u>234,644</u>	
Long-term Debt, net	<u>\$18,935,445</u>	<u>\$691,161</u>	<u>\$2,788,282</u>	<u>\$16,838,324</u>	
Bond Issuance Cost	<u>\$ 231,766</u>	<u>\$ 32,935</u>	<u>\$ 47,079</u>	<u>\$ 217,622</u>	

**EXHIBIT "H"**



## INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

### Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
Ski	\$ (20)	\$ (88)	\$ (35)	\$ 151	\$ 22	\$ 41	\$ 56	\$ 70	\$ 27	\$ 9
Tennis	21	6	18	15	19	12	5	22	10	8
Parks	86	102	200	120	131	136	189	103	107	69
Recreation Center	216	241	112	118	106	104	96	96	94	113
Championship Golf	75	87	47	30	38	6	(3)	24	40	191
Mountain Golf	29	40	20	22	21	45	38	-	-	-
Beaches	100	100	115	100	113	155	150	110	100	95
Youth	20	15	25	22	22	19	20	22	14	15
Seniors	19	16	20	23	26	11	2	-	-	-
Adult Programs	1	2	2	3	4	1	-	-	-	-
Catering	(13)	(8)	26	(2)	(6)	(18)	2	-	(18)	(12)
Facilities	52	35	33	48	33	43	22	51	61	84
Reserves for Recreation	49	75	40	-	-	-	46	46	70	-
Golf/Tennis/Ski Bonds	85	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	-	-	-	-
Indine Lake Property Purchase	-	-	0	-	-	-	-	31	-	-
Beach Litigation	-	-	0	-	-	-	-	30	-	-
Defensible Space	-	12	12	12	12	-	-	-	-	-
Coverage sales	-	-	0	(27)	-	-	-	-	-	-
Other/Undassified	-	-	0	-	-	10	2	-	-	(82)
<b>Total</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 736</b>	<b>\$ 760</b>	<b>\$ 710</b>	<b>\$ 690</b>	<b>\$ 590</b>	<b>\$ 575</b>
Total Collected (in 1,000's)	\$ 6,742	\$ 6,737	\$ 6,819	\$ 6,850	\$ 5,992	\$ 6,132	\$ 5,764	\$ 5,592	\$ 4,755	\$ 4,646

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Bracketed amounts for "Other" represent instances where prior period resources were used in lieu of the current fee, primarily for construction.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Indine Village General Improvement District

**EXHIBIT "I"**

## INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

### Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
Ski	\$ (27)	\$ (20)	\$ (88)	\$ (35)	151	22	41	56	70	27
Tennis	9	21	6	18	15	19	12	5	22	10
Parks	108	86	102	200	120	131	136	189	103	107
Recreation Center	241	204	241	112	118	106	104	96	96	94
Championship Golf	81	75	87	47	30	38	6	(3)	24	40
Mountain Golf	31	29	40	20	22	21	45	38	-	-
Beaches	100	100	100	115	100	113	155	150	110	100
Youth	21	20	15	25	22	22	19	20	22	14
Seniors	12	19	16	20	23	26	11	2	-	-
Adult Programs	1	1	2	2	3	4	1	-	-	-
Catering	-	(13)	(8)	26	(2)	(6)	(18)	2	-	(18)
Facilities	46	52	35	33	48	33	43	22	51	61
Reserves for Recreation	-	49	75	40	-	-	-	46	46	70
Golf/Tennis/Ski Bonds	85	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	110	-	-	-
Indine Lake Property Purchase	-	-	-	-	-	-	-	-	31	-
Beach Litigation	-	-	-	-	-	-	-	-	30	-
Defensible Space	12	12	12	12	12	12	-	-	-	-
Coverage sales	-	-	-	-	(27)	-	-	-	-	-
Other/Undassified	-	-	-	-	-	-	10	2	-	-
<b>Total</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 736</b>	<b>\$ 760</b>	<b>\$ 710</b>	<b>\$ 690</b>	<b>\$ 590</b>
<b>Total Collected (in 1,000's)</b>	<b>\$ 6,746</b>	<b>\$ 6,742</b>	<b>\$ 6,737</b>	<b>\$ 6,819</b>	<b>\$ 6,850</b>	<b>\$ 5,992</b>	<b>\$ 6,132</b>	<b>\$ 5,764</b>	<b>\$ 5,592</b>	<b>\$ 4,755</b>

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Bracketed amounts represent a venue that does collect, but rather puts back an amount per parcel into the total for other venues to use the proceeds for operations.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Indine Village General Improvement District

**EXHIBIT "J"**

## INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

### Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007
Ski	\$ 13	\$ (27)	\$ (20)	\$ (88)	\$ (35)	\$ 151	\$ 22	\$ 41	\$ 56	\$ 70
Tennis	16	9	21	6	18	15	19	12	5	22
Parks	97	108	86	102	200	120	131	136	189	103
Recreation Center	197	241	204	241	112	118	106	104	96	96
Championship Golf	126	81	75	87	47	30	38	6	(3)	24
Mountain Golf	69	31	29	40	20	22	21	45	38	-
Beaches	100	100	100	100	115	100	113	155	150	110
Youth	24	21	20	15	25	22	22	19	20	22
Seniors	19	12	19	16	20	23	26	11	2	-
Adult Programs	-	1	1	2	2	3	4	1	-	-
Catering	-	-	(13)	(8)	26	(2)	(6)	(18)	2	-
Facilities	47	46	52	35	33	48	33	43	22	51
Reserves for Recreation	-	-	49	75	40	-	-	-	46	46
Golf/Tennis/Ski Bonds	-	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	110	110	-	-
Indine Lake Property Purchase	-	-	-	-	-	-	-	-	-	31
Beach Litigation	-	-	-	-	-	-	-	-	-	30
Defensible Space	12	12	12	12	12	12	12	-	-	-
Coverage sales	-	-	-	-	-	(27)	-	-	-	-
Other/Undassified	-	-	-	-	-	-	-	10	2	-
<b>Total</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 830</b>	<b>\$ 736</b>	<b>\$ 760</b>	<b>\$ 710</b>	<b>\$ 690</b>
<b>Total Collected (in 1,000's)</b>	<b>\$ 6,746</b>	<b>\$ 6,746</b>	<b>\$ 6,742</b>	<b>\$ 6,737</b>	<b>\$ 6,819</b>	<b>\$ 6,850</b>	<b>\$ 5,992</b>	<b>\$ 6,132</b>	<b>\$ 5,764</b>	<b>\$ 5,592</b>

Bracketed amounts represent a venue that does collect, but rather puts back an amount per parcel into the total for other venues to use the proceeds for operations.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Incline Village General Improvement District

**EXHIBIT "K"**

**7. LONG-TERM DEBT**

All of the District's Long Term Bonds are collateralized by a pledge of revenues derived and to be derived from the operation of the either the Utility, Community Services or Beach venues, after deduction there from of the amount necessary to pay all operating and maintenance charges as required by applicable bond agreements. The District is also required to maintain rates sufficient to pay all maintenance, depreciation, replacement, betterment, and interest charges.

Business Type Activities:

**Outstanding Long-Term Debt as of June 30, 2014**

Issue	Issue Date	Maturity Date	Interest Rate	Amount Issued	Principal Outstanding	Due 2014-15
<b>Medium-Term General Obligation Bonds Recreation</b>						
Recreation Impr. (Ski) 2008	06/18/08	06/01/18	3.5-7%	\$7,000,000	\$3,125,000	\$730,000
<b>General Obligation Revenue Bonds Recreation</b>						
Recreation Facilities and Recreation						
Refunding 2012	07/18/12	03/01/23	2.25%	3,475,000	3,166,000	319,000
Recreation Refunding 2004	02/01/04	10/01/14	2-3.25%	4,445,000	<u>735,000</u>	<u>735,000</u>
<b>Total Recreation Revenue Supported Debt</b>					<b><u>\$7,026,000</u></b>	<b><u>\$1,784,000</u></b>
<b>Utility</b>						
State of Nevada						
Sewer C32-0204	10/28/02	01/01/23	3.14%	\$1,687,402	\$1,001,110	\$ 97,869
Water IVGID-1	09/01/04	07/01/25	3.082%	1,702,380	1,093,438	80,564
Sewer CS32-0404	08/01/06	09/01/26	2.73%	3,000,000	2,112,093	151,004
Water DW-1201	03/16/12	01/01/32	2.39%	3,000,000	<u>2,815,302</u>	<u>126,839</u>
<b>Total Utility Revenue Supported Debt</b>					<b><u>\$7,021,943</u></b>	<b><u>\$ 456,276</u></b>
<b>Total Business Type Activities Debt</b>					<b><u>\$14,047,943</u></b>	<b><u>\$2,240,276</u></b>

**Long-Term bonded debt activity for the year ended June 30, 2014**

	Beginning Balance	New Issues	Principal Reductions	Ending Balance	Due Within One Year
Business Type Activities:					
General Obligation Revenue	\$13,948,228	\$ -	\$1,994,833	\$11,953,395	\$2,061,843
Total	<u>2,267,548</u>	<u>-</u>	<u>173,000</u>	<u>2,094,548</u>	<u>178,433</u>
Bond discounts	(15,315)	-	(1,667)	(13,648)	
Bond Premiums	<u>176,092</u>	<u>-</u>	<u>51,226</u>	<u>124,866</u>	
Long-term Debt, net	<u>\$16,376,553</u>	<u>\$ -</u>	<u>\$2,217,392</u>	<u>\$ 14,159,161</u>	

**Future Debt Service Requirements as of June 30, 2014**

Fiscal Year Ending June 30	Debt Supported by Utility Fund Revenue		Debt Supported by Recreation Fund Revenue	
	Principal	Interest	Principal	Interest
2015	456,276	186,858	1,784,000	253,641
2016	469,072	174,062	1,084,000	205,263
2017	482,230	160,903	1,123,000	167,471
2018	495,762	147,372	1,187,000	104,577
2019	509,678	133,457	350,000	37,642
2020 to 2024	2,641,770	445,323	1,498,000	68,534
2025 to 2029	1,410,553	141,852	-	-
2030 to 2032	<u>556,602</u>	<u>23,511</u>	<u>-</u>	<u>-</u>
Total	<u>\$7,021,943</u>	<u>\$1,413,338</u>	<u>\$ 7,026,000</u>	<u>\$ 837,128</u>

At June 30, 2013, principal and interest to maturity in 2032, to be paid from pledged future revenues, totaled \$16,298,413. For the year ended June 30, 2014 the net pledged revenue was \$3,429,622.

IVGID Executive Summary - Final Budget

Fund and Function Budgeted Sources and Uses

FY 2021-22

Budgeted

IVGID	General Fund	Total Governmental	Community Services	Beach Fund	Utilities Fund	Internal Services	Total Proprietary	2021-22	2020-21
								All Funds Summary	All Funds Summary
<b>Operating Activities:</b>									
<b>Revenues:</b>									
Ad Valorem & Property Tax	\$ 1,948,610	\$ 1,948,610	\$ -		\$ -	\$ -	\$ -	\$ 1,948,610	\$ 1,770,000
Consolidated Tax	1,901,530	1,901,530						1,901,530	1,668,000
Charges for Services	2,400	2,400	18,161,582	892,500	12,796,676		31,850,758	31,853,158	29,850,623
Facility Fees			410,150	1,127,470			1,688,570	1,688,570	2,423,225
Intergovernmental & Grants			34,800		31,000		65,800	65,800	69,700
Interfund			99,911		241,400	3,218,226	3,559,537	3,559,537	3,568,285
Miscellaneous			130,230				130,230	130,230	132,630
Investments	65,700	65,700	26,250	5,625	74,000		105,875	171,575	343,650
<b>Total Operating Sources:</b>	<b>3,918,240</b>	<b>3,918,240</b>	<b>18,862,923</b>	<b>2,176,545</b>	<b>13,143,076</b>	<b>3,218,226</b>	<b>37,400,770</b>	<b>41,319,010</b>	<b>39,825,113</b>
<b>Expenditures by Function:</b>									
<b>General Government:</b>									
Operations	5,240,489	5,240,489				3,155,929	3,155,929	8,396,418	7,771,411
Central Services Cost-Recovery	(1,546,624)	(1,546,624)						(1,546,624)	(1,471,440)
<b>Utilities:</b>									
Operations					9,350,130		9,350,130	9,350,130	8,155,873
<b>Recreation:</b>									
Championship Golf			3,790,702				3,790,702	3,790,702	3,717,478
Mountain Golf			1,244,883				1,244,883	1,244,883	1,141,209
Facilities			1,828,688				1,828,688	1,828,688	1,504,563
Ski			8,214,784				8,214,784	8,214,784	8,075,342
Recreation Center			2,400,472				2,400,472	2,400,472	2,212,155
Recreation Admin			413,445				413,445	413,445	415,786
Parks			1,028,929				1,028,929	1,028,929	856,535
Tennis			258,602				258,602	258,602	226,781
Beach				2,170,394			2,170,394	2,170,394	1,906,299
<b>Total Operating Expenditures</b>	<b>3,693,865</b>	<b>3,693,865</b>	<b>19,180,505</b>	<b>2,170,394</b>	<b>9,350,130</b>	<b>3,155,929</b>	<b>33,856,958</b>	<b>37,550,823</b>	<b>34,512,012</b>
<b>Net Operating Sources &amp; Uses</b>	<b>\$ 224,375</b>	<b>\$ 224,375</b>	<b>\$ (317,582)</b>	<b>\$ 6,151</b>	<b>\$ 3,792,946</b>	<b>\$ 62,297</b>	<b>\$ 3,543,812</b>	<b>\$ 3,768,187</b>	<b>\$ 5,313,101</b>
<b>Non-Operating Activities:</b>									
Capital Grants & Insurance	\$ -	\$ -	\$ 80,000	\$ -	\$ -	\$ -	\$ 80,000	\$ 80,000	\$ -
Facility Fees - Capital Projects				3,982,472			3,982,472	3,982,472	3,740,867
Facility Fees - Debt Service			410,150	7,748			417,898	417,898	417,898
Use of Fund Balance for Projects									8,927,332
Capital Project Expenditures	(441,438)	(441,438)	(3,543,430)	(3,419,060)	(5,216,500)		(12,178,990)	(12,620,428)	(14,377,677)
Debt Service Payments			(386,629)	(6,296)	(643,129)		(1,036,054)	(1,036,054)	(1,032,576)
<b>Net Non-Operating Sources &amp; Uses</b>	<b>(441,438)</b>	<b>(441,438)</b>	<b>(3,439,909)</b>	<b>564,864</b>	<b>(5,859,629)</b>		<b>(8,734,674)</b>	<b>(9,176,112)</b>	<b>(2,324,156)</b>
<b>Overall Net Sources &amp; Uses</b>	<b>\$ (217,063)</b>	<b>\$ (217,063)</b>	<b>\$ (3,757,491)</b>	<b>\$ 571,015</b>	<b>\$ (2,066,683)</b>	<b>\$ 62,297</b>	<b>\$ (5,190,862)</b>	<b>\$ (5,407,925)</b>	<b>\$ 2,988,945</b>
Beginning Unrestricted (Est.)	\$ 3,802,024		\$ 10,684,999	\$ 4,036,366	\$ 12,705,712	\$ -			
Change in Fund Balance	(217,063)	(217,063)	(3,757,491)	571,015	(2,066,683)	62,297	(5,190,862)	(5,407,925)	(5,938,387)
FY2020-21 Carryforward Adj.	75,000				1,550,000				
Ending Unrestricted	\$ 3,659,961		\$ 6,927,508	\$ 4,607,381	\$ 12,189,029	\$ 62,297			



## MINUTES

### **REGULAR MEETING OF JUNE 9, 2021 Incline Village General Improvement District**

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Thursday, June 9, 2021 at 6:00 p.m. This meeting was conducted virtually via Zoom.

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

The pledge of allegiance was recited.

#### **B. ROLL CALL OF TRUSTEES\***

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

Also present were District Staff Members Director of Finance Paul Navazio, Director of Public Works Brad Underwood, Interim Director of Human Resource Erin Feore, Director of Golf/Community Services Darren Howard, and General Manager Diamond Peak Ski Resort Mike Bandelin.

#### **C. INITIAL PUBLIC COMMENTS\***

Steve Price said he has few requests for today's agenda as he is hoping that Mr. Chapman will speak about who pays for the transportation and is the Tahoe Transportation District involved? What is the impact of Senate Bill 186 as it looks like if it is going to be signed? Also what about Assembly Bill 366? He would like to know about the men's locker room and when that activity is going to take place? And lastly, he would like to thank Staff for helping the Veterans Club with their event on Memorial Day. Thank you to the Board for all they do for us.

Dick Warren said Cliff Dobler has succinctly laid out how, over the past 5 Fiscal Years, IVGID has deliberately distorted their accounting to qualify for Special Revenue Accounting (especially with regards to Community Services), materially overstating revenues, and misappropriating funds related to the Community Services Special Revenue Fund. IVGID includes as revenues in the Special Revenue Fund the Facility Fees specified for capital projects & debt service, and then they transfer out those amounts to capital projects & debt service funds. The Moss Adams report dated 1/21/2021 clearly stated that such accounting and reporting was not in compliance with GAAP. IVGID did it correctly for the 2021 Budget but not for the 2020 Budget. IVGID Management probably did this so that Facility Fees would reach 20% of total revenues, a requirement by GASB if one wants to use Special Revenue Accounting. But the Facility Fees were not even

close to being 20% of total revenues. Current IVGID Management relies on Resolution 1838 to supersede GASB, NRS, and common sense. GASB is GAAP, not some concoction contrived by IVGID Management, and GASB trumps Resolution 1838. But the biggest issue is misappropriation of funds. Over the past 5 fiscal years, Community Services revenues exceeded expenses for all Venues WITHOUT the Facility Fee. Which means the Facility Fee was never needed! But \$9.8M was collected from property owners over this time frame, so either this amount should be returned to the property owners (around \$1,200 per Parcel Unit Owner) or be set aside if operational expenses exceed revenues in the future. As of 6/30/2020, about \$6.5M of this \$9.8M remained in the Special Revenue Fund (the difference, about \$3.3M was improperly transferred to capital projects). And around \$5.6M of the \$6.5M was then transferred out of the Special Revenue Fund to the capital project fund in the current fiscal year. This was not in compliance with GASB 54 & the intent of the BOT. What does all this mean? The Financial Statements are not presented IAW GAAP, there has been no consistency in financial reporting for over 5 FY's, accounting for operations in a Special Revenue Fund was inherently wrong because Facility Fees never reached the 20% threshold for all revenues, and putting all of the Facility Fees as revenues in the Special Revenue Fund made it appear as if the Community Services Venues were quite profitable. Lousy accounting, once again brought to you by the current incumbents (the General Manager and Director of Finance). But misappropriating funds is serious business and needs to be addressed. And he loves how the General Manager and the Director of Finance couldn't care less if the property owners got screwed and paid more in Rec Fees than they needed to. Thank you.

Cliff Dobler said regarding Consent Item G.2 – on May 19, 2019 over two years ago, HDR issued a report which reviewed PICA's second assessment of the pipeline and stated there were 2 defects in Segment 2 and 14 defects in Segment 3. Apparently now there could be 24 defects. Also there were three additional effluent spills repaired in late 2019 and another spill was recently repaired. The HDR's report indicated in a 4,200 LF section of Segment 3, where in 2018, Granite had already did 8 repairs most of the additional new defects exist. The Granite repairs were done because IVGID management insured the Board that if the repairs were done the pipeline would last for 10 years. One year later there were 14 more deficiencies, 4 emergencies repairs completed and probably another 8 defects requiring repairs. Got that, 10 years boiled down to one year? In 2012 IVGID started collecting \$2,000,000 per year to replace the pipeline which should have been done by now. What are we getting instead? Looks to me like a series of Patch jobs. Regarding agenda item H.6 - Dillion's Rule - Charges to Non Profits for the Championship Golf course use. In the past, all non profits leased the golf course for an afternoon shotgun for \$1,000. Now it is \$2,000. A typical shot gun can accommodate 22 foursomes or 88 players. The charge therefore was \$11.36

now \$22.72 per player. If the Board of Trustees approves a per player rate to be operating expenses less 10% then make sure operating expenses are defined. Regarding the recent budget for 202-2022 - It is quite disturbing that on May 27,2021, this Board of Trustees approved a Utility Fund expenditure budget that exceeds ALL available cash by \$2.8 million. In other words, authorizing spending of money which does not exist. Similar to bouncing checks. The only way the budgeted expenditures can take place is by digging into the \$11.6 million collected from customers for the Effluent Pipeline Phase II which was restricted/reserved by the Board in mid-2020. These restricted funds are intended to be used to replace 6 miles of the effluent pipeline. Unfortunately, several million has been repurposed for other projects and it looks like repurposing will occur again. This is a serious matter. How could any responsible Board approve a budget to spend money that does not exist, operate without any reserves, postpone equipment purchases and redirecting set aside money for other purposes. Based on next year's budget, the Utility Fund will be short \$2,7 million in CASH and another \$2.3 million for operating reserves and an unknown yet to be determined for capital reserves. Bye Bye Pipeline money.

Judith Miller said in many cases the District is essentially subsidizing activities for which it has no power and therefore violates Dillon's Rule. Take the use of the Champ Course for the use of a scramble for the nonprofit TCF. TCF's mission is parent education not recreation. IVGID may contract with nonprofits that perform a service related to recreation or utilities but this was pure philanthropy. The District has no power. There is no service provided to or for the District. It is using money intended for one purpose, public recreation, on another purpose – that's called misuse of public funds. There should absolutely be no discount for a nonprofit unless it contracts to provide some like value, benefit or service in an area where the District does have power. Simply contracting with nonprofits doesn't justify the District providing of anything of value at less than the rate paid by the general public. Although in the past she has considered that the giveaways to DPSEF could possibly be justified but after tallying up the costs to the District and value received, and comparing the services offered by DPSEF to those of other ski race programs, she no longer believes that there is any justification to continue that subsidy. The District could run its own ski race program and offer a better value to our community. DPSEF fees are not any bargain as their fees exceed those offered at any other Tahoe basin ski areas and in recent years the quality of the program has declined. There are more skiers than instructors than the program at Squaw Valley and DPSEF offers few scholarships to those that can't afford to pay those hefty fees. It operates more like a private school or club than a public recreation program. It is time to explore other options. The practice of giving employees free access or discounted access to the District's recreational facilities is, to her knowledge, unlike those of any other public agency. It is considered unethical for

employees to receive anything of value besides their salary and traditional benefits for performing their jobs although there may be a loophole that these are considered employee benefits. In every other public agency where she has inquired, there is only a few limited use of the public services or facilities given to employees. The public pays for these amenities and its very improper to give employees benefits not available to a member of the public especially considering these amenities are subsidized heavily by property owners' mandatory fees. Save the District some money and we need to survey other public agencies and take a good look at their policies keeping in mind that IVGID only has the powers of public recreation and certain utilities. Please appoint a group of citizens to do a survey of other government agencies to learn what is reasonable. She would be very willing and happy to help in this effort; thank you.

Aaron Katz said boy, how do you follow an act like that? He has several written statements to be attached to the minutes that he will be presenting. Number 1, Mr. Chapman's presentation to the Board, what an absolute waste. He is tired of hearing from preferred collaborators who get open arms to do presentations and that members of the public or parcel owners don't like him. You have got your priorities absolutely backwards. Agenda item H.7, for years, he has requested recession of Resolution 1701 as well as 1619 and 1480 and now you have got the standing to eliminate 1701, do so. If you have got a question about what you can legitimately do, why do you keep avoiding the remedy which is NRS 43.100. File a confirmation petition, let the court declare once and for all. To those that claim gee we have the properties vacant so we are really not losing anything, you are dreaming. He would rather have all of these facilities vacant and let people walk by and see gee do we really need them? Gee is Staff really doing a good job of yield management? He could fill them all up 24/7 if he really used yield management. Agenda item H.6., employee giveaways and reimbursements, absolutely not. Again, file a petition under NRS 43.100 and let's let the court declare what you can and can't and it will be resolved forever. Agenda items G.2. and G.3., guess what, Staff wants to be reimbursed for unreimbursed Staff time, absolutely eliminate this from the CIP costs and don't give Staff anything. Don't they already get paid to create RFP's, draft Board memos, attend Board meetings? You need to do an in depth investigation and find out what we are paying these people for and what services we are getting because he is betting we don't get anything. Agenda item H.1., the locker room, are you for real? Now we see the costs are over \$900,000 and when the bids come in, they will be over \$1 million and for what? Agenda item H.9., do not pay the master in the Mark Smith lawsuit. Did the Board approve ahead of time to paying the master, well then why are you doing it now? Plus, the bill is directed to attorney's not IVGID. Let those who agreed to pay it, pay it and that is not the public. H.2, agenda item, don't sell further unused coverage rights as we may need them one day. If we were getting our rec fee

reduced by the proceeds, he would say go do it, but you know you are not doing that besides we may need this coverage when we convert the Champ Course into employee housing – that's coming.

Frank Wright said a couple three years ago, he turned the podium around and said that he wasn't talking to the Board any longer as he thinks he needs to talk to the citizens and residents who live here about what is going on here. He thinks he needs to do that again. Our Board is failing us miserably. If you listen to the talented people who just spoke and have been speaking up, these people know what's going on. They have got to be frustrated, they bring and present financial information which is detrimental to our District, to our finances, to the community, to the people who live here, money is being wasted, things are happening which should not be happening and nothing is getting done. The Board is more concerned about Trustee Wong's whether two white guys are racist and how her statements were said then trying to find out if our financials are accurate. If the money that we are spending on the pipeline is being spent properly. If the money for these new locker rooms is supposed to be spent and should be spent. None of this stuff should be going on and he is a member of the Ordinance 7 Committee and he is shocked at the fact that the Ordinance 7 Committee won't grab onto the concept and that the people in this town won't grab onto the concept that your beach deed is being severely violated. And if that beach deed is being violated, by giving non-residents total access to those beaches, your beach deed holds nothing and it is worthless and no one seems to grab onto this concept. There are more concerned about getting out a survey than getting a question answered by the courts should they be doing this. Well, you don't need the courts to answer, you are violating the deed, he made that very clear but no one seems to grab on to it. Let's go to the golf courses – they are giving them away to favored collaborators, people that are sucking us dry, paying less than the cost to operate the golf course because they are in a private club and the private club gets preferred tee times. In exchange for that, what do they get? Well, they get to play golf anytime they want for about \$25 per round. What does management get for making this nice gravy train for them? They get the votes they need to elect Trustees like Trustee Wong. That is our problem. What has Trustee Wong done for this District except cost us a helluva a lot of money for a lawsuit because she wouldn't give up public records? We need to take back our community. We need to listen to the people that are offering all this information. We need a General Manager who is going to stand up and do what is right. We need a Board that is going to stand up and do what is right.

Jennifer Ubara said thank you for everything you do. We are fortunate to live in a community where we have so many amenities. She is participating in the Young Executives golf program which is so rewarding and she is so happy to participate

and see so many people having fun. Thank you the Staff for making every recreation league so fun. Thank you Board for your time.

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

Trustee Wong asked that General Business Item H.5. be addressed before General Business Item H.4.; Chairman Callicrate said that was fine. Trustee Schmitz said, related to the Consent Calendar, that there were corrections made and distributed to Consent Calendar Item G.2. and, from a procedural perspective, that she didn't know if that needed to be removed and brought forth publicly and on Consent Calendar Item G.1. in the contract there were stated items that weren't included in our Board packet as the contract refers to items 1, 2, and 3 which defines part of the project scope so she does have questions but she doesn't know if they need to be removed. District General Counsel Nelson said that Staff can address these items during the Consent Calendar item and if the Board wishes to remove them at that point, we can remove them then, and it is not a decision that needs to be made right now. Trustee Schmitz asked that Consent Calendar Item G.3. be removed off of the Consent Calendar as it never had any budget and asked that it be moved under General Business. Chairman Callicrate agreed to moving Consent Calendar Item G.3. to General Business and that it will become General Business Item H.0. Hearing no further changes, the agenda was approved as amended.

**E. REVIEW OF THE LONG RANGE CALENDAR (for possible action)**

District General Manager Winquest went over the long range calendar and noted that the Audit Committee set its next meeting for 3 p.m. on July 13. Trustee Tonking said please add Policy 3.1.0 to the parking lot. Trustee Schmitz said she is just curious if you have a target date on Ordinance 7 and the survey. District General Manager Winquest said that target is to launch the survey this Friday and that it will be active for 3 weeks. He will evaluate the responses received late June, and if we are not comfortable with the number of responses, we may extend the deadline. It will take the General Manager's Ordinance 7 Committee at least two meetings to review the results and start formalizing a recommendation. The target is late July to be presenting however we are not going to rush through this process; should that extend then the goal will be by August 10. It will be beneficial to have a special meeting for when we hand over those recommendations as there will be a lot of interest and we want to ensure that we are allowing plenty time for the Board of Trustees to speak with the committee. In summary, the goal is early August – and he should have another update on July 13.

**F. REPORTS TO THE BOARD\* - Reports are intended to inform the Board and/or the public.**

**F.1. Mr. Andy Chapman of the Incline Village/Crystal Bay Visitors Bureau: PowerPoint Presentation on the TART Connect Microtransit Pilot Program**

Andy Chapman went over the PowerPoint presentation that was included in the packet. Chairman Callicrate thanked Mr. Chapman for his presentation and for answering the question about Tahoe Transportation District and that they gave the authority to operate. Trustee Schmitz said that it is her understanding that the funding is coming from transient occupancy tax; Mr. Chapman said it is coming from his budget which is from the transient occupancy tax.

**F.2. Tri-Strategies Verbal Report of the 2021 Legislative Session – Mr. Eddie Ableser and/or Mr. Paul Klein**

Eddie Ableser went over the legislative report that was included in the packet. Trustee Dent asked about their agreement. Mr. Ableser said it goes through the end of June. Trustee Dent asked what would the duration be for one of the special sessions to secure some of these monies for the pipeline and pond lining and are there two options and what duration are we looking at? Mr. Ableser said they are always willing to serve at the pleasure of the Board and that they have enjoyed working with you and your team. The process could start the process tomorrow and get us engaged in that process with the State and engaging with the Washoe County. He doesn't know the date of the special session and doesn't know when Washoe County will be discussing their release of funds. Chairman Callicrate asked if we need to agendize that additional engagement? District General Manager Winquest said he wanted to respond and he will set some time to meet with Mr. Ableser and discuss what we are doing and that he does see the value of retaining them. District General Manager Winquest continued that the Staff met with Nevada League of Cities today and thanked Trustee Tonking for joining them at this meeting. It is important as there is a lot of money out there and that he is very confident that the return on the investment will be worth it. Chairman Callicrate said for this Board to discuss this any further, we do need to have it agendize or hold a special meeting to discuss this because we don't have it on the agenda tonight. Trustee Schmitz said if we agendize this she would ask that it include some clarification and how the efforts interact with Mr. Faust in order to understand that collaboration and bring it to closure. Chairman Callicrate said we may

need to have a special meeting on this effort. District General Manager Winquest said he is going to have a wrap up meeting, discuss the timing of the special session, Staff has had several meetings with Mr. Faust and his team, and that we will let Mr. Faust know that he needs to make a formal presentation to the Board. If we can wait until July 13, that would be ideal and that he will reach out if a meeting is needed sooner.

**G. CONSENT CALENDAR (for possible action)**

**G.1. Review, discuss and possibly authorize a 2021 Unemployment Insurance Renewal with First Nonprofit (Requesting Staff Members: Director of Finance Paul Navazio and Director of Human Resources Erin Feore)**

**G.2. Review, discuss, and possibly authorize a Professional Services Agreement for the Effluent Pipeline Project#2524SS1010 – Fund: Utility; Division: Sewer; Vendor: HDR in the amount of \$115,614 for the Effluent Pipeline Design Project - Phase I Critical Pipeline Repair Design Professional Services (Requesting Staff Member: Director of Public Works Brad Underwood)**

**G.3. Review, discuss, and possibly authorize a Professional Services Agreement for the Effluent Pond Lining, Project#2599SS2010, Fund: Utility; Division: Sewer; Vendor: Jacobs Engineering, Inc. in the amount of \$36,000 for the Effluent Pond Lining Final Design Project - Phase I Pond Lining Alternative Analysis Design Professional Services (Requesting Staff Member: Director of Public Works Brad Underwood) (*moved to General Business Item H.O.*)**

Trustee Schmitz said, regarding Consent Calendar Item G.1. on agenda packet page 19, it is missing some pieces from the schedule, was it reviewed by Legal Counsel, and is District General Counsel comfortable with the schedule? District General Counsel Nelson said he reviewed the schedule and the contract and stated that Staff can share that missing page and noted that we will be added to the website so the public can see it as well.

Trustee Schmitz said, regarding Consent Calendar Item G.2., there was actual language changed on the agenda and have all of those changes been made and while she believes the updates were shared, she would like clarification. District General Counsel Nelson said he will review to ensure it is consistent with those updates.



Chairman Callicrate reminded everyone that Consent Calendar Item G.3. is now General Business Item H.0. so the motion to approve the Consent Calendar will only cover Consent Calendar Items G.1. and G.2.

Trustee Wong made a motion to approve the Consent Calendar (Items G.1. and G.2) with the changes as discussed. Trustee Dent seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

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

**H.0. Review, discuss, and possibly authorize a Professional Services Agreement for the Effluent Pond Lining, Project#2599SS2010, Fund: Utility; Division: Sewer; Vendor: Jacobs Engineering, Inc. in the amount of \$36,000 for the Effluent Pond Lining Final Design Project - Phase I Pond Lining Alternative Analysis Design Professional Services (Requesting Staff Member: Director of Public Works Brad Underwood) (*was Consent Calendar Item G.3.*)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Schmitz said last January the Board gave direction to remove the pond lining project and have it disconnected from the effluent pipeline project so is it because the Utility Fund doesn't have any other funding and the pond lining is a standalone project because there are no other funds to fund this particular project? Director of Finance Navazio said while the Board asked for it to be separated, and it is separated now, this project was included in the master project and we will track and budget separately. If the question is because we are using the pipeline funds because there is no other funding rather it is because the pond lining project was always included in the effluent pipeline project. The cost of the pond lining is included and it is about separating them. Trustee Schmitz said that this project doesn't have any funding and if we carry it over, we have to appropriate the funds so we have some work yet to be done. Director of Finance Navazio said in the presentation of the budget and in the Board action it is through the approval of the budget that the Board approved the reallocation of \$1.55 million to be reallocated via a carryover to next year's budget and placed into the pond lining project. Tonight is to expedite this project and all the costs will be recorded in the project and covered by funds approved by the Board for the pond lining project. Trustee Dent said the funds collected for the pond lining were a part of the pipeline project?

Director of Finance Navazio said that the funding plan, included in the overall scope, included the pond lining effort and he is hoping that is everyone's understanding. Chairman Callicrate said he recalls one overall project and we were going for clarity with the pond lining and effluent pipeline and it is all part of the same system but we wanted to have two separate ways to track these projects. The separation was done to delineate out that we had two separate projects that were part of an overall system that was paid for out of Utilities and that this separation was just for the purposes of tracking. Director of Finance Navazio said it is on agenda packet page 82 from last January. Trustee Schmitz said her recollection is that it was to be separate and even when you look at the project summary, it doesn't describe a pond lining. If the Board has to fund the project and that is the only option we have and the project summary is pretty clear yet it doesn't say the pond lining. Trustee Wong said her recollection is similar to Chairman Callicrate's and the funds would be coming from the overall project funding. Trustee Dent said we are a little confused and all a little bit right. Pond liner is a fairly new development, thinks it was about two years ago, and that this is where we talked about it and where it crept up. Chairman Callicrate said that this needs to be done and he doesn't want to take money and put it toward something else but we have to get this done so we have storage. The Environmental Protection Agency has told us this should be done, it wasn't done, and we have it on our plates so we are all a little right and wrong however it needs to be done. Trustee Dent said you are right, it is super critical and we can't shut down the line and we can't do work until we have this done. District General Manager Winquest said it is his recollection is that we did have the discussion about separating out the projects and creating two separate projects however there was no money for the pond lining in 2021 but that this was done for tracking purposes and that the core reason that was done was to track it separately for 595 funding. Further, he did reach out to past Staff this morning and it is their recollection that the pond lining project has always been a part of this project. That is what he recollects as well. Director of Public Works Brad Underwood said he hopes that the Board of Trustees takes positive action on this because we are under a critical schedule and we need all the time we can get it. Chairman Callicrate said thank you and that all clarifications have been made.

Trustee Wong made a motion to authorize a Professional Services Agreement for the Effluent Pond Lining Project – 2599SS2010 – Fund: Utility; Division: Sewer; Vendor: Jacobs Engineering, Inc. in the amount of \$36,000 for the Effluent Pond Lining Final Design Project - Phase I Pond Lining Alternative Analysis Design Professional Services and authorize Staff to execute the contract documents.

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

**H.1. Review, discuss, and possibly authorize or approve Contract Amendment for Additional Architectural Services associated with the Recreation Center Men's and Women's Locker Room Remodel, Project#4899FF1202, Fund: Community Services; Division: Recreation; Vendor: Ward-Young Architecture for Architectural Services Additional Services Addendum #4 in the amount of \$17,000. (Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Schmitz said based on Tri-Strategies report on Assembly Bill 280, do you anticipate that having an impact on the locker room and restroom remodel? Director of Public Works Underwood said Staff will look into it. Chairman Callicrate said if it is only a single stall. Trustee Tonking said this is multiple stalls.

Trustee Wong made a motion to approve the Additional Services Addendum #4 for Ward-Young Architecture for Additional Architectural Services in the amount of \$17,000 associated with Recreation Center Men's and Women's Locker Room Remodel Project #4899FF1202. Trustee Dent seconded the motion. Chairman Callicrate asked for further comments, none were received, so the question was called and the motion was passed unanimously.

**H.2. Review, discuss and possibly authorize Amendment #1 to the Interlocal Contract Amendment with Nevada Division of State Lands (NDSL) for Sale and Transfer of Coverage Owned by Incline Village General Improvement District (Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Dent said on agenda packet page 94, Class 4, what is that? Director of Public Works Underwood said that is cumulative. Chairman Callicrate said what is Class 4 and Class 6 – what type of land? Director of Public Works Underwood said flatter lands with better soils. Trustee Dent said he will follow up afterwards. Trustee Schmitz said what she discovered, referencing agenda packet page 107, was a detailed and well thought out document but she is not sure we actually follow it. On agenda packet page

110, there is a process where the District gets involved and on an annual basis the Board of Trustees is supposed to identify how much coverage is supposed to be brought into this and she is not sure the policy is being followed. On page agenda packet page 109, the Board of Trustees shall periodically establish a limit on surplus coverage and she doesn't know when that was done last. The District has plans to expand the Recreation Center so she doesn't see the value and there is no work to be done by Staff. In this policy, it says the NDSL will provide quarterly reports, which are reviewed and, yes, they are cumulative, and the District had to buy back their own coverage, so she doesn't understand why we do this and doesn't understand why this is a value. Yes, it has brought in almost \$3 million which works out to be \$158,000 per year. In the District's Strategic Plan, Principle #1, it talks about protecting Lake Tahoe, etc. and she is not sure we are abiding by Principle #1. She understands that this has been in place for a long time and that she is seeing people buying coverage and taking down homes and putting up enormous homes. This impacts our neighborhoods and community in a negative way so she doesn't understand the value to the District and community and doesn't know why we would want to continue to participate as we are seeing extremely large homes consuming our community. District General Manager Winqest said the buying back of the coverage was for the bocce ball courts and the coverage was transferred back and it required a minimal title fee. Trustee Schmitz asked why don't we just maintain our own coverage ourselves? Chairman Callicrate said it was connected to water rights and we got credit for the golf course land that we have and we realized that we had such a huge surplus that it was a way to get revenue for the District thus we went into the interlocal agreement. He believes that the excess coverage is plenty as we have acres and acres of it. Director of Public Works Underwood said that the amount of coverage we have is quite large and when we added coverage to this program, it was in 2016, and we added 25,000 square feet. Since 2017, there have been only had 6 actual transactions and they have slowed down quite a bit. For the bocce ball court, the \$1,300 fee was so we can't sell the coverage twice which we would have to do twice and it is a minimal fee of \$1 per square foot to do that which is something they have to do. District General Manager Winqest said we have more coverage than we will ever need. Trustee Schmitz said Staff brings up very good points and that she will discuss it offline to learn more. Chairman Callicrate said it does generate income and we do want to continue to have our community be our community so he is sensitive to what Trustee Schmitz brought up.

Trustee Wong made a motion to approve Amendment #1 of the Interlocal Contract, dated March 2017, between the Nevada Division

of State Lands (NDSL) – Nevada Land Bank and the Incline Village General Improvement District for the Management, Sale and Transfer of Coverage Owned by Incline Village General Improvement District and authorize the Chair to execute the Amendment based on a review by General Counsel and Staff. Trustee Tonking seconded the motion. Chairman Callicrate asked for further comments, none were received, so the question was called and the motion was passed with Trustee Schmitz voting opposed and Trustees Callicrate, Dent, Tonking and Wong voting in favor.

Chairman Callicrate called for a break at 7:35 p.m.; the Board reconvened at 7:45 p.m.

**H.3. Review, discuss and take action to reject the bids for the Slott Peak Court Water Main Replacement Project; 2021/2022 Capital Improvement Project: Fund: Public Works; Division: Water; Project #2299WS1706 in accordance with NRS 338.1385, paragraph 6, subparagraph (d). (Requesting Staff Member: Director of Public Works Brad Underwood)**

Director of Public Works Underwood gave an overview of the submitted materials. Trustee Tonking said so your assumption is that the pricing will go down within the next 6 months or what are your thoughts? Director of Public Works Underwood said we are hopeful that will happen but it is really about the materials. Trustee Dent said we are rejecting all the bids and not just the lower bidder. Director of Public Works Underwood said yes, rejecting all the bids. Trustee Dent said we are seeing this in construction – long lead times.

Trustee Wong made a motion, in accordance with NRS 338.1385, paragraph 6, subparagraph (d), to reject the bids received for the Slott Peak Water Main Replacement Project; 2021/2022 Capital Improvement Project: Fund: Public Works; Division: Water; Project # 2299WS1706 because acquisition of materials difficulties and escalation in cost of materials that currently exist in the market. Trustee Dent seconded the motion. Chairman Callicrate asked for further comments, none were received, so the question was called and the motion was passed unanimously.

**H.4. Review, discuss and possibly take action as it relates to Policy 15.1.0: Accounting, Auditing and Financial Reporting: Audit Committee; Organization: Confirm the two Board of Trustees appointments (Requesting Trustee: Audit Committee Chairman Matthew Dent) *(was General Business Item H.5.)***

Audit Committee Chairman Dent gave an overview of the submitted material and let the Board know that he did resign from the Audit Committee today. Chairman Callicrate said thank you for your services with the Audit Committee and thanked Trustee Schmitz for her work. In this particular item, we will be confirming two Trustees and that he is hoping that Trustee Schmitz would like to still be on the committee? Trustee Schmitz said if the Board would like her to remain, she would embrace that opportunity. Chairman Callicrate said he would welcome that continuity. Chairman Callicrate said he is not going to be able to participate as he is overwhelmed as a caregiver, Board Chair, and his work. Trustee Wong said no thanks. Trustee Tonking said unfortunately she is unable to serve due to family matters and most importantly as she is concerned with the scope of the Audit Committee and look at Policy 15.1.0 and see how it aligns with others and sometimes you need to look back and see how we are doing with best practices. Chairman Callicrate said Trustee Dent resigned and needs time to regroup. Per our current Board policy, it does state we need to have two Trustees on the Audit Committee and what do we do to move forward? We need to revisit the Board policy as soon as possible and bring it back to make changes or how do we proceed as we don't run afoul of our own policy and that we still have a robust Audit Committee. District General Counsel Nelson said with one Trustee serving we would have a vacancy, if the Board felt it was appropriate, we can visit Policy 15.1.0 to see what is appropriate at that time. Trustee Schmitz said she would like to acknowledge Trustee Tonking's challenging decisions before her and if her schedule would allow it, she would greatly appreciate her at some point in the future potentially joining the Audit Committee because she thinks her verbalized concerns about the policy and what not is exactly what the Audit Committee needs. And so perhaps, sometime in the future, she might feel more comfortable making that time commitment because she thinks her perspective would be valuable. Chairman Callicrate said he agrees and that going into Policy 15.1.0 gives us an opportunity to step back and take another look and that he wouldn't have an issue with that. Trustee Wong said to please add Policy 15.1.0 as an agenda item to discuss at the July 13 meeting because we need a full Audit Committee in place by the end of August thus we probably need to address any issues with it expeditiously. Trustee Dent said he agrees with Trustee Wong as there is the whistleblower program that needs

to be updated and we are right there with that and one of the Audit Committee members and Counsel are working on it. Trustee Tonking said she will look into the best practices with the Government Finance Officers Association. Chairman Callicrate said we know that Trustee Schmitz would like to continue so do we need to formally vote or can we wait until we bring it back and vote on having her on now and then bring back Policy 15.1.0 at the July meeting? District General Counsel Nelson said yes and that he would recommend voting on Trustee Schmitz' appointment.

Trustee Dent made a motion to appoint Trustee Schmitz to the Audit Committee. Trustee Tonking seconded. Chairman Callicrate asked for further comments, none were received, so the question was called and the motion was passed with Trustees Dent, Wong, Tonking, and Callicrate voting in favor and Trustee Schmitz abstained from voting.

Chairman Callicrate asked Staff to bring back, at the July 13, 2021 Board of Trustee meeting, Policy 15.1.0 Audit Committee for review and discussion.

**H.5. Conduct interview(s) with applicants Derrek Aaron, Yolanda Knaak, and Chris Nolet and review, discuss and possibly make an appointment of one (1) Audit Committee At-Large Member (Policy 15.1.0) for a two-year term beginning July 1, 2021 (Requesting Trustee: Audit Committee Chairman Matthew Dent) *(was General Business Item H.4.)***

Trustee Wong said thank you for all those that applied and she appreciates the members who have put their names in the ring. Thank you to Mr. Aaron for his service for the last year and thank you for your time and commitment to the community. Trustee Wong said that she wants to suggest since we are going to revisit Policy 15.1.0, does it make sense to hold the interviews and then defer this decision until we make our changes to the policy? Chairman Callicrate verbally reviewed the agenda item and said that if the Board decided to wait on the appointment, would we be in conflict with our agenda item? District General Counsel Nelson said that the Board doesn't have to take action and that they can defer to a future date. Trustee Dent said that the term of Mr. Aaron expires at the end of the month, the Audit Committee does have a meeting scheduled for July 13 and we do have an agenda item about Chair of the Audit Committee. Trustee Schmitz said she concurs, Staff and the Audit Committee has made tremendous progress, and that she doesn't want to hold us up from moving things forward. Chairman Callicrate said we should move forward and make the appointment. District General Counsel Nelson said you can do a time limit

as it is a little awkward doing interviews on Zoom and if you want to do what is suggested, then he would recommend you go down the list, interview each candidate and bring it back to the Board for consideration. Chairman Callicrate said ok and then welcomed all three of the candidates and thanked them for their being willing to volunteer for this committee.

### **Interview with Derrek Aaron**

Derrek Aaron made a brief opening statement.

Trustee Wong: What are the top priorities for the Audit Committee going forward?

Mr. Aaron: He is working as a liaison between Staff and the Audit Committee on internal controls and that he is diving into that. He is a task oriented person and he would throw his hat in the ring to be the liaison between the Audit Committee and the auditor which is his main focus for what he sees.

Trustee Tonking: What does a governmental audit committee do?

Mr. Aaron: It is a different flavor of an audit - the objectives are the same; adhere to the scope and work within that scope. Entrust it to this position because you can communicate effectively and get work done, doing what is best to the District, knowing Staff and contributing to the best of your ability.

Trustee Schmitz: How much time and how much availability do you have to serve on this Audit Committee?

Mr. Aaron: He is a small business owner on the lake and it requires certain hours for him to be there, that is his only limitation, hours that he could attend meetings, work outside, no limitations.

Trustee Dent: There have been a couple of meetings where he hasn't been able to attend, overall, hasn't been able to attend just a couple of times, this committee does like to meet before the Board meeting and they want to start at 3 p.m. Where else could we improve as an Audit Committee moving forward?

Mr. Aaron: Getting a little bit more organized and looking at our annual plan and being realistic with our objectives. One of the things we were chartered, evaluate the committee and their performance and we need to take a look at how we did as a committee with honest feedback. Keep everyone honest, well thought plan, well thought out



objectives and know where we are going. Having a three to five year plan of where we are going for the Audit Committee and then a medium size scale strategy for where we want to be.

Trustee Dent: You mentioned your schedule being flexible, if you weren't chosen to be an Audit Committee member, would you still be interested in being a liaison as it fits your time constraints really well as he does feel that you brought a lot of value.

Mr. Aaron: Yes, absolutely, and like to remain involved in his community. Yes, he would embrace that.

### **Interview with Yolanda Knaak**

Yolanda Knaak gave an opening statement.

Trustee Wong said she doesn't have any questions.

Trustee Tonking: What does a governmental audit committee do?

Ms. Knaak: It is to assist the Board in helping with implementing things like the Moss Adams report and assisting the Board with the problems of the Utility Fund and just the transition into Enterprise accounting, those types of things.

Trustee Schmitz: How much time and how much availability do you have to serve on this Audit Committee?

Ms. Knaak: She does manage the two family trusts and she does have a lot of time and has been following the Nevada Legislature and no conflict there; have plenty of time.

Trustee Dent: Where do you think we could best improve as the Audit Committee?

Ms. Knaak: That there is a lot we could do with the Moss Adams report, that is a big chunk of it.

### **Interview with Chris Nolet**

Chris Nolet made a brief opening statement.

Trustee Wong said Mr. Nolet was a partner at Price, Waterhouse, Coopers (PWC) and that they never worked together as he moved onto to Ernst and Young shortly after she joined PWC.

- Trustee Wong: How many of our Board meetings have you attended as an observer, how many of the Audit Committee meetings have you attended, and how many of our Senior Staff members have you talked to?
- Mr. Nolet: 0, 0 and 0. He has been committed to five Boards and his reputation is to go deep and strong and that he didn't want to make a commitment until he had the time. He sold one of his companies this year, in March, and he chatted with Trustee Schmitz about his ability to commit and he now has the ability to commit. He would like to learn about onboarding Audit Committee members, continuing education, and raising our competencies.
- Trustee Tonking: What does a governmental audit committee do?
- Mr. Nolet: Oversee the accuracy of the financial reporting and oversee the internal control effectiveness of the enterprise and it is to oversee and not to manage or be a line participant but to oversee. His view of oversight is rather active and goes pretty deep and if you were to check any of his references, he thinks that is what you would hear across his 30 or 40 corporate audit clients. We have had some issues, we have got the two MW's and he assumes they are well on their way to being remediated. He is not sure where we are at on a whistleblower policy and then we still have a got a member of the current Audit Committee and members of the community challenging the accuracy of our financial reporting. He thinks he can add a tremendous amount of value in those topics.
- Trustee Tonking: So when you see challenging the accuracy of our financials, have you spent some time looking at our financials and thought about their accuracy?
- Mr. Nolet: He has and he has spent a tremendous amount of time preparing for this interview. He has been through all the different GAAP, GASB, government and State of Nevada requirements for financial reporting as well as our online financial reporting tool and drill down transparency tool. We have an Audit Committee member that has basically said that management has undertaken a brazen attempt to mislead the citizens of IV and CB; he doubts that true but he would love to hear from District General Counsel as to how we responded to that allegation as that is very substantial/serious and it's in our governance record and

its online for everybody to see. He knows we have had a history of litigation in the past. He thinks with some more refined reporting, and facilitation by the committee, with the financial team we might be able to eliminate or reduce that kind of noise in the future.

Trustee Schmitz: You have answered her question about time commitments so what would you see as the top priority for this committee in the next fiscal year?

Mr. Nolet: From what he heard tonight, we need a Chair, and Trustee Schmitz, he is not looking directly at you, but he is looking directly at you – we need a new Chair and we need to remediate the findings from prior Auditor and Moss Adams report. It is not clear to him, and this isn't the venue to understand why all their recommendations were not embraced by IVGID but he will look forward to learning more about that later. In the big picture, we want our citizens to know that our funds are being spent appropriately pursuant to approved budgets and if he thinks about the Q&A that opened this session around 6 p.m. tonight, there was an awful lot of static in that and he would like to help the committee, Trustees and Management Team work to reduce or frankly eliminate all of that so all our citizens feel confident about the stewardship of their funds.

Trustee Dent said his question has been answered.

Chairman Callicrate asked each Trustee to send over their top two candidates to the District Clerk via e-mail and suggested a 10-minute break so that activity could be undertaken. Trustee Dent said so each Trustee should submit their first and second choice. Trustee Wong asked that the District General Manager and District General Counsel be copied on each submittal. Trustee Schmitz said doesn't this need to be open? District General Nelson said we will read the tally and then the vote will be taken.

Chairman Callicrate called for a break at 8:35 p.m.; the Board reconvened at 8:45 p.m.

District Clerk Herron said that 3 Trustees had Mr. Aaron as their number 1 choice and 2 Trustees had Mr. Nolet as their number 2 choice. 4 Trustees had Mr. Nolet as their number 2 choice and 1 Trustee had Mr. Aaron as their number 2 choice. District General Counsel Nelson said that this was a straw poll and that no Trustee is bound by that straw poll.

Trustee Wong made a motion to appoint Derrek Aaron to a two-year term on the Audit Committee as an at-large member. Trustee Tonking seconded the motion. Chairman Callicrate asked for further comments.

Trustee Schmitz said we have had challenges with attendance by Mr. Aaron, he has been an asset to the committee and he could have a role to be a liaison that would serve us all very well. Trustee Dent said he echoes what Trustee Schmitz said, he has been an asset to the Audit Committee and that is why he threw out the idea of a liaison and that getting more involved is great. He will not be supporting Mr. Aaron but do want him to continue to be involved. Trustee Wong said we have all had scheduling issues, have confidence that we can overcome those issues and that we have overcome those with our own schedules and Staff schedules and that she knows we can work that out. She thinks that continuity is important and expertise that he has learned over the last year is an asset to our community. Chairman Callicrate said that continuity is important and that Mr. Nolet is qualified. Thank everyone who put their names in and that schedules can be problematic at times.

Hearing no further comments, Chairman Callicrate called the question and the motion was passed with Trustee Callicrate, Tonking, and Wong voting in favor and Trustees Dent and Schmitz voting opposed.

Chairman Callicrate said that Mr. Aaron will continue for the period of two years and thanked everyone for taking the time tonight to attend this meeting.

**H.6. Review, discuss and possibly direct Staff to develop a scope of work and solicit bids to engage an attorney to refine and/or create policies to ensure the District is in compliance with Dillon's Rule related to employee benefits and for outside contractors (Requesting Trustee: Audit Committee Chairman Matthew Dent)**

Trustee Dent gave an overview of the submitted materials. Trustee Schmitz said that the bulk of the memo is what was presented to the Audit Committee and that the Audit Committee took action upon it. One of the things that was pushing this, in legal counsel's review of the various issues, had advised that the District make clarifications to certain policies and it was around Dillon's Rule and related to expenses and have definitions as to what was

reasonable, stemming from legal counsel review and what he felt what additional clarifications were needed for clarity. To bring something back to the Board of Trustees from the Audit Committee is to make sure we are in compliance with Dillon's Rule and if we need some additional language, it was something he was in support of. Trustee Tonking said is this not something that District General Counsel Nelson can handle? She is a little concerned about hiring another legal firm. District General Counsel Nelson said yes, we can assist if that was the Board's desire. Trustee Wong said her question is similar to the question asked by Trustee Tonking, as she doesn't understand why, if we got a legal opinion, why we don't just update and clarify our policies? Trustee Dent said that this was direction that the Audit Committee was directing and that this is just bringing it forward as it was passed. Trustee Schmitz did a good job to position the memo this way as this was how it was approved in our committee. Trustee Schmitz said the recommendation was to engage legal services and that the Audit Committee didn't specify BBK or another firm. We have a clear definition of the scope of work because in this case it is important to be specific and then have that work done and done by BBK or another legal firm. We should have an estimate on that work and that she took the liberties to develop a scope of work and develop getting a bid and the Board needs to understand the financial commitment and make sure it appropriate per Dillon's Rule. Trustee Tonking said her concern is every time we are putting it out to bid. BBK was hired and therefore it appears we are asking if it made sense to hire this legal firm. Chairman Callicrate said we have a qualified firm and one of their top lawyers is our legal counsel, he has done his research and he has been able to clarify the topic. He has given his concerns concerning Dillon's Rule and that he doesn't want this to be attorney shopping and that perception is there. He would be agreeable to developing a scope on revising our policies and procedures and know they need to be compliant and he would like to continue to use our already engaged legal firm of BBK to develop and upgrading our policies and procedures and make sure they are compliant with 2021. He is not in favor of going out to an outside firm. We do need to develop a scope, what that cost would be, and use BBK to get this work done. Trustee Wong asked what are the specific areas that the Audit Committee needs to update within our policies as that part was not clear from this memo? We got District General Counsel's opinion and we want to create specific policies and practices but this memorandum didn't clarify for her what areas we need to update. Chairman Callicrate said generally it pertains to our financials and employee items. Trustee Schmitz said for clarification this isn't about the Board policy. Chairman Callicrate said it has to deal with concerns about the Audit Committee and are they compliant with Dillon's Rule. Trustee Schmitz said that there were things that District

General Counsel identified, put together recommendations, and areas where there should be additional clarification and employee policies as it relates to Dillon's Rule and that is what the Audit Committee was referring to. District General Counsel Nelson said on agenda packet pages 194 and 195, he does see the importance of a scope and budget and can develop that and clarify what policies we are talking about. Chairman Callicrate said that would go a long way to alleviate the concerns and bringing that back and showing progress so as to have a clearer idea of how long it is going to take, costs, etc. Sound like a workable direction? Trustee Wong said yes and asked if we needed a motion? District General Counsel Nelson said he will bring back an action at a future meeting.

**H.7. Review, discuss and possibly direct Staff to price long term rentals and/or the lease of property at market rates, with the exception of non-profit organizations which would be provided a 10% discount**

**and**

**Additionally, to review, discuss and possibly determine the direction for updating necessary policies**

**(Requesting Trustee: Audit Committee Chairman Matthew Dent)**

Trustee Dent gave an overview of the submitted materials. Chairman Callicrate said historically it was 7-10 nonprofits that would approach the District, bulk of nonprofits had their tournaments at the Mountain Golf Course and then a couple of signature events were held at the Championship Golf Course. We need to vet this one properly as it is going from a precedent that has been in place for 30 years. We need to really look at this as these events are tradition for members of our community and their guests who go and participate in these fundraisers and it goes back to the community. He kind of takes affront to the public comments earlier about seeing everything closed as 99.9% of the community doesn't want to see everything closed. The community consists of more than those that make comments, we are a community, we have nonprofits and for profits, and if we are only drilling down to dollars and sense, and not to community, the bean counters will lose. There is a certain aspect that supersedes that and not giving everything away, going against Dillon's Rule or NRS and have legal look at it and come up with something better. A 10% discount for many of the nonprofits in our community - that just wouldn't work for them. This is called being a good partner. Trustee Dent said he doesn't think this was about dollars and cents and that there is a lot here and we want to make sure it is getting handled correctly. We know there is an issue here and we

can button them up here and then have direction from the Board to Staff. Chairman Callicrate said that is a prudent way to go. Trustee Wong said she appreciates the soap box because she is on a similar one, trying to circumvent the pricing policy, we need to think about this in the overall pricing recovery policy and would rather focus on the larger policy and then drill down. It is premature to recommend this and then have changes down the road when we finalize the pricing and cost recovery policy. Chairman Callicrate said we have to get more clarification on what might be possible, etc. and that District General Counsel needs to weigh in on this. Trustee Schmitz said she thinks the comment that Trustee Wong made is a valid one but she does think there are too many vague words and we should be proactive to have District General Counsel bring clarity so we have known information at that point in time so we can say how this should be structured and take a step towards the broader policy of pricing. Trustee Tonking said so this is not putting a number to it and clarify the language? Trustee Schmitz said yes that is what she is suggesting, there are a lot of may's and might's so we need to do some additional work to do the pricing structure and take this recommendation into consideration with the broader discussion. District General Counsel Nelson said it is important to note that portions of the memorandum state monetary donations and that is where the power comes in. Pricing for venues is discussed further in the memorandum and the Board has pretty clear direction to do that. He is happy to provide additional clarity but when you are talking about pricing, Board is on very firm ground with Dillon's Rule. Chairman Callicrate said go through the policy and tells us what it is going to take so it is more direct and iron clad as we need to take care of it now so that when we have the broader discussion, we can be certain. Trustee Schmitz said that the language here is broader than pricing, one of her questions, one of the things that the District is not authorized to do is monetary donations and she doesn't think we have a policy that states that. Is that something that we would craft? District General Counsel Nelson said if it made sense to have greater clarity, we could add that in. Trustee Schmitz said you will be reviewing Resolution 1701 and policies we don't have and items that should be and providing a scope of work and proposal? District General Counsel Nelson said that the fundamental question is really a core policy decision for the Board, chicken and the egg thing, when is it appropriate to put that into a policy. On this one, to have the decision about pricing and then have a comprehensive review. Chairman Callicrate said he likes comprehensive review and it may be by a per venue look and get rid of the ambiguity and then recommendations that you can make based on other communities. Trustee Schmitz said, as a point of clarification, there was a comment made, one of the things that you have clarified with her, as it relates to in kind donations, tied with recreation orientation and there was

a public comment about a donation that doesn't relate to recreation, so we need to have those things clarified - is that allowable to do an in kind donation to a charitable organization that doesn't do recreation? District General Counsel Nelson said yes, there is a connection and it is about access to facilities. Chairman Callicrate as we move forward does District General Counsel have good direction, these are recommendations and that this is like the last agenda item. District General Counsel Nelson said if that is the Board pleasure, he can break it out into topics. Trustee Wong said she is fine with that direction – the Board memo wasn't clear so there was no way to be prepared. Chairman Callicrate said there was lot going on and it got robust discussion and we are giving clear direction, so for him, it was fine. Do the best we can to get to the end result. Appreciate the comments made, given clear direction and thank you for bringing these forward.

**H.8. Review, discuss and provide feedback for the District Strategic Plan 2021 – 2023 (Requesting Staff Member: District General Manager Indra Winqest)**

District General Manager Winqest gave an overview of the submitted materials. Trustee Schmitz said, generally speaking, she would like it to become much more specific. One of the things would be to say how do you know if you know you have accomplished your goals so she would encourage Staff to be much more specific as to what Staff is trying to accomplish – like safety, what do you want your safety record to be. Director of Finance Navazio did a great job in his last presentation as it was very specific and really great. Review this document and be as specific as you can so Staff knows what has been accomplished and to provide clarity for your team. Trustee Wong said unless there is general consensus, and there does need to be general consensus from the entire Board to our Staff, does everyone agree? Trustee Dent said he echoes what Trustee Schmitz said and he has asked to have measurable goals to look back upon and see how we did. Agenda packet page 222, talks about the 20-year capital plan - he doesn't think we have that. His one request from this is to be more detailed and have something that we can measure. Trustee Tonking said under Finance, 5., decided we are working on that, be more clear and include those that we are working on – minor change. Resources and Environment, maybe missing, about how construction is impacting our environment. Trustee Schmitz said she wanted to point out, in Workforce and even Finance, there should be some educational goals and highlight in Finance if we want to have continuing education and then have it be something measurable. On agenda packet page 220, it talks a lot about service levels and do we have them documented some place? This brings up again what is being



measured. Agenda packet page 220, consider adding an Administrative principle. District General Manager Winqest said Staff would like more feedback and if you could comment on adding an Administrative section; he would like to hear about how others on the Board feel. Chairman Callicrate said that there is merit although Administration is worked into all of these and don't know if need a separate section; there might be a better way to address – he doesn't know. Trustee Wong said she doesn't think adding a section is necessary as it is incorporated in everything we do. Trustee Dent said he would like to hear what that would look like – open to it. Trustee Tonking said she is open to looking at it and that she likes the education piece. Chairman Callicrate said when he recalls when we were partnered with Sierra Nevada University (SNU) and that there might be an opportunity to reach back out and re-establish our ties with them such that it could be a relationship that the Board would entertain and understand. District General Manager Winqest confirmed that Staff has gotten direction – be more specific and measurable with our goals, see something about the 20 year capital plan, resources and environment – adding something in to minimize impact on our large construction projects, heard about education and that is something that we will incorporate, and that he will talk to each of you about drafting up an Administrative long range principle. A lot of it is already incorporated into other items and then the Board can make a decision on that area. Chairman Callicrate said he agrees on education and would like to look at SNU and that relationship.

**H.9. Review, discuss and potentially authorize payment to the Special Master Matthew Sharp in Mark E. Smith v. IVGID, Case No. CV18-01564 in an amount of \$12,500 (Requesting Trustee: Chair Tim Callicrate; Requesting Staff Member: District General Counsel Josh Nelson)**

District General Counsel Nelson gave an overview of the submitted materials and respond to a public comment that when the courts appointed Mr. Sharp it was the court who delegated the costs. Chairman Callicrate said we can authorize it tonight and due to the nature of Mr. Sharp's work, he would like to see where the money was spent as he thinks the submittal is rather naïve, we have to more of an accounting, don't know what that entails, knows he has been against it, but he thinks we need more. District General Counsel Nelson said we can include that in the motion as a condition and go back to the court. Chairman Callicrate asked if it opens another can of worms? District General Counsel Nelson said we can explore it and he doesn't believe it is an unreasonable request. Trustee Wong disclosed that she was a party that has been removed so she can vote on this.

Trustee Wong made a motion to approve this payment pending a detailed breakdown of Mr. Sharp's hours spent on this matter. Trustee Tonking seconded the motion.

Chairman Callicrate said we approve the payment, contingent upon having more clarification unless the courts says otherwise. Chairman Callicrate said please stress that to the court and we need to have more clarity as a public agency. Trustee Wong said it is in an in camera review so it doesn't seem that difficult to her.

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

**I. MEETING MINUTES (for possible action)**

**I.1. Meeting Minutes of May 5, 2021**

Chairman Callicrate asked for any changed, none were submitted, so the minutes were approved as submitted.

District General Counsel Nelson said regarding the approval of the meeting minutes at last meeting, amendments were included in bracketed comments as additional text and we did that to provide maximum transparency. Chairman Callicrate said no minutes were changed and they were reflective of what was said and added in brackets.

**J. FINAL PUBLIC COMMENTS\* - Limited to a maximum of three (3) minutes in duration.**

Aaron Katz said well it has been quite a little meeting. First of all, for Director of Public Works, he resents he and other Staff spouting off on subjects they know nothing about and he knows nothing about Phase 2 to the Effluent Pipeline as approved. He knows nothing about why \$23 million was the price tag and the Board decided to charge us \$2 million a year so he wishes he would stop being a cheerleader and let's get to the facts. And the facts are very, very clear – that project, Phase 2 of the pipeline has 0 to do with the pond liner, it was never combined as 1 project and in fact this Board specifically restricted the funds because they were being eaten away by Staff contrary to the representations to the public. And now, it is going to happen again and why? Because the ends justify the means and really the problem is your Staff. Staff spent the money improperly. The Director of

Public Works doesn't understand that the former General Manager told us that we already lined the pond, we already lined the pond, don't you remember he came up with clarification of \$788,000 worth of expenditures for pond lining, well, where is it? Where did the money go? Well, he thinks it went to credit card charges for some of our employees because they had a hard week. It sure didn't go to line the pond and now we have got a problem and we have got to eat it and he and the public resent the eating because it is Staff's fault. When is Staff going to be held accountable? Number two – he also resents Chairman Callicrate's soapbox statements – you don't pay for any of this stuff Chairman Callicrate so you don't get a box to spout. You want to spout, how about you pay? How about you start paying a rec fee? There is no law that says you can't do it then you will have standing like the rest of us. Also, you talk about tradition – what about the tradition that every hotel and motel room pays a rec fee? That is why the hotels and motels got beach access yet you don't care about that tradition. You are only worried about Sierra Nevada University which, by the way, didn't you get free education there at property owner's expense? Finally, all this talk about we are here for the community, we want to do for the community, this goes back to your problem, you don't understand what IVGID is. We are not here for the community, we don't deal with the health, safety and welfare of the community – we are a recreation district just like a mosquito district. The county is responsible.

Frank Wright said well, let's see, let's go to H.9. H.9. in the Board packet was going to talk about exploring the giveaway of our recreational facilities to nonprofits and did it fit in with Dillon's Rule. We somehow got way away from that and Dillon's Rule just became a secondary thought process. You never did approach it, you never did really get to it, you never did talk about is it legal, for a District, as a public entity, to giveaway public property and to just give huge discounts to nonprofits. Chairman Callicrate, he takes offense, just like Trustee Wong somehow takes offense every time someone says something about her, he takes offense to you going through this community and disparaging citizens who spend the time to research, educate themselves which maybe you should do, about the things that are going on within the walls of IVGID. To take and disparage those citizens as being naysayers, negative people because they disagree with your viewpoints of giving away public property, he thinks is sick. He thinks you are a sick human being when you can sit there and knock people down who are coming in and trying to do what's right while you are doing everything that is wrong. And because you feel that giving away public property is a good thing for the community and it is a good thing to give our public assets away, that's fine Chairman Callicrate, that's real good but the problem is that

is also buying votes. It is buying votes to get people on the Board that don't really belong there and it is going to come to end sooner or later Chairman Callicrate. You need to really learn how to be a Board Chairman. He listens to Chairman Callicrate talk and you change the whole focus of everything that is being brought up before this Board and you actually maneuver the Board into believing all your crap before you stop talking – you have got to stop it. You have got to start participating as a Board member that is equal to every other Board member instead of trying to monopolize the discussion, change the focus of the discussion and lead this Board down the wrong path. Having District General Counsel review and go into and look at the issues of giving away public property is an insane thing to do and getting an independent counsel is insane; get a judicial review. Do what's right. You didn't want to go there as you never even mentioned it. Thank you.

Chairman Callicrate thanked Mr. Wright for his sterling comments and said that he does need to correct Mr. Katz; you know nothing about his financial situation and you don't know what he does and doesn't pay. Because he doesn't own property doesn't mean he doesn't pay a rec and beach fee and he will leave it at that. He wants to thank everybody who participated this evening for your feedback and if anybody felt affronted in the community of the 7,300 or 7,400 parcel owners who didn't weigh into tonight's meeting, he appreciates the support that you have given to the Board and to the community in general. To our Staff and those that want to work for positive changes. For the handful of people who continually say that we are all worthless and that he is horrible and all that, he can handle that as he has rhino hide for skin so he can process that appropriately. But to say untruths, like Mr. Katz did, is blatantly a lie about what he does and don't pay so until you know all the facts Mr. Katz, he would suggest that you, yourself, may want to do some additional research which he is sure that he has plenty of time to do.

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

The meeting was adjourned at 10:00 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.

Submitted by Aaron Katz:

- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item H(9) – Objection to paying someone else’s obligation in the Mark Smith public records litigation
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item I(1) – Objection to proposed minutes of the Board’s May 5, 2021 meeting – they require sanitization
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item F(1) – Why do we have to provide a platform for third parties to make wasteful and time consuming presentations to the IVGID Board and the public when those presentations have nothing to do with matters over which the District has jurisdiction – here Andy Chapman’s Reno-Sparks Convention and Visitor Authority’s (“RSCVA’s”) “TART Connect Micro-Service” aka “The Kiddie Shuttle”
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item C – Public Comments – Our Board Chairperson is a liar, a taker, and doesn’t have the “rhino...skin” he represents – he has refused to provide the written evidence which backs up his June 9, 2021 representation he has paid the Recreation (“RFF”) and Beach (“BFF”) facility fees for thirty (30) or more years!
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item C – Public Comments – Staff’s unabashed misappropriation of public funds without consequence
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item C – Public Comments – What do you do with Staff who make District decisions requiring Board approval without first coming to the Board to secure that approval – here modification to the Hyatt Sport Shop Lease, and our agreement with Village Ski Loft (“VSL”) to sell VSL clothing and soft goods and rent VSL mountain bikes out of the Hyatt Sport Shop?
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item C – Public Comments – Another inappropriate giveaway of a money losing public recreation venue which is indirectly paid for by local parcel/dwelling unit owners – Tahoe Connection for Families’ June 6, 2021 Champ Golf “Scramble Golf

## Minutes

Meeting of June 9, 2021

Page 30

Tournament” so it can make money off the public’s facilities for its philanthropic flavor of the month!

- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Item H(7) – Reiterate and possibly revising pricing policy for exclusive use of District’s recreation venues to local parcel/dwelling unit owners’ detriment
- Written statement to be included in the written minutes of this June 9, 2021 regular IVGID Board meeting – Agenda Items G(2) and G(3) – Approval of proposed design contracts with HDR and Jacobs Engineering which include reimbursement of unidentified District Staff time – on the Consent Calendar no less

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF  
THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(9)  
– OBJECTION TO PAYING SOMEONE ELSE’S OBLIGATION IN THE MARK  
SMITH PUBLIC RECORDS LITIGATION**

**Introduction:** Here staff ask that the Board approve a \$12,500 payment to Matthew Sharp, special master in the Mark Smith public records litigation, allegedly pursuant to the Court’s order appointing Mr. Smith<sup>1</sup>. This is \$12,500 on top of over \$100,000 paid to attorney Beko to date, and a serious question exists as to who agreed to pay this \$12,500 on behalf of the Board when it was never the subject of a public meeting nor Board resolution, and the invoice itself is expressly *not* directed to IVGID, either in whole or in part<sup>2</sup>. And that’s the purpose of this written statement.

**My June 6, 2021 E-Mail to the Board on This Very Subject:** On June 6, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking they *not* approve this payment, in part, because neither Mr. Beko nor staff had ever brought the matter to the Board for its approval and the amount expended so far, is totally outrageous! In other words, if there were any agreement made by Mr. Beko and Mark Smith’s attorney giving rise to the payment of Mr. Sharp’s special master fees, it was made without client (i.e., the Board’s) authorization<sup>3</sup>. In fact on June 7, 2021 I followed up my request with a subsequent e-mail asking to examine the court’s order appointing Mr. Sharp which is referenced at page 228 of the 6/9/2021 Board packet<sup>1</sup>.

**Conclusion:** This Board is reminded it *NEVER* decided to oppose Mr. Smith’s litigation. It never agreed to retain Mr. Beko, nor until recently, to pay any of his fees. It never agreed to provide a free legal defense to Trustee Wong and attorney Jason Guinasso notwithstanding they were both named as defendants in the litigation, and provided a free legal defense.

Take a look at Mr. Sharp’s invoice<sup>2</sup>. Notably, it is not addressed to IVGID, either in whole or in part. So why is any part of it IVGID’s obligation? Did Mr. Beko obtain his client’s (i.e., the IVGID Board’s) consent prior to making an agreement purportedly on his client’s behalf? If not, then let it be Mr. Beko’s obligation. Perhaps this will teach Mr. Beko that before he makes decisions on his client’s behalf, he should first obtain his client’s knowledge and consent?

As demonstrated in Exhibit “A,” the continuation of the defense of this litigation, let alone in the aggressive manner within which it is being defended, makes no ethical nor financial sense. Remember, it’s over public records which should have been freely made available for examination rather than concealed. Moreover, there has been no cost/benefit analysis because had there been,

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<sup>1</sup> See page 228 of the packet of materials prepared by staff in anticipation of this June 9, 2021 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609_-_Regular_-_Searchable.pdf) (“the 6/9/2021 Board packet”)].

<sup>2</sup> See page 229 of the 6/9/2021 Board packet.

<sup>3</sup> That e-mail is attached to this written statement as Exhibit “A.”

this lawsuit would have ended long ago! So why is it being defended and that defense being paid with local parcel/dwelling unit owners' Recreation ("RFF") and Beach ("BFF") Facility Fees as well as the water/sewer charges they are assessed.

For these reasons, until staff can demonstrate that the Board approved entering into an agreement for the appointment of a special master wherein it agreed to pay half of his fees/costs, there should be no payment of this invoicing which very telling, is directed to the attorneys in this litigation rather than IVGID.

And to those asking why their RFF/BFF are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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



# EXHIBIT "A"

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## Re: June 9, 2021 Board Meeting - Agenda Item H(9) - Authorize \$12,500 Payment to Special Master in the Mark Smith Lawsuit - Follow Up

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**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <wong\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <Susan\_Herron@ivgid.org>, <ISW@ivgid.org>  
**Subject:** Re: June 9, 2021 Board Meeting - Agenda Item H(9) - Authorize \$12,500 Payment to Special Master in the Mark Smith Lawsuit - Follow Up  
**Date:** Jun 7, 2021 8:45 AM

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Hello Ms. Herron, Indra and the IVGID Board -

So I can prepare for Wednesday's Board meeting, can one or more of you please share with me the Court's order appointing Mr. Sharp? This order is referenced at page 228 of the Board packet. You can consider this a public records request if you like.

I think this order is especially relevant given Mr. Sharp's invoicing (see page 229 of the Board packet) is NOT directed, in whole or in part, to IVGID.

Thank you for your cooperation. Aaron Katz

-----Original Message-----

From: s4s@ix.netcom.com  
Sent: Jun 6, 2021 5:11 PM  
To: tim\_callicrate2@ivgid.org  
Cc: wong\_trustee@ivgid.org, dent\_trustee@ivgid.org, schmitz\_trustee@ivgid.org, tonking\_trustee@ivgid.org, Susan\_Herron@ivgid.org  
Subject: June 9, 2021 Board Meeting - Agenda Item H(9) - Authorize \$12,500 Payment to Special Master in the Mark Smith Lawsuit

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

So this one is cute. And as has become the norm, it's another example of stupid, stupid, stupid!

Stupid to pay someone something you agreed to pay them? Of course not!

Stupid to have agreed to pay that someone in the first place? And without going to the Board to secure approval in advance? Absolutely!

The staff memo in support of this matter (see page 228 of the Board packet) doesn't tell the Board and public what very likely occurred when the Court appointed Mr. Sharp as a special master in the Mark Smith litigation. And that's that both Mr. Smith and IVGID agreed that initially, before reimbursement is ordered, Mr. Sharp's fees would be paid 50%-50%. Isn't that what happened Indra? Because if it did not, the court had no jurisdiction to compel IVGID to make any payment at this stage. It's that simple.

So did anyone bring this matter to the Board ahead of time to secure its approval to pay Mr. Sharp? Or was this a decision Mr. Beko and Indra conspired amongst themselves to make in a vacuum? Or was it just unilaterally decided by Mr. Beko without any direction or approval from his client the Board?

And remember, this agreement to pay was made at or about the time staff asked the Board to pay an additional \$10,000 in fees to Mr. Beko. And that means a total of another \$22,500 in fees was needlessly expended on the Mark Smith case.

And what staff doesn't tell the Board is that now that Mr. Sharp has found that the District is guilty of wrongdoing, because the attorney-client privilege does not apply, the District is eventually going to be hit with Mr. Smith's \$12,500 portion of Mr. Sharp's fees. And that will be on top of what a number of us suspect will be \$100,000 or more of his attorney's fees. Because NRS 239.011(2) instructs that "if the requester prevails, the requester is entitled to recover from the governmental entity that has legal custody or control of the record his or her costs and reasonable attorney's fees in the proceeding." Note that here the governmental entity is not entitled to recover its fees and costs, even if it prevails. Rather, only the requester is!

So let's do a running total so far, shall we?

Before staff asked the Board to pay Mr. Beko an additional \$10,000, they had already paid Mr. Beko close to \$100,000. Add that \$10,000 and now the \$12,500 for Mr. Sharp and we're over \$120,000! And remember, that's just our fees.

Now let's add a like amount for Mark Smith's fees because remember, he has already prevailed and is going to be awarded fees. Now we're at \$240,000!

But instead of trying to protect your client, Mr. Beko's m.o. is to fight everything the court does. So that means appeal. And from my appeals, we know Mr. Beko rarely spends less of the District's monies on an appeal than \$100,000. Mr. Beko loves to blame the other side of the equation for requiring the appeal or this level of fees. But in the end the common constant here in appeal litigation, is Mr. Beko. Getting the picture?

So let's add another \$100,000 to the running total. That puts us at \$340,000. And let's assume Mr. Smith eventually prevails. And that puts us at \$440,000.

Gee, this is starting to look eerily similar to the fees Mr. Beko exacted for defense of my case (over \$530,000 in total). And here over what?

Staff's refusal to share public records. And why do you think? Do you really think the response is innocent?

So where does the money come from to pay these litigation costs? Take a look at the General Fund which is where these attorney's fees are assigned as costs. Just like our Community Services and Beach Funds, staff intentionally budgets to overspend in the General Fund. And the overspending gets subsidized (or according to Mr. Navazio only "supported") by the RFF/BFF! But wait a minute. The RFF/BFF are not assigned to the General Fund, are they? Yes they are. We assign this "support" a different label. It's called General Fund allocated central services cost transfers. So where does the money come from to fund those transfers? You guessed it! The RFF, the BFF and the utility rates and charges local property owners are involuntarily assessed. And as the proof is in the pudding, look how much the central services cost transfers have increased in the last several years.

Maybe now you're starting to get the picture.

And stupid me thought the RFF paid for my availability to use public recreation facilities. And the BFF paid for my availability to use the beaches. And my sewer and water rates paid for the costs the District actually incurs to provide sewer and water services. No one ever told me they really pay to fund stupid, stupid litigation because the truth was hidden from the Board. And a cost/benefit analysis was never performed.

The persons who made the unilateral decision to fight Mr. Smith and start incurring attorney's fees were Trustee Wong

and Indra's predecessor, Mr. Pinkerton. The authority for those expenditures was allegedly the GM's spending authority which the Board has consistently REFUSED to reduce. Well now that we've exceeded that spending authority, I say let those who started us down this road finish it. And at their expense rather than mine!

Refuse to pay Mr. Sharp because the Board never agreed to make payment in the first place, and let's just see what happens! I predict the court will require Mr. Beko to pay. Because he's the one who agreed to pay in the first place. And he never had the approval of his client to pay.

And Ms. Herron, please include this e-mail in the minutes of the Board's June 9, 2021 meeting when they've been prepa

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM I(1) – OBJECTION TO PROPOSED MINUTES OF THE BOARD’S MAY 5, 2021 MEETING – THEY REQUIRE SANITIZATION**

**Introduction:** On April 29, 2021 Trustee Wong called local resident Cliff Dobler a “racist and sexist” for comments Mr. Dobler made questioning the propriety of discounted couples pricing at both of the District’s golf courses and the Recreation Center. At the Board’s May 26, 2021 meeting written minutes of the Board’s April 29, 2021 meeting were proposed for adoption which *accurately* transcribed Ms. Wong’s accusations as “Racist and sexist.” But prior to approval, Ms. Wong asked that her inappropriate comments be changed to “homophobic and sexist.” And unbelievably, the Board went ahead with approving these modified minutes.

Now the proposed minutes of the Board’s May 5, 2021 meeting are presented for approval by the Board<sup>1</sup>. At pages 231 and 233-235 of the 6/9/2021 Board packet those minutes recite local resident Ellie Dobler’s, Michael Abel’s, Margaret Martini’s, and Frank Wright’s independent reference to Trustee’s Wong’s “racist and sexist” comments directed to Cliff Dobler at the Board’s April 29, 2021 meeting. But now that the minutes of the Board’s April 29, 2021 meeting have been “sanitized” to remove these incendiary words, the same words should be sanitized and removed from the proposed minutes of the Board’s May 5, 2021 meeting. And that’s the purpose of this written statement.

**My June 6, 2021 E-Mail to the Board on This Very Subject:** On June 6, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking they sanitize the statements attributed to local residents Ellie Dobler, Michael Abel, Margaret Martini and Frank Wright in the proposed minutes of the Board’s May 5, 2021 meeting, similar to the way they sanitized statements attributed to Trustee Wong appearing in the proposed minutes of the Board’s April 29, 2021 meeting<sup>2</sup>.

**Conclusion:** This episode demonstrates the problem when written minutes of Board meetings are sanitized to represent what speakers wished they would have stated, versus what they actually stated. It’s like telling a lie. In order to make the previous lie make sense, the liar is forced to make subsequent lies. And before one knows it, you’re left with a pack of lies. Which is what we will have here if the minutes of the Board’s May 5, 2021 meeting are sanitized to conform to the minutes of the its April 29, 2021 meeting. Or the Board could just do what’s right and correct the minutes of its April 29, 2021 meeting to conform to what actually occurred. But then that would be embarrassing to Trustees Wong and Tonking and we wouldn’t want to do that, would we?

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<sup>1</sup> See pages 230-268 of the packet of materials prepared by staff in anticipation of this June 9, 2021 meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609_-_Regular_-_Searchable.pdf) (“the 6/9/2021 Board packet”)].

<sup>2</sup> That e-mail is attached to this written statement as Exhibit “A.”

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

**EXHIBIT "A"**

## June 9, 2021 Board Meeting - Agenda Item I(1) - Approval of Minutes of the Board's May 5, 2021 Meeting

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**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <wong\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <Susan\_Herron@ivgid.org>  
**Subject:** June 9, 2021 Board Meeting - Agenda Item I(1) - Approval of Minutes of the Board's May 5, 2021 Meeting  
**Date:** Jun 6, 2021 12:04 PM

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

I suggest to the Board it not approve the proposed minutes which appear at pages 230-268 of the Board packet. Why? Because they require "sanitizing."

Board members may recall that at the Board's April 29, 2021 meeting Trustee Wong called resident Cliff Dobler a racist and a sexist. This mischaracterization was echoed by Trustee Tonking and GM Winqwest (good job lemmings!).

Yet when it came to approving the minutes of that meeting, Trustee Wong requested that her actual characterization be changed to read a homophobe and a sexists. And unbelievably, the rest of the Board went along in approving those changes even though you knew that did not accurately depict Ms. Wong's actual comments.

So now the Board is presented with approving the minutes of its May 5, 2021 meeting. And at page 231 of the Board packet Ellie Dobler is quoted as having taken exception to Ms. Wong's April 29, 2021 comments accusing her husband of being a "racist." And at page 233 of the Board packet local resident Mike Abel is quoted as having taken similar exception - again using the words "racist and sexist." And at page 234 of the Board packet local resident Margaret Martini is quoted as having taken similar exception - again using the words "racist and sexist." And at page 235 of the Board packet loca resident Frank Wright is quoted as having taken similar exception - again using the words "racist and sexist."

But since the minutes of the Board's April 29, 2021 meeting have been sanitized to remove the word "racist" from Ms. Wong's comments and to replace it with the word "homophobe," and in order to maintain consistency, the Board should remove the many references to "racist" and "racism" from Ellie Dobler's, Mike Abel's, Margaret Martini's and Frank Wright's transcribed comments and to replace them with the word "homophobe." Wouldn't you agree Ms. Wong? In other words, don't transcribe what I say. Transcribe which upon reflection, what I wished I had said.

Thank you for your cooperation and I request this e-mail to be included in the minutes of the Board's June 9, 2021 meeting when they are prepared/presented for Board approval.

Thank you for your cooperation.



**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM F(1) – WHY DO WE HAVE TO PROVIDE A PLATFORM FOR THIRD PARTIES TO MAKE WASTEFUL AND TIME CONSUMING PRESENTATIONS TO THE IVGID BOARD AND THE PUBLIC WHEN THOSE PRESENTATIONS HAVE NOTHING TO DO WITH MATTERS OVER WHICH THE DISTRICT HAS JURISDICTION – HERE ANDY CHAPMAN’S RENO-SPARKS CONVENTION AND VISITOR AUTHORITY’S (“RSCVA’S”) “TART CONNECT MICRO-SERVICE” AKA “THE KIDDIE SHUTTLE”**

**Introduction:** This District needs to get over the MIS-belief that IVGID exists to provide every type of money losing facility and service its Board of Trustees and staff can concoct which in any manner relates to express basic powers<sup>1</sup> it has been granted by the Washoe County Board of Commissioners (“County Board”), which can be involuntarily financially subsidized by local parcel/dwelling unit owners. In support of its goal, here staff have opened the gates of access to the Board, at a public meeting<sup>2</sup>, to Mr. Andy Chapman so he can promote the RSCVA’s new “Tart Connect Micro-Service.”<sup>3</sup> Are the Board’s board packets so small they can easily accommodate a written version of the RSCVA’s power point presentation<sup>4</sup>? Is the length of our typical Board meetings so short that we can easily fit in a presentation such as the one herein? Since the answers to these questions are “no” and “no,” I object. And that’s the purpose of this written statement.

**My June 9 and June 11, 2021 E-Mails to the Board on This Very Subject:** On June 9, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking they *not* afford Andy Chapman board meeting presentation space to make a propaganda presentation on the RSCVA’s latest micro-transit connect program<sup>5</sup>. Instead I asked Mr. Chapman’s presentation be relegated to a maximum of three (3) minutes of public comment, just like any other member of the community being offered this amount of public comment. My reasons were that since the District has no jurisdiction over

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<sup>1</sup> Water, sewer and solid waste disposal service(s), public recreation facilities, and the services which are offered out of those facilities.

<sup>2</sup> See agenda item F(1) at page 1 of the packet of materials prepared by staff in anticipation of this June 9, 2021 Board meeting [[https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609_-_Regular_-_Searchable.pdf) (“the 6/9/2021 Board packet”)].

<sup>3</sup> According to the Tahoe Daily Tribune Newspaper (go to <https://www.tahodailytribune.com/news/new-transit-service-in-incline-to-offer-free-curb-to-curb-service/>) “Tart Connect micro transit is an on-demand, app-based service, that allows for users to call for a...curb to curb...ride from anywhere within one of three...North Lake Tahoe...service areas...Dollar Hill to Tahoma (in California), Tahoe Vista to the state line at Kings Beach (in California), and Crystal Bay and Incline Village.”

<sup>4</sup> See pages 5-12 of the 6/9/2021 Board packet.

<sup>5</sup> That e-mail is attached to this written statement as Exhibit “A.”

regional transportation, using the District's forum and livestream for promoting this program, while at the same time denying similar District assets to others in our community on subjects clearly within the District's jurisdiction, should not be made available.

On June 11, 2021 I followed up the earlier e-mail with another e-mail on the District's "door-to-door" transportation service from/to Incline Village and Crystal Bay/the Reno-Tahoe Airport<sup>6</sup>. My objection was this program had nothing to do with the District's permissible activities and since it was and is subsidized by the Recreation Facility Fee ("RFF"), the Board should order its termination and suggest to Mr. Chapman, that this might be a service his Tart Connect program could embrace thus saving local parcel/dwelling unit owners the financial costs associated with its money-losing operations.

**General Improvement Districts ("GIDs") Have No Power to Engage in Regional Transportation:** NRS 277A<sup>7</sup> regulates "public transit systems" in Nevada. Public transit systems are defined as "system(s) employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons."<sup>8</sup> NRS 277A.270(1)(a)<sup>9</sup> instructs that *only* "a commission may operate a system of public transportation *to the exclusion of any other publicly owned system of transportation* within its area of jurisdiction. Is the District's shuttle to Reno-Tahoe Airport a "system (that) employ(s) motor buses...or any other means of conveyance...operated for public use in the conveyance of persons?" Is IVGID "a regional transportation commission created (by the County Board) pursuant to NRS 277A.170<sup>10</sup>?" Is there anything in NRS 318 which allows County Boards to grant GIDs basic powers to operate a system of public transportation? Since the answers to these questions are "no" and "no," *how then can staff's actions be justified?*

**Do Any of You Recall Your Oaths of Office You Were Compelled to Take?** NRS 282.010(1)<sup>11</sup> instructs that "all officers, executive, judicial and ministerial, shall, before entering upon the duties of their respective offices...take and subscribe to the official oath." The "official oath" of office appears at NRS 282.020<sup>12</sup> and reads as follows:

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<sup>6</sup> That e-mail is attached to this written statement as Exhibit "B."

<sup>7</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-277A.html>.

<sup>8</sup> See NRS 277A.120 (go to <https://www.leg.state.nv.us/nrs/NRS-277A.html#NRS277ASec120>).

<sup>9</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-277A.html#NRS277ASec270>.

<sup>10</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-277A.html#NRS277ASec170>.

<sup>11</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-282.html#NRS282Sec010>.

<sup>12</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-282.html#NRS282Sec020>.

"I, ....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and government of the State of Nevada, against all enemies, whether domestic or foreign, and that *I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any state notwithstanding...*(if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury."

**WAKE UP AND SMELL THE ROSES:** Your staff are the equivalent of domestic enemies of the District. And in voting for a budget which pays for the operation of a system of public transportation, which involuntarily compels each local parcel/dwelling unit owner who pays the RFF to fund that operation, each of you has violated your oath of office given the District has no jurisdiction to operate such a system!

**Conclusion:** Here we have another example that staff and the Board have no clue as to what a GID is, and what powers it may legitimately exercise. Because if they did, they would never, never give a third party organization like the RSCVA the forum to make presentations to the Board. Such presentations fill up the Board packet and end up unnecessarily extending the time of an already too long Board meeting. And why? For something the District has no jurisdiction over.

And to those asking why their Recreation ("RFF") and Beach ("BFF") Facility Fees are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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

# EXHIBIT "A"

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## June 9, 2021 Board Meeting Agenda Item F(1) - More Inappropriate and Immaterial Propaganda Having Nothing to Do With IVGID

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**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>  
**Subject:** June 9, 2021 Board Meeting Agenda Item F(1) - More Inappropriate and Immaterial Propaganda Having Nothing to Do With IVGID  
**Date:** Jun 8, 2021 10:51 AM

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

Well here we go again. It's almost everything this Board does at the urging on staff with an agenda and without real knowledge of what IVGID really is.

This agenda item is labeled "Mr. Andy Chapman of the Incline Village/Crystal Bay Visitors Bureau: PowerPoint Presentation on the TART Connect Microtransit Pilot Program."

What does this have to do with ANYTHING IVGID is legitimately responsible for?

Are our board meetings not long enough?

Do we have so little legitimate business that we need to fill up the time with presentations having nothing to do with our limited powers, let alone presentations from non-parcel owners?

And then rather than giving Mr. Chapman three (3) minutes of public comment time, like the rest of us, the Board gives him as much time as he wants. Let's open our arms to another "favored collaborator!"

And since Mr. Chapman's power point presentation is already in the Board packet, why do we even have to give him a sounding board to regurgitate? In fact, why are his materials in the Board packet? If he wants to publicize the program, send out a press release. Or take out an advertisement in the Tribune. Or go make a presentation to the county Board of Commissioners.

What's wrong with our staff and what's wrong with you Board members? Don't you understand what we are and how NOTHING Mr. Chapman proposes speaking of has anything to do with IVGID's limited powers?

Instead, why don't any of you ask Mr. Chapman the following truly relevant questions:

1. Why is RSCVA charging IVGID membership fees in the thousands of dollars annually, simply to be a community partner? In contrast, what is the RSCVA paying IVGID to be a member of our community?
2. Why none of the transient occupancy tax goes back to IVGID? Wouldn't that be a better use of funds than what is being suggested here for a pilot program?
3. Why isn't the RSCVA paying Rec and Beach Facility Fees to IVGID? Wasn't the land underneath its building within IVGID's boundaries in June of 1968?
4. Aren't our public recreational facilities "available to be used" by Visitor Center occupants and guests just like any other property occupant?

5. Why is the RSCVA only paying IVGID \$1/year for lease of the 1/2 acre of ground under its Visitor's Building? Is that fair?
6. Why isn't the RSCVA paying for its own landscape maintenance and upgrading? Is that fair?
7. Why is RSCVA allowing IVGID to compete with its TART transportation services insofar as transportation to/from Incline Village/the Reno-Tahoe Airport is concerned? Why doesn't it put a stop to this service and instead, offer its only regular service to the airport?
8. Why are we giving Mr. Chapman the time of day for anything when the RSCVA actively lobbied the county for a generous short term rental policy which is not in the interests of so many in our community?

Please do the right thing and let Mr. Chapman know he will be afforded a maximum of three (3) minutes of public comment time for his presentation just like every other member of our community, AND THAT'S IT! And let that comment take place during the period for public comments, agenda item C, AND NOT any other time!

Thank you

**EXHIBIT "B"**

## June 9, 2021 IVGID Board Meeting - Agenda Item F(1) - Wake Up, Wake Up! Now Put Your Foot Down on Another Money Losing "Service" Having Nothing to Do With Recreation! Fw: RE: Records Request - Invoicing/Commercial Transit Fees Paid to the Reno-Tahoe Airport

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**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>

**Subject:** June 9, 2021 IVGID Board Meeting - Agenda Item F(1) - Wake Up, Wake Up! Now Put Your Foot Down on Another Money Losing "Service" Having Nothing to Do With Recreation! Fw: RE: Records Request - Invoicing/Commercial Transit Fees Paid to the Reno-Tahoe Airport

**Date:** Jun 11, 2021 11:19 AM

**Attachments:** 201705 - 106914.pdf 201706 - 107270.pdf 201707 - 107751.pdf 201708 - 108209.pdf 201709 - 108559.pdf 201710 - 108970.pdf 201711 - 109306.pdf 201712 - 109682.pdf 201801 - 110312.pdf 201802 - 110722.pdf 201803 - 111229.pdf 201803 - 111419.pdf 201804 - 111747.pdf 201805 - 112250.pdf 201805 - 112405.pdf 201806 - 112777.pdf 201807 - 113228.pdf 201808 - 113616.pdf 201809 - 114089.pdf 201810 - 114617.pdf 201811 - 115012.pdf 201812 - 115422.pdf 201901 - 115866.pdf 201902 - 116354.pdf 201903 - 116811.pdf 201904 - 117295.pdf 201905 - 117752.pdf 201906 - 118300.pdf 201907 - 118765.pdf 201908 - 119213.pdf 201909 - 119711.pdf 201910 - 120256.pdf 201910 - 120400.pdf 201911 - 120732.pdf 201912 - 121157.pdf 202001 - 121576.pdf 202002 - 121987.pdf 202003 - 122480.pdf 202006 - 123699.pdf 202007 - 124137.pdf 202008 - 124690.pdf 202009 - 125077.pdf 202010 - 125315.pdf 202011 - 125772.pdf 202012 - 126168.pdf 202101 - 126623.pdf 202102 - 127040.pdf 202103 - 127396.pdf 202104 - 127790.pdf

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

So each of you in your wisdom have budgeted to pay the Reno Tahoe Airport Commercial Transit Fees. And these fees are paid from our RFF. And do you know what these fees represent?

For those of you who do not, since IVGID is a commercial carrier, each time it enters the Reno-Tahoe Airport (IVGID is required to have a transponder in its vehicles) it is required to pay a "M.O." entrance fee. It's not the amount of the fee that's an issue. It's that we're even engaged in an activity which would require us to be involved in "commercial transit" and pay such fees. And then to pay for it with the RFF? So for those of you who want to know where your RFF really goes, now you've gotten another explanation.

The local "takers" in our community (how about we get a list of the persons who burden this "service" at their neighbor's expense) would call this a community service. Well it's NOT. And it has nothing to do with any recreation venue. And it has nothing to do with the reasonable costs associated with making a recreation venue "available" to be used by those parcels/dwelling units (as opposed to the persons who occupy them) which are involuntarily assessed. But that's what you've told us our RFF allegedly pays for. And we know you don't care about lying because the ends justify the means and if you didn't rely upon this justification, how else would you pay for this money losing program?

And it's not just the operating costs associated with this money losing program. How about the cost of vehicles? And their disingenuous maintenance paid to that money losing operation known as Internal Services. And the cost of insurance. And the central services charges payable to the General Fund. When every cost is included in the calculation (which staff will never, never do), the costs of this program are substantial.

And it's time for the program to end. Especially now because the county has given the RTC exclusive jurisdiction over



regional transportation in the county and it hasn't approved IVGID as its authorized assignee. And Andy Chapman says we're initiating a "micro-transport service," why not have him expand the program to the Reno-Tahoe Airport? Bottom line it's not local parcel/dwelling unit owners' responsibility. SO PUT AN END TO IT!

Thank you for your cooperation. Aaron Katz

-----Forwarded Message-----

From: Herron, Susan Susan\_Herron@ivgid.org

Sent: Jun 3, 2021 10:14 AM

To: 's4s@ix.netcom.com' s4s@ix.netcom.com

Subject: RE: Records Request - Invoicing/Commercial Transit Fees Paid to the Reno-Tahoe Airport

Mr. Katz,

Attached are the documents as requested. All were charged to account number 350.46.820.7415 and you can find the associated check on each of our bill pays which is located on our website.

Susan

-----Original Message-----

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]

Sent: Wednesday, May 19, 2021 1:39 PM

To: Herron, Susan

Subject: Records Request - Invoicing/Commercial Transit Fees Paid to the Reno-Tahoe Airport

Hello Ms. Herron -

The Reno-Tahoe Airport charges fees to commercial operators of transit to/from the Airport proper. With respect to these fees, I would like to examine:

1. Invoicing to IVGID from the Airport requesting payment of such fees from July 1, 2017-present;
2. Evidence of payment of the invoicing reflected in paragraph 1 above;
3. Chart of account numbers/names assigned by staff for each of the payments reflected in paragraph 2 above;
4. Any contract or other written memorialization of IVGID's obligation to pay the fees reflected in paragraph 2 above from July 1, 2017-present.

Thank you for your cooperation. Aaron Katz

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENTS – OUR BOARD CHAIRPERSON IS A LIAR, A TAKER, AND DOESN'T HAVE THE "RHINO...SKIN" HE REPRESENTS – HE HAS REFUSED TO PROVIDE THE WRITTEN EVIDENCE WHICH BACKS UP HIS JUNE 9, 2021 REPRESENTATION HE HAS PAID THE RECREATION ("RFF") AND BEACH ("BFF") FACILITY FEES FOR THIRTY (30) OR MORE YEARS!**

**Introduction:** At this June 9, 2021 meeting, when discussing agenda item H(7)<sup>1</sup> ["possibly direct(ing) staff to price long term rentals and/or the lease of property at market rates, with the exception of non-profit organizations which would be provided a 10% discount"], our chairperson chose to use his position on the Board as a "soap box"<sup>2</sup> to lobby in favor of the non-profits in our community since he sees the purpose of General Improvement Districts ("GIDs") to be providing for the health, safety and welfare<sup>3</sup> of our community rather than providing the facilities and services expressly recognized in NRS 318.116<sup>4</sup>, assuming they have first been granted by the GID's county Board of Commissioners ("County Board") "in the (GID's) initiating ordinance...as supplemented by the sections of this chapter (NRS 318) designated therein."<sup>5</sup> Just listen to him:

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<sup>1</sup> See page 2 of the packet of materials prepared by staff in anticipation of this June 9, 2021 meeting ["the 6/9/2021 Board packet" ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609\\_-\\_Regular\\_-\\_Searchable\\_\\_.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0609_-_Regular_-_Searchable__.pdf))].

<sup>2</sup> The Board livestreams its meetings (go to <https://livestream.com/accounts/3411104>). The livestream of the Board's June 9, 2021 meeting appears at <https://livestream.com/ivgid/events/9708875/videos/222144237> ("the 6/9/2021 livestream"). At 3:16:02-3:16:07 of the 6/9/2021 livestream Mr. Callicrate apologizes ("sorry about that") for having admittedly "got(ten) a little on (his) soap box."

<sup>3</sup> When it comes to government, these are typically described as police powers. "Police power(s) do... not specifically refer to the right of state and local government(s) to create police forces." Rather, they "describe...the basic right of governments to make laws and regulations for the benefit of their communities" (go to <https://legal-dictionary.thefreedictionary.com/Police+Power>).

<sup>4</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec116>.

<sup>5</sup> See NRS 318.055(4)(b) [go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec055>].

“These (non-profits) are traditionally (comprised of) members of our community...that go and participate in these fund raisers with the money being put right back in(to) the community...We as a community consists of more than the dozen or so people who continually harp and horang... We’re a community...We are trying to act as good stewards of the community. And within a community we have non-profits...*I’ll get off my soap box* but my concern is that if we’re only drilling down to dollars and cents, we will lose the sense of community and the bean counters will have won...There are many organizations in this community that that (referring to use of the District’s recreation facilities at a 10% discount off their fair market value use fee)...wouldn’t work...And I (personally) don’t want to see (any of) them go belly up or...(have to) continually ask for money when their one signature (money making) event (where) they can raise money (at local parcel/dwelling unit owners’ expense) and keep them (financially) afloat for another year to provide services to hundreds and hundreds of people...That’s called being a good partner...*I know I’ll take flack in the second public comment section*, but that’s how it goes.”<sup>6</sup>

Putting aside the fact the Trustee’s Member Handbook instructs that the Board chairperson “ensure (that) no one person dominates the discussion,”<sup>7</sup> as Mr. Callicrate predicted, during the second public comments section he received criticism from fellow resident Frank Wright and me. My criticism was as follows:

“I...resent Tim (Callicrate)’s ‘soap box’ statement(s). You don’t pay for any of this stuff (referring to the District’s recreation and beach facilities) Tim. So you don’t get a box to spout (off on. If) you want to spout (off), how about you pay? How about you start paying a Rec Fee? There’s no law that says you can’t (pay)...Then you’ll have standing like the rest of us. Also, you talk about tradition...(But) you’re only worried about Sierra Nevada University. Which by the way, didn’t you get free education there at (local) property owners’ expense?”<sup>8</sup>

Typically, Board members do not respond to any of the public’s comments. Moreover, in the Trustees Member Handbook<sup>7</sup> members of the Board are cautioned against “tak(ing) or mak(ing) matters or comments on a personal level.”

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<sup>6</sup> See 3:12:18-3:15:04 of the 6/9/2021 livestream.

<sup>7</sup> See the Meeting Tips portion of the *Board of Trustees Member Handbook* at page 13.

<sup>8</sup> See 3:57:22-3:58:04 of the 6/9/2021 livestream.

However this time, I must have gotten under Mr. Callicrate's "rhino hide for skin"<sup>9</sup> because he took the opportunity to call me, a member of the community, a "blatant liar." Just listen to him:

"I do need to correct Mr. Katz. You know nothing about my financial situation Mr. Katz. You don't know what I do and don't pay. (Just) because I don't own property doesn't mean I don't pay a Rec and Beach Fee...To say untruths like Mr. Katz did (about my not paying the RFF/BFF was) *blatantly a lie* about what I do and don't pay...Until you know all the facts Mr. Katz, I would suggest that you yourself may want to do some additional research ...(And) I'll leave it at that."<sup>10</sup>

Who is and is not the blatant liar, and who is the taker in our community, are the purposes of this written statement.

**Contrary to His Representation That One Does Not Need to Own Real Property in Order to Be Assessed the RFF/BFF, Mr. Callicrate Knows That *Only Those Who Own Real Property Are Assessed the RFF/BFF*:** Mr. Callicrate has been on the IVGID Board for at least ten (10) years. That means that eleven (11) times he has participated in adopting and ordering the collection of the RFF/BFF on the county tax roll. The latest episode was on May 26, 2021 when Mr. Callicrate voted to adopt Resolution 1889<sup>11</sup>. Resolution 1889 adopted the 2021-22 RFF/BFF, and at ¶18 ordered:

"The Washoe County Treasurer (to) include the amount of the charges (in two separate and distinct lines items identified as Recreation Facility Fee and Beach Facility Fee) on the bills for taxes levied against respective lots or parcels of land...and said amounts (to) be collected at the same time and in the same manner and by the same persons as, together with and not separately from the general taxes for the District."

In other words, the RFF/BFF are assessed against and collected from *real property*. So where does Mr. Callicrate get off asserting that just "because (he) do(es)n't own property doesn't mean (he) do(es)n't pay a Rec and Beach Fee?"

**Mr. Callicrate Admits He Owns no Real Property, Let Alone Within IVGID's Boundaries:**

Besides his admission quote above, as a public officer Mr. Callicrate knows he is required to file yearly Financial Disclosure Statements ("FDS") with the State Secretary of State's Office ("SOS"). His latest

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<sup>9</sup> See 4:02:07-4:02:09 of the 6/9/2021 livestream.

<sup>10</sup> See 4:01:18-4:02:30 of the 6/9/2021 livestream.

<sup>11</sup> See pages 184-187 of the packet of materials prepared by staff in anticipation of the Board's May 26, 2021 meeting ["the 5/26/2021 Board packet" ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0526\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0526_-_Regular_-_Searchable.pdf))].

FDS was filed with the SOS on May 6, 2021<sup>12</sup>. And it discloses he does not own real property, let alone within the District's boundaries.

**So Where Does Mr. Callicrate Live?** According to voter records for Washoe County, NV.<sup>13</sup>, Mr. Callicrate resides at 170 Mayhew Circle, Incline Village, NV.

**So Who Owns the Real Property Where Mr. Callicrate Resides?** According to the Washoe County Assessor, Barbara A. Stedman's living trust<sup>14</sup>. And according to the Assessor, guess who has no ownership interest in that real property? Timothy Callicrate.

**Ms. Stedman's Real Property is Assessed and its Owner Pays IVGID's RFF/BFF:** Exhibit "B" includes a "tax detail" of the taxes assessed against Ms. Stedman's real property. There I have placed an asterisk next to the IVGID detail of \$830 for the 2020-21 RFF/BFF. And I have also placed another asterisk next to the total amount due which is \$0.00. Meaning all installments have been paid in full.

**Apart From the Taxes Assessed Against and Paid by Ms. Stedman's Real Property, Mr. Callicrate Did Not Make Independent Payment to IVGID For the RFF/BFF:** Just to cover my bases, and responding to Mr. Callicrate's criticism that I had not done my research, on June 9, 2021 at 10:46 P.M. I made a public records request upon Susan Herron to examine records evidencing Mr. Callicrate's payment of the RFF/BFF over the last thirty (30) years. And on June 10, 2021 at 9:03 A.M., Ms. Herron responded that because "Washoe County...collect(s)...the Facility Fees via...property tax bill(s)," IVGID "ha(d) no (such) responsive records to provide." My e-mail records request to Ms. Herron and her response are attached as Exhibit "C" to this written statement.

**And Not That a Tenant Pays His/Her Landlord's RFF/BFF Through The Rent the Tenant Pays, But Here Mr. Callicrate Isn't Ms. Stedman's Tenant:** Let's assume for argument's sake that Mr. Callicrate Were Ms. Stedman's tenant. He would have some sort of tenancy agreement, would he not? And he would have some rent obligation, would he not? And do you think it would total more or less than \$417/month (which equals \$5,000/year)? Take another look at Exhibit "A," and focus your attention on section 4. There Mr. Callicrate was asked to list every creditor to whom he is indebted to pay \$5,000 or more. Look at his answer; *NONE*.

**So What is Mr. Callicrate's Relationship With Ms. Stedman?** I don't know, and that's not what this written statement is all about. But let me tell you one thing it's *not*. Landlord-tenant.

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<sup>12</sup> Go to <https://www.nvsos.gov/SOSCandidateServices/AnonymousAccess/ViewCCEReport.aspx?syn=mUEbsOGgqEGLF929yQAdoQ%253d%253d>. A copy of that FDS with an asterisk next to section 3 which asks he list all real property owned is attached as Exhibit "A" to this written statement.

<sup>13</sup> Go to <https://voterrecords.com/voter/73371918/timothy-callicrate>.

<sup>14</sup> The bill detail for this address evidences that Ms. Stedman's living trust owns this parcel. A copy of this detail with an asterisk next to Ms. Stedman is attached as Exhibit "B" to this written statement.

**How Does One Go About Researching Whether Mr. Callicrate Paid Any Portion of Ms. Steadman's Real Property Taxes to Washoe County?** The only way I know is to ask Mr. Callicrate. Which is what I did on June 9, 2021 at 10:52 A.M.<sup>15</sup> And as the reader can see from the asterisk next to the represented language, I gave Tim a week (7 days) to come up with the evidence! Because the week is up and Tim has chosen to come up with no evidence whatsoever (because it more than likely does not exist), the public is left with no other reasonable conclusion.

**So What Additional Research Do You Suggest I Perform Mr. Callicrate to Confirm What We All Know to Be the Truth? That is, You're a Taker Because You Don't Pay the RFF/BFF:**

**But There's More! It's Not Just Taking Local Property Owners' Recreation/Beach Privileges. It's Securing a Degree at a Tuition Charging Institution of Higher Learning Where Your Tuition is Involuntarily Paid For by Local Parcel/Dwelling Unit Owners:** That's right! Mr. Callicrate's first stint as trustee on the IVGID Board was back in 1996. This was when Sierra Nevada College ("SNC") was in the process of moving to its current campus on Country Club Drive. And it was lobbying to extend recreation privileges to its faculty and student body. And the minutes of the Board's July 11, 2000 meeting reveal that a Memorandum of Understanding ("MOU") was entered into between SNC and IVGID. Simply stated IVGID offered free use of the District's Recreation and Tennis Centers to SNC faculty and student body, and SNC offered up to ten (10) tuition scholarships to members of the community. *And can you guess who was one of the first in our community to receive a SNC tuition scholarship?* You've got it! **TAKER TIM CALLICRATE!**

**And I'm Tired of Hearing the Takers in Our Community Who Assert That Because IVGID Exists "For the Community," it's Acceptable to Give Away or Discount Access to and Use of the Public's Recreation Venues Below the District's Cost Because That's What Being a Community is All About:** These are clearly Chairperson Callicrate's views ("my concern is that if we're only drilling down to dollars and cents, we will lose the sense of 'community; and the bean counters will have won), and his views are *wrong!* People like Chairperson Callicrate don't understand what GIDs really are, how they differ from true municipalities, and why they exist. So for the umpteenth time, here are the facts:

**GIDs Are Nothing More Than Special Districts:**

"This chapter (NRS 308) may be cited as the Special District Control Law" [NRS 308.010(1)<sup>16</sup>]. "As used in this chapter 'special district' means *any...* general improvement district" [NRS 308.020(2)<sup>17</sup>].

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<sup>15</sup> My e-mail request to Mr. Callicrate is attached as Exhibit "D" to this written statement. I have placed an asterisk next to the portion where I asked him to provide written evidence of his payment of the RFF/BFF.

<sup>16</sup> Go to <https://www.leg.state.nv.us/NRS/NRS-308.html#NRS308Sec010>.

<sup>17</sup> Go to <https://www.leg.state.nv.us/NRS/NRS-308.html#NRS308Sec020>.

**“Special Districts Are:** created and funded by a community’s residents to provide new or enhanced local services and infrastructure”<sup>18</sup> just like those for mosquitos and rats<sup>19</sup>, cemeteries<sup>20</sup>, fencing<sup>21</sup>, or monuments<sup>22</sup>. “Inadequate tax bases and competing demands for existing taxes make it hard for cities and counties to provide all the services their citizens (may) desire. (Therefore) when residents or landowners want new services or higher levels of existing services, they can form a district to pay for and administer them.”<sup>23</sup>

**For These Reasons GIDs Only Have Limited Powers:** GIDs are initiated by an ordinance which includes “a statement of the basic...powers for which the district is proposed to be created (as long as they are)...one or more of those (powers expressly) authorized in NRS 318.116<sup>24</sup>, as supplemented by the sections of this chapter designated therein” [NRS 318.055(4)(b)<sup>25</sup>], and *none* other<sup>26</sup>.

**And “If There (Be) Any Fair or Reasonable Doubt Concerning the Existence of a Power, That Doubt is (to Be) Resolved Against the Board of (Trustees) and the Power is Denied:”** See NRS 244.137(4)<sup>27</sup>. This is the statutory embodiment of a portion of *Dillon’s Rule* [*Ronnow v. City of Las Vegas*<sup>28</sup>, 57 Nev. 332, 343, 65 P.2d 133 (1937)].

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<sup>18</sup> Go to <https://www.nevadacemeterydistrict.com/about-special-districts>.

<sup>19</sup> See NRS 318.116(2)<sup>29</sup>.

<sup>20</sup> See NRS 318.116(3)<sup>29</sup>.

<sup>21</sup> See NRS 318.116(16)<sup>29</sup>.

<sup>22</sup> See NRS 407.120 (go to <https://www.leg.state.nv.us/nrs/nrs-407.html#NRS407Sec120>).

<sup>23</sup> Go to <https://mynevadacounty.com/884/Special-Districts>.

<sup>24</sup> Nev. Const. Article 8, §8 declares that the Legislature shall provide for/restrict the powers of general purpose governments. Since the Legislature has provided for GIDs in NRS 318, their powers are restricted as set forth in NRS 318.055<sup>30</sup>.

<sup>25</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec055>.

<sup>26</sup> See A.G.O. 63-61, p.102, p. 103 (August 12, 1963). This is really a restatement of *Dillon’s Rule* which instructs that “in Nevada’s jurisprudence, the Nevada Supreme Court has adopted and applied *Dillon’s Rule* to county, city and other local governments” [NRS 244.137(2)<sup>32</sup>], “*Dillon’s Rule* provides that a (local government)...possesses and may exercise *only* the following powers and *no others*: (a) those...granted in express terms by the Nevada Constitution or statute (such as NRS 318.055<sup>29</sup>); (b) those...necessarily or fairly implied in or incident to the powers expressly granted; and (c) those...essential to the accomplishment of the declared objects and purposes of the (local government) and not merely convenient but indispensable” [NRS 244.137(3)<sup>32</sup>].

<sup>27</sup> Go to <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec137>.

<sup>28</sup> Go to <https://cite.case.law/nev/57/332/>.

**To Demonstrate These Principles, Would You Ever Ask a Mosquito, Rat, Cemetery or Monument District to:** pass laws? What about to lobby the State Legislature or Congress to influence legislation? Or to publish a magazine laden with business advertising? Or to operate one or more restaurants? Or to operate bars selling alcoholic beverages served by public employees? Or to operate sales facilities selling clothing and soft goods at retail? In a privately owned hotel's shopping mall? Or to be involved in the wedding planning business? Or to maintain a marketing department? Or to purchase print, radio, tv, bill board, and social media advertising? Of course not!

So why is it acceptable for IVGID to engage in any of these activities (it engages in all of them)? Let alone at a financial loss which requires *involuntary* financial subsidy by local property owners?

**GIDs Exist to Provide Services and Facilities to Local Properties<sup>29</sup> Which Cannot be Provided by General Purpose Governments<sup>30</sup>:** Does this sound like us Mr. Callicrate? Did anyone ever ask Washoe County to provide recreational facilities and services to local property owners, and did the County refuse? Did local property owners ever vote to acquire money-losing recreational facilities they would be required to financially subsidize for the benefit of the world's tourists for the rest of their lives? And do the RFF/BFF pay for facilities and services provided to persons or property?

**When Mr. Callicrate Talks About Being a Community Steward<sup>31</sup>, What He is Really Talking About is Providing For the Health, Safety and Welfare of Our Community's Inhabitants:** These are municipal police powers<sup>32</sup>. And what Mr. Callicrate, our GM Winquest and others don't seem to understand is that IVGID is *not* a true municipality.

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<sup>29</sup> NRS 318.201(1) and (9), which are the procedural vehicles IVGID uses to adopt and collect the RFF/BFF, expressly instruct that these fees represent the cost for "services and facilities...receiv(ed by)...*each parcel of real property*" assessed.

<sup>30</sup> See section 1 at page 3 of Legislative Commission of the State Legislative Counsel Bureau Bulletin 77-11, *Creation, Financing and Governance of General Improvement Districts* (September 1976) [go to <https://www.leg.state.nv.us/Division/Research/Publications/InterimReports/1977/Bulletin77-11.pdf>].

<sup>31</sup> "We are trying to act as good stewards of the community."<sup>6</sup>

<sup>32</sup> "Police power(s) do...not specifically refer to the right of state and local governments to create police forces...(Rather, they are) defined as the power of a governmental body to impose laws and regulations which are reasonably related to the protection or promotion of a public good...for the benefit of their communities...such as health, safety or welfare...The sovereign power of a state includes protection of safety, health, morals, prosperity, comfort, convenience and welfare of the public. In the U.S., the authority to regulate local matters concerning health, safety, and morality of state residents is reserved to states under the Tenth (10<sup>th</sup>) Amendment to the (U.S.) Constitution... Usually states delegate to their political subdivisions the power to enact measures to preserve and protect safety, health, welfare, and morals of the community" (go to <https://municipal.uslegal.com/police-powers/>).



**And Because GIDs Are Not Municipalities, They Have No Powers to Provide For the Health, Safety or Welfare of Our Community's Inhabitants:** Do a search for municipal police powers in NRS 318. They do not exist. Now do the same thing insofar as counties<sup>33</sup>, incorporated cities<sup>34</sup> and unincorporated towns<sup>35</sup> are concerned. The exact opposite is true.

**That's Why We Should Look to Washoe County to Provide For the Health, Safety and Welfare of Our Community's Inhabitants:**

**Stated Differently, if Washoe County is Charged With Providing For Our Community's Inhabitants' Health, Safety and Welfare, Why Do We Look to IVGID to Provide the Same?**

**Conclusion:** So there you have it! No one likes to call their elected officials liars, but when as here the shoe fits, they should be made to wear it! Mr. Callicrate doesn't mind being called the liar he really is, because he has "rhino (tough) skin." However, that doesn't give him or any other Board member for that matter the standing to call their constituents blatant liars. Or racists or sexists<sup>36</sup>. Or homophobes<sup>37</sup>! Just because GID trustees may be immune from the monetary consequences of slander<sup>38</sup>, doesn't mean they should be exercising that immunity against members of the public! So to quote Mr. Callicrate, "I'll leave it at that."<sup>10</sup>

And to those asking why their RFF/BFF are as high as they are, and never seem to be reduced, now you have another example of one of the reasons why. Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

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<sup>33</sup> NRS 244.137(6) instructs that counties are empowered to address matters of local concern. Matters of local concern are defined at NRS 244.143(2)(a) to include public health, safety and welfare (go to <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec143>).

<sup>34</sup> NRS 267.530 (<https://www.leg.state.nv.us/nrs/nrs-267.html#NRS267Sec530>) instructs that the powers set forth in "NRS 267.450 to 267.525, inclusive, (are) necessary to secure the public health, safety, convenience and welfare."

<sup>35</sup> NRS 269.190, et seq. address the powers unincorporated towns may exercise. Those powers are listed under the under the "public health, safety, and morals" provisions of NRS chapter 269. NRS 269.128 instructs that the "property, public services and franchises" unincorporated towns may exercise "promote the general welfare of those inhabitants."

<sup>36</sup> Ms. Wong called resident Cliff Dobler these names at the Board's April 29, 2021 meeting. And Ms. Tonking and GM Winquest echoed these descriptions at the same meeting!

<sup>37</sup> At the Board's May 26, 2021 meeting Ms. Wong asked that the proposed minutes of the Board's April 29, 2021 meeting be modified to call Mr. Dobler a homophobe instead of a racist.

<sup>38</sup> NRS 241.0353(1) [go to <https://www.leg.state.nv.us/nrs/nrs-241.html#NRS241Sec0353>] states that "any statement...made by a member of a public body during the course of a public meeting is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action."

**EXHIBIT "A"**



# NEVADA FINANCIAL DISCLOSURE STATEMENT (FDS)

- Please read instructions carefully before completing. -

**FILED**  
May 6 2021  
BARBARA K. CEGAVSKE  
SECRETARY OF STATE  
Date Filed

<b>NAME:</b> <small>(First, Middle, Last)</small>	Tim G. Callicrate	<b>ADDRESS:</b> <small>(Number, Street)</small>	P.O. Box 5663
<b>CITY, STATE, ZIP:</b>	Incline Village, NV, 89450	<b>TELEPHONE:</b>	(775) 831-2009
<b>EMAIL:</b>	tim2tahoe@msn.com	<b>LENGTH OF RESIDENCE IN NEVADA (Years):</b>	33
		<b>LENGTH OF RESIDENCE IN DISTRICT WHERE REGISTERED TO VOTE (Years):</b>	33

**SECTION 1** (Information about your public office): List all public offices for which this financial disclosure statement is required [NRS 281.571(8)]. Please indicate **why** you are filing this form by choosing the appropriate box below.

- **ANNUAL FILING:** Filed by elected and appointed officers (if required) no later than January 15th each year.
- **CANDIDATE FILING:** Filed by candidates for public office no later than the 10th day after the last day to qualify as a candidate.

**TYPE OF FILING** (check one):

**Annual**

**Candidate**

TITLE OF PUBLIC OFFICE AND NAME OF GOVERNMENT <small>(Include the title of the office you hold or are seeking, and the name of the entity that employs this position e.g. 'City Manager', 'City of XYZ')</small>	Elected (E), or Candidate running for office (C)	Is this position entitled to annual compensation of \$6,000 or more?	Amount of compensation received annually	Date elected or appointed
trustee	E	Yes	\$9,000.00	11/6/2018

**SECTION 2** (Sources of Income): List each source of your income (in addition to any source listed in Section 1), or that of any member of your household who is 18 years of age or older. [NRS 281.571(2)]:

SOURCES OF INCOME	Self	HouseHoldMember
Tim Callicrate Productions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
social security	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**SECTION 3** (Real Property): List specific location and particular use of all real estate (other than personal residence): **(a)** in which you or a member of your household has a legal or beneficial interest; **(b)** the fair market value of which is \$2,500 or more; and **(c)** which is located in this state or an adjacent state [NRS 281.571(3)]:

SPECIFIC LOCATION (Address, City, State)	PARTICULAR USE (Rental, Vacation, Land etc.)
None	

**SECTION 4** (Creditors): List each creditor to whom you or a member of your household owes \$5,000 or more **EXCEPT:** **(a)** debt secured by mortgage or deed of trust on real property which is not required to be listed in Section 3 above; and **(b)** debt for which a security interest in a motor vehicle for personal use was retained by seller [NRS 281.571(4)]:

CREDITOR NAME	Self	HouseHoldMember
None		

**SECTION 5** (Meetings, Events, Trips): List all educational or informational meetings, events or trips you or a member of your household have taken during the filing period including **(a)** the purpose

and location of the meeting, event or trip and the name of the organization conducting, sponsoring, hosting or requesting the meeting, event or trip; **(b)** the identity of each interested person providing anything of value to you or a member of your household to undertake or attend the meeting, event or trip; and **(c)** the aggregate value of everything provided by those interested persons to you or a member of your household to undertake or attend the meeting, event or trip [NRS 281.571(5)]. Please note this information is only required for meetings, events or trips taken after December 31, 2015.

SPECIFIC LOCATION (Address, City, State)	NAME OF ORGANIZATION	PURPOSE	NAME OF INTERESTED PARTIES	DESCRIPTION OF ITEM PROVIDED, AND VALUE	Self	HouseHoldMember
None						

**SECTION 6 (Gifts):** List the identity of donor and value of each gift of all gifts received in excess of an aggregate value of \$200 from a donor during the preceding taxable year **EXCEPT: (a)** a gift received from a person who is related to you within the third degree of consanguinity or affinity; and **(b)** ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in your legislative, administrative, or political action [NRS 281.571(6)]:

NAME OF DONOR	DESCRIPTION OF GIFT	VALUE OF GIFT
None		

**SECTION 7 (Business Entities):** List each business entity (**i.e., organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust joint venture, syndicate, corporation or association**) with which you or a member of your household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1% or more of the total outstanding stock or securities issued by the business entity [NRS 281.571(7)]:

BUSINESS ENTITY	Self	HouseHoldMember
Tim Callicrate Productions	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**THE INFORMATION I HAVE PROVIDED HEREIN IS ACCURATE AND COMPLETE.**

Timothy G Callicrate  
Signature

05/06/2021  
Date

**EXHIBIT "B"**

Washoe County Treasurer  
 Tammi Davis

Bill Detail

[Back to Account Detail](#)

[Change of Address](#)

[Print this Page](#)

**Washoe County Parcel Information**

Parcel ID	Status	Last Update
13021301	Active	6/10/2021 1:38:36 AM
<b>Current Owner:</b> STEDMAN LIVING TRUST, BARBARA A PO BOX 6872 INCLINE VILLAGE, NV 89450		<b>SITUS:</b> 170 MAYHEW CIR INCL NV
<b>Taxing District:</b> 5200		<b>Geo CD:</b>
Legal Description		
Township 16 Section Lot 7 Block L Range 18 SubdivisionName MILL CREEK ESTATES		

**Installments**

Period	Due Date	Tax Year	Tax	Penalty/Fee	Interest	Total Due
INST 1	8/17/2020	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 2	10/5/2020	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 3	1/4/2021	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 4	3/1/2021	2020	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Due:</b>			<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Tax Detail**

	Gross Tax	Credit	Net Tax
<u>Incline Recreati</u>	\$830.00	\$0.00	\$830.00
<u>Incline Village</u>	\$296.50	(\$192.49)	\$104.01
<u>North Lake Tahoe 2</u>	\$1,465.55	(\$697.83)	\$767.72
<u>State of Nevada</u>	\$384.48	(\$127.06)	\$257.42
<u>Washoe County</u>	\$3,147.54	(\$1,040.16)	\$2,107.38
<u>Washoe County Sc</u>	\$2,574.89	(\$850.93)	\$1,723.96
<u>LAKE TAHOE WATER BASIN</u>	\$0.13	\$0.00	\$0.13
<b>Total Tax</b>	<b>\$8,699.09</b>	<b>(\$2,908.47)</b>	<b>\$5,790.62</b>

**Payment History**

Tax Year	Bill Number	Receipt Number	Amount Paid	Last Paid
2020	2020459179	B20.255844	\$1,447.62	3/8/2021
2020	2020459179	B20.205387	\$1,000.00	1/15/2021
2020	2020459179	B20.205388	\$505.52	1/15/2021
2020	2020459179	B20.93723	\$1,447.62	9/16/2020
2020	2020459179	B20.58982	\$1,447.76	8/18/2020

**Pay By Check**

Please make checks payable to:  
**WASHOE COUNTY TREASURER**

**Mailing Address:**  
 P.O. Box 30039  
 Reno, NV 89520-3039

**Overnight Address:**  
 1001 E. Ninth St., Ste D140  
 Reno, NV 89512-2845

**Change of Address**

All requests for a mailing address change must be submitted in writing, including a signature (unless using the online form).

To submit your address change online [click here](#)

Address change requests may also be faxed to: (775) 328-3642

Address change requests may also be mailed to: Washoe County Assessor 1001 E 9th Street Reno, NV 89512-2845

**EXHIBIT "C"**

## RE: Public Records Request - Evidence That Tim Callicrate Has Paid the RFF and BFF to IVGID For the Last 30 Years

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**From:** "Herron, Susan" <Susan\_Herron@ivgid.org>  
**To:** 's4s@ix.netcom.com' <s4s@ix.netcom.com>  
**Cc:** Tim Callicrate <Tim2tahoe@msn.com>, Tim Callicrate <callicrate\_trustee@ivgid.org>  
**Subject:** RE: Public Records Request - Evidence That Tim Callicrate Has Paid the RFF and BFF to IVGID For the Last 30 Years  
**Date:** Jun 10, 2021 9:03 AM

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Mr. Katz,

Washoe County does the collection of the Facility Fees via the property tax bill therefore your request must be made to the Washoe County Treasurer. For the record, I have no responsive records to provide.

Susan

-----Original Message-----

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]  
Sent: Wednesday, June 9, 2021 10:45 PM  
To: Herron, Susan <Susan\_Herron@ivgid.org>  
Cc: Tim Callicrate <Tim2tahoe@msn.com>; Tim Callicrate <callicrate\_trustee@ivgid.org>  
Subject: Public Records Request - Evidence That Tim Callicrate Has Paid the RFF and BFF to IVGID For the Last 30 Years

Hello Ms. Herron -

Another records request.

I would like to examine evidence of payment(s) from Tim Callicrate to the District expressly for the Rec (RFF) and Beach (BFF) Facility Fees for the last thirty (30) years.

As you know at tonight's Board meeting Mr. Callicrate represented he pays these fees and I don't know the truth. So let's find the truth.

Please don't respond these records are confidential. In case you would revert to a response like this. Besides the fact who pays is not confidential, I have asked Mr. Callicrate to expressly waive any claim of confidentiality so you are free to share the truth. And by copy of this e-mail request, I am reiterating the request. Hopefully because he has nothing to hide, he will so notify you. And assuming he does, I would like to examine that confidentiality waiver as well.

Thank you for your cooperation. Aaron Katz



**EXHIBIT "D"**

## Well You Opened the Door Chairperson Callicrate, So Let's Close It!

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**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <tim2tahoe@msn.com>  
**Subject:** Well You Opened the Door Chairperson Callicrate, So Let's Close It!  
**Date:** Jun 9, 2021 10:52 PM

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You opened the door tonight Tim. You accused me of being a liar because I stated during public comment at tonight's IVGID Board meeting that you do not pay the Rec Fee. And you declared that you do. You said I don't know about your personal finances and you're right, I don't. So share the facts. Prove I am the liar or you are the liar.

You're not a property owner. Only property owners are assessed the Rec Fee. So unless you pay the Rec Fee portion of the taxes someone else is assessed, you don't pay the Rec Fee. So put up Tim. Show all in our community your cancelled check(s) to the County Treasurer evidencing your payment of the Rec Fee. And since you tell us so often you've been a resident here for 30 years, let's see your evidence of payment for the last 30 years.

Or maybe you make direct payment to IVGID? I don't understand how this is possible because I know of no one who pays the Rec Fee this way. But just to cover all the basis, let's see your evidence of payment to IVGID. And let's see it for the last 30 years.

Or let's try this a different way. Let's do a public records request. I have asked Ms. Herron, to provide records evidencing Tim Callicrate's payment of the Rec Fee for the last 30 years. And since you're so eager to share the truth, I expect you to waive any claim of confidentiality so Ms. Herron doesn't have to respond to me that the requested records are confidential. And please provide me with evidence of that waiver so I won't have an issue with Ms. Herron.

You've got seven (7) days Tim. Put up or shut up. If you produce the evidence requested, I will publicly apologize to you for wrongly accusing you of not paying the Rec Fee. If you don't, you publicly apologize to me. Fair enough?

Now let's go to the second fact I allegedly don't know about. You brought up Sierra Nevada University previously known as Sierra Nevada College ("SNC"). You obtained a degree from SNC didn't you? Your LinkedIn page for Tim Callicrate Productions proudly represents this fact. You didn't pay for this education either, did you Tim? Years ago a prior stupid IVGID board entered into a MOU with SNC whereby essentially all of their students and staff were given free access to the Rec and Tennis Centers (at designated hours) and a number of free SNC scholarships were given in consideration to members in the community. Not local property owners, but members of the community. And you were one of those members weren't you? If my facts are wrong and you paid for your SNC education, let's see your evidence Tim. Show us your cancelled checks. You've got seven (7) days Tim.

You're a taker Tim Callicrate. The BIGGEST taker of our community. You don't pay your fair share. You ask your property owning neighbors to pay for your recreation. And your education. And who knows what else that I haven't yet accused you of. Own up and admit it. And get off your high horse about how you're so here for the community. No you're here for yourself. Taker, taker, taker!

You've got seven (7) days to provide the written evidence. If you don't I will call you out every opportunity I get. And I will publicize this e-mail for all to see the type of person you really are.

Thank you for your anticipated cooperation.

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENTS – STAFF’S UNABASHED MISAPPROPRIATION OF PUBLIC FUNDS WITHOUT CONSEQUENCE**

**Introduction:** It just never ends. The more one peels away the onion, the uglier it gets. And that’s when we’re not even looking for onions! And here I provide two examples of the principle stated; staff’s maintenance and repair of two county parks, and staff’s snowplowing of several dedicated county roads. The real costs over the decades have been hundreds if not tens of hundreds of dollars. And the funding has come from local parcel owners’ Recreation Facility Fee (“RFF”). When does this arrogance and “playing dumb” end? When does our Board provide a consequence for this willful negligence by staff? These are the purpose(s) of this written statement.

**February 7, 1978 Inter-Local Agreement Between Washoe County and IVGID Whereby IVGID Assumed the County’s Obligation to Plow Certain Dedicated Roads:** Forty-three (43) years ago another STUPID Board authorized its STUPID General Manager<sup>1</sup> to enter into this agreement with the county<sup>2</sup>. According to the agreement, IVGID is responsible for providing “all necessary equipment, work and labor” to plow the following roadways of snow and apply sand to those roadways thereafter to county standards: Country Club Blvd from the intersections at State Highway 28 and Ski Way; Ski Way from the intersections at Country Club Blvd and First Green (close to the Big Water Grille Restaurant); and, Ski Way from the intersections at First Green and Tirol Drive at the entrance to the Tyrolean Village planned unit development (“PUD”); of snow. The county is responsible for providing sand to be applied after plowing, and enforcing speed limitations on the privately owned portion of Ski Way from the intersections at First Green and Tirol Drive. IVGID has granted the county a hold harmless agreement insofar as claims by the public, and it has agreed to acquire insurance (at its cost) to insure against such claims.

Why would IVGID staff urge servicing the county’s dedicated roadways at the District’s cost? And why would IVGID staff assume responsibility for plowing Tyrolean Village homeowners’ ingress and egress along Ski Way without at the very least requiring some cost reimbursement from Tyrolean Village PUD?

**January 11, 1990 Agreement Between Washoe County and IVGID Whereby IVGID Assumed the County’s Obligation to Maintain and Repair the East and West Parks at the Intersections of State Highway 28 and Lakeshore Blvd:** Thirty-one (31) years ago another STUPID Board entered into this agreement with the county<sup>3</sup>. According to the agreement two “interpretive parks” were to be constructed<sup>4</sup> at either end of Lakeshore Blvd where they intersect State Highway 28, IVGID would be

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<sup>1</sup> The authorization is reflected in the minutes of the Board’s January 26, 1978 meeting.

<sup>2</sup> A copy of the agreement is attached as Exhibit “A” to this written statement.

<sup>3</sup> A copy of the agreement is attached as Exhibit “B” to this written statement.

<sup>4</sup> Which per ¶9 of the agreement would be owned by the county.

responsible for “maintain(ing) the(se) facilities at a level...equal to that provided other...county facilities,” and the county would be responsible for “funding...operation and maintenance of the facilities at a level sufficient to cover IVGID’s direct and indirect costs of...operation and maintenance.”

It turns out that since 1995 IVGID staff have not been budgeting nor billing the county for the costs of maintaining, repairing and upgrading these two parks. And rather than seeking reimbursement<sup>5</sup>, our GM suggests we consider reimbursement to be “water under the bridge.” And why is IVGID assuming a larger and larger footprint which creates financial support from local parcel owners?

**My June 28, 2021 E-Mail to the Board on the Subject of Maintaining the Two East-West County Parks<sup>6</sup>:** On June 28, 2021 I wrote to the IVGID Board a second time alerting members to the subject issue in relation to an IVGID employee providing maintenance labor. I asked what the Board intended to do about the situation, which I anticipated would be nothing. The next day I received a response from our GM, Indra, which I interpreted to be: it doesn’t matter because “community” is more important; and, there would be a meeting on this subject and how to move forward with the county manager on July 9, 2021.

**My July 6, 2021 E-Mails to the Board on the Subject of Plowing County Dedicated Roads<sup>7</sup>:** On July 6, 2021 I wrote to the IVGID Board alerting members a second time to the subject issue. I asked why IVGID continues to do other persons’ jobs at local property owners’ expense, and attempted to explain that jobs like these cost a lot more than just the cost of labor. I also asked for records evidencing the yearly budget for these tasks given I anticipate there is none.

**Conclusion:** So there you go. Our staff don’t have enough to do without attending to county property? They don’t have enough employees to assign to someone else’s property, so let’s hire a couple more? They don’t have a justification for additional equipment, so let’s fabricate one (here several \$260K loaders to plow snow as a minimum)? They can’t cut their overspending so our recreation venues operate at a break even or positive cash flow so let’s create a scapegoat as the reason why? And all of this comes at local parcel owners’ expense because the costs associated with these two contracts are subsidized by the RFF.

Our staff are so quick to offer to do someone else’s job on someone else’s property because they’re not paying for it! Our GM isn’t paying because he resides in Reno. “Timmy” the taker and Michaela the “mooch” aren’t paying because neither owns real property within the District’s boundaries and for this reason, doesn’t pay the RFF. So why should they care?

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<sup>5</sup> A minimum of \$104,000.

<sup>6</sup> This e-mail and our GM’s June 29, 2021 response are attached as Exhibit “C” to this written statement.

<sup>7</sup> These e-mails are attached as Exhibit “D” to this written statement.



**EXHIBIT "A"**

THIS INTER-LOCAL COOPERATIVE AGREEMENT is entered into this day between Washoe County, hereafter referred to as "County," and Incline Village General Improvement District, hereafter referred to as "IVGID," in accordance with the provisions of NRS 217.180. This contract shall be ratified by official action of the governing bodies of each party as a condition precedent to its entry into force.

This Agreement is made with reference to the following facts:

(a) The purpose of this Agreement is to delineate the responsibilities and obligations of the parties hereto for employing and mending of those certain roadways located in Incline Village in Washoe County known as: (1) Country Club Boulevard, commencing in proximity to its intersection with Highway 20 and continuing to the proximity of its intersection with Ski Way; and, (2) Ski Way, commencing in proximity to its intersection with Country Club and continuing to the area in proximity to where Ski Way joins Tixel Drive at the Tyrolia Village gates. Attached as Exhibit A is a map showing the roadway areas as delineated.

(b) The parties hereto recognize that a portion of said roadways has been accepted for maintenance by the County and that a portion of said roadways has been accepted for maintenance by IVGID, and that by this Agreement they intend to provide for an exchange of services.

(c) The parties further intend by this Agreement to provide that County will enforce speed limitations and traffic control on that portion of the roadways previously accepted for maintenance by IVGID.

HOW, THEREFORE, the parties agree:

(1) IVOID shall provide all the necessary equipment, work and labor to excavate and apply sand to those portions of Country Club Boulevard and Ski Way as previously described in Sub (a) above. IVOID agrees to excavate and sand said roadways to Washoe County standards.

(2) That County will provide all materials to be used for sanding said described roadways at the same application rates and to the same extent that County provides sanding on other roads in Incline Village; provided further, however, that IVOID's obligation to sand shall be conditioned upon County providing sanding materials. Further, IVOID shall, upon reasonable notice from County, provide sanding services because of extreme hazardous conditions, which services may be beyond the County's ordinary sanding for other roads. If County determines that it is unable to supply sand materials as needed, then IVOID may obtain sand materials elsewhere and County agrees to reimburse IVOID for the cost thereof.

(3) Each party shall absorb its own costs in providing the services set forth herein. It is represented that each party shall annually budget sufficient monies to provide the services described herein during the term of this Agreement.

(4) That each party shall hold the other harmless from any claim whatsoever by reason of its providing services as set forth herein. Such hold-harmless clause shall apply to the claims of third parties who may have personal and property damage injury as a result of the activities of the respective parties. It is represented that each party will acquire and maintain adequate insurance to cover the claims of third parties.

(5) County will use reasonable efforts to enforce traffic speed controls on those portions of the roadways maintained by IVOID in the same manner and to the same



heretofore accepted for maintenance by County.

(6) That this Agreement shall become effective immediately following its verification by the parties hereto and shall continue in effect until June 1, 1978. Thereafter, this Agreement shall be in effect between January 1 and June 1 of each succeeding year and shall be automatically renewed unless either of the parties hereto serves by certified mail on the other party to this Agreement a written notice of cancellation not more than fifteen (15) days after January 1 of a new contract year, in which event this Agreement will officially terminate on receipt of said notice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year appearing by the signatures below,

WASHOE COUNTY, acting by and through its Board of County Commissioners

By [Signature]  
KEN HANFF, Chairman

DATE: January 31, 1978

ATTEST:  
ALEX COOK, Clerk  
By [Signature] CHIEF DEPUTY  
Clerk

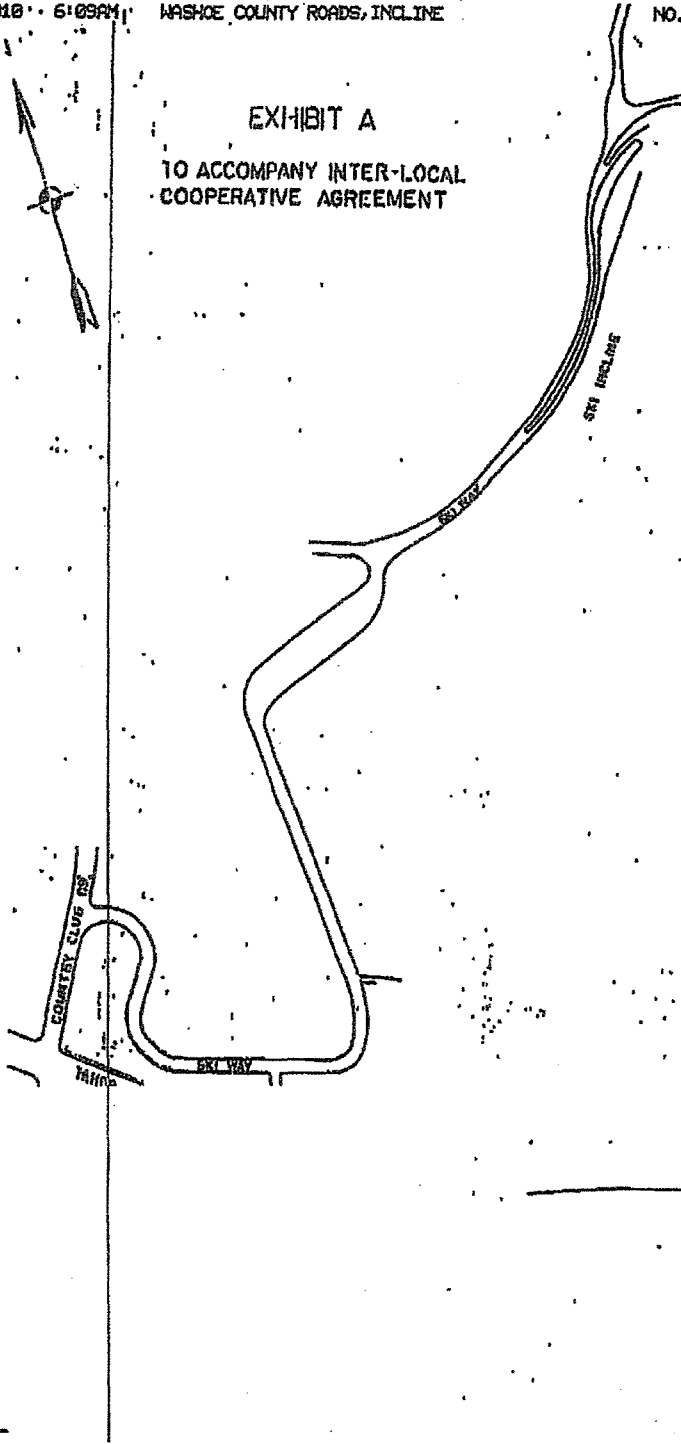
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

By [Signature]  
WILLIAM HENNING, General Manager

DATE: January 7, 1978

ATTEST:  
[Signature]

EXHIBIT A  
TO ACCOMPANY INTER-LOCAL  
COOPERATIVE AGREEMENT



**EXHIBIT "B"**

AGREEMENT - WASHOE COUNTY AND IVGID  
FOR INCLINE VILLAGE INTERPRETATIVE PARKS

This Agreement, entered into this 11<sup>th</sup> day of January, 1989<sup>90</sup>, between Incline Village General Improvement District, a local public agency established under NRS Chapter 318 (herein referred to as "IVGID") and Washoe County, a political subdivision of the State of Nevada (herein referred to as "COUNTY")

W I T N E S S E T H:

WHEREAS, County has moneys available from the Residential Construction Tax Fund which it desires to use for construction of two parks located at the East and West ends of Lakeshore Drive at Incline Village; and

WHEREAS, IVGID has the experience and expertise needed to construct, operate and maintain the Parks and has agreed to accept such responsibilities; and

WHEREAS, the parties wish to establish an understanding of their rights and obligations with respect to the Parks.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. The Project

The project consists of construction, including site improvements, parking, one gazebo, interpretative signage, path systems and landscaping, and the subsequent operation and maintenance of two Interpretative Parks on land located at the East and West ends of Lakeshore Drive described in Exhibits A

and B, attached hereto and incorporated herein.

IVGID may, with prior County approval, add additional features at its sole expense.

2. Project Costs

The estimated cost of construction of this project is One Hundred Thirty One Thousand Five Hundred Dollars (\$131,500). This figure is IVGID's best estimate of all costs of manpower, materials, supplies, and equipment necessary to complete the project according to the plans and specifications incorporated herein as Exhibit "C." These funds shall be provided by the County.

The parties further agree that said project costs shall not exceed the aforementioned estimated amount without prior approval of County. In the event that IVGID reasonably anticipates that said project costs will exceed the estimated amount, it shall promptly notify County in writing of such fact, so that the parties may promptly meet to negotiate and agree upon the cost of any additional construction required for the project.

3. Disbursement of Funds

Trust Account. IVGID shall establish an independent, interest bearing trust account for the exclusive purpose of receiving and disbursing District 9 funds, and, if applicable, other County funds for the Project. Non-County Project funds, if any, shall not be deposited in the Project trust account and shall not be commingled with County funds.

Receipts. County shall make payment to IVGID of such sums at such times as necessary to meet County funding requirements. County may aggregate several monthly payments, or pay lump sums by phase, at its discretion, provided that it shall at a minimum make timely payments sufficient to meet IVGID's requirements. IVGID shall deposit all payments received from County in the trust account. Under no circumstances shall County make payments to IVGID in a total amount exceeding the County's funding commitments.

Disbursements. IVGID shall disburse funds from the trust account to pay Project costs, and for no other purpose. IVGID shall remit to County all funds in the trust account at the completion of the Project.

Statement. Until completion of the Project, IVGID shall provide County a monthly statement of the trust account. Such statement shall include a copy of the bank's statement of transactions and balances; a schedule of all expenses supporting each disbursement from the account; and copies of the bills and other documents supporting each expense.

Records. IVGID shall maintain adequate financial and nonfinancial records pertaining to the Project, including records pertaining to Project design and construction, sufficient to demonstrate compliance with this Agreement, generally accepted accounting principals, and applicable laws and regulations. All such records shall be available at

reasonable time for inspection by County and its agents.

4. Inspections - Permits

Whenever deemed necessary the County shall conduct inspections of the work to determine compliance with the plans and specifications. Any defects or unacceptable variations will be reported to IVGID who shall take appropriate action to remedy the problem. It is understood that this shall not act as an assumption by the County of the owner's duty to inspect construction as is normal in construction projects and does not relieve IVGID of such responsibilities.

County will provide plan checks and such other checks and inspections that are normally provided to any person who is subject to the County's building permit requirements.

County will waive any fees to the extent that they are waived on the County's own projects.

5. Plan Approval, Change Orders

Attached hereto as Exhibit C are the Plans and Specifications for the parks. Either party may request a change of the agreed upon plans or specifications either prior to or during construction.

Any such request will be submitted to the other party for review and will be considered and a decision made within 10 days of receipt. The parties will negotiate any differences and change, add, or delete any items necessary to achieve mutual agreement of the plans and specifications, provided that the County will make the final decision.

6. Construction Contracts

IVGID shall be the contractor for the project and shall comply with the Nevada Revised Statutes provisions for local government spending with respect to any materials or labor contracts including, without limitation, bidding or purchasing and disbursement or retention of moneys.

IVGID shall submit copies of all bid requests or proposals for County review and approval prior to dissemination thereof.

7. Management of Facilities

Following completion of construction, IVGID shall have full and complete operational responsibilities. The facilities shall be open to the public subject only to such restrictions as are necessary to ensure the safety of users and the property, provided that any such restrictions must be approved by the County as consistent with the operation of other County facilities.

8. Maintenance of Facilities

IVGID shall maintain the facilities at a level at least equal to that provided other IVGID facilities and County facilities. County may conduct periodic or random inspections and demand correction of any deficiencies.

County shall provide funding for the operation and maintenance of the facilities at a level sufficient to cover IVGID's direct and indirect costs of such operation and maintenance. County shall provide an annual operational budget



of at least Four Thousand Dollars (\$4,000), in the form of either money or services, to be paid to IVGID at the beginning of each fiscal year. Should IVGID reasonably anticipate that its operating costs will exceed this minimum amount, it shall submit a revised budget to County and County and IVGID shall meet to negotiate and agree upon said revised budget.

Notwithstanding statutory requirements to the contrary, such revised budget may be adopted by mutual agreement of the parties, without a formal modification of this agreement by letter, resolution or other documentation.

The parties further agree that any monies expended or services provided by County to correct problems deemed hereunder to be the responsibility of IVGID, which problems IVGID fails to resolve after the serving of proper notice to IVGID by County, may be credited against said budgeted or applied funds.

9. Ownership

It is acknowledged that the County shall be the owner of all improvements except those which may be constructed by IVGID under separate contract funded entirely by non-County money, provided that the money or supplies or labor was donated specifically to IVGID and not to the County.

10. Indemnification - Hold Harmless - Insurance

A. Insurance. For any contract for construction or installation, the contractor shall be required to provide owner's and contractor's protective insurance in an amount not

less than the contract amount. IVGID and Washoe County shall each be named as an additional insured, and each shall receive a certificate of insurance.

If IVGID elects to procure commercial property insurance for the Project, such insurance shall name Washoe County as an additional insured, and a copy of the insurance certificate shall be provided by IVGID to County. If IVGID elects not to procure commercial property insurance for the Project, the Project shall be covered in a self-insurance program or other risk financing technique acceptable to County.

B. Indemnification of County. IVGID shall indemnify and hold County and its officers, employees, agents, contractors, and subcontractors harmless from any claims, demands, losses, defense costs, or liability of any kind or nature which County, its officers, employees, agents, contractors or subcontractors may sustain or incur or which may be imposed upon them, including but not limited to physical or emotional injury to or death of persons, or damage to property, arising out of actions by, or the negligence of, IVGID or IVGID's officers, employees, agents, contractors, or subcontractors in connection with this Project or this Agreement, excepting only liability arising out of actions of, or negligence by, County, its officers, employees, agents, contractors, and subcontractors.

Should County employees be required to respond to any such claims or actions IVGID shall reimburse County for the

time involved.

In assessing the nature of the claim against the County and its obligation to respond, the underlying incident shall be determinative notwithstanding the form of the allegations against the County.

C. Indemnification of IVGID. County shall indemnify and hold IVGID and its officers, employees, agents, contractors and subcontractors harmless from any claims, demands, losses, defense costs, or liability of any kind or nature which IVGID, its officers, employees, agents, contractors or subcontractors may sustain or incur or which may be imposed upon them, including but not limited to physical or emotional injury to or death of persons, or damage to property, arising out of actions by, or the negligence of, County or County's officers, employees, agents, contractors or subcontractors in connection with this Project or this Agreement, excepting only liability arising out of actions of or negligence by, IVGID, its officers, employees, agents, contractors, and subcontractors.

11. Term of Agreement

This Agreement shall remain in effect for as long as the Parks are in existence unless terminated as herein provided.

12. Resolution of Disputes

Any dispute which may arise will be submitted to the County Manager and the IVGID General Manager. If it cannot be resolved at that level it shall be presented to their governing

boards. If a satisfactory compromise cannot be reached the decision of the Board of County Commissioners shall be final.

13. Termination

IVGID and County each reserves the right, upon the giving of at least ninety (90) days written notice to the other party, to terminate this agreement or to suspend or abandon the project and all work connected with the project, for any cause or reason whatsoever.

On the termination of this agreement, or the suspension or abandonment of the project by County, County shall pay IVGID as full payment for all services performed and expenses incurred, all sums owing to IVGID on the day written notice is received by IVGID, plus the reasonable value of all work performed under this agreement by IVGID up to the time it receives such notice. Additionally, IVGID may remove from park grounds its own personal property and other materials and supplies not provided with County funds or provided for specific use in the parks, provided that such removal can be accomplished without creating a dangerous condition for persons or property otherwise.

In the event that County has advanced funds to IVGID for services which are not yet performed at the time of termination of this agreement, IVGID, at County's request, shall return such unused funds to County.

14. Litigation - Attorneys Fees and Costs

If either party is compelled to institute, prosecute, execute, defend, or enforce any action or proceeding pertaining to this Agreement, the total of such sums, expenses, and losses, including attorneys fees and costs, shall be due and payable to the prevailing party from the nonprevailing party within 30 days after such award.

15. Amendments

This Agreement may be amended by mutual agreement of the parties in writing. No action by IVGID shall be deemed an amendment of this Agreement unless approved by motion of IVGID's Board of Trustees. No action of County shall be deemed an amendment of this Agreement unless approved by motion of County's Board of Commissioners.

16. Assignment

Neither party may assign any part of this Agreement without the prior written consent of the other party's governing body. All terms hereof shall be binding on the heirs, successors, and assigns of the parties.

17. Waiver

No term or condition of this Agreement may be waived, except by written consent. Forbearance or indulgence by either party, in any regard whatsoever, shall not constitute a present or future waiver of that or any other term, covenant, or condition unless expressly stated.

18. Severability

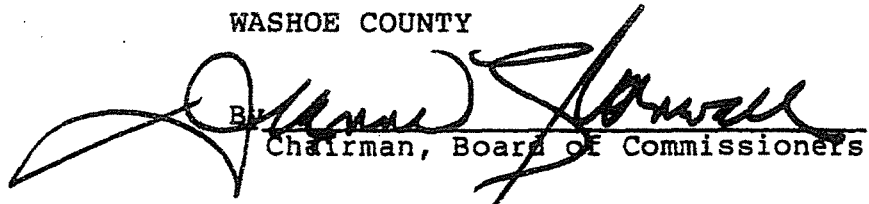
If any provision of this Agreement or the application thereof to either party or to any other person or circumstance is found or declared invalid, void, or unenforceable, the remaining provisions, or the application of such provisions to the other party, or to any other person or circumstance, shall remain in full force and effect.

19. Notice

Notice pursuant to this Agreement shall be given in writing to IVGID at P.O. Drawer P, Incline Village, Nevada 89450, or delivered personally to IVGID's offices at 893 Southwood Boulevard, Incline Village, Nevada. Notice to County pursuant to this Agreement shall be given in writing to Washoe County Parks and Recreation Department, P.O. Box 11130, Reno, Nevada 89520-0027 or delivered personally to County's offices at 2601 Plumas Street, Reno, Nevada 89509.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above noted.

WASHOE COUNTY

  
Chairman, Board of Commissioners

ATTEST:

\_\_\_\_\_  
County Clerk

INCLINE VILLAGE GENERAL  
IMPROVEMENT DISTRICT

By Roberta Gang  
Chairman, Board of Trustees

By Robert C. Wolf  
Secretary, Board of Trustees

STATE OF NEVADA )  
                          : ss.  
COUNTY OF WASHOE )

On the 11th day of January, 1990, personally  
appeared before me, a Notary Public, Roberta Gang and  
Robert C. Wolf of  
the INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, who acknow-  
ledged to me that they executed the above instrument for the  
purpose therein contained.

Judith C. Crocket  
NOTARY PUBLIC

Reviewed and approved:

Patrick L. Finnigan  
Patrick L. Finnigan  
Director, Administrative  
Services

Noel E. Manoukian  
Noel E. Manoukian, Ltd.  
General Counsel

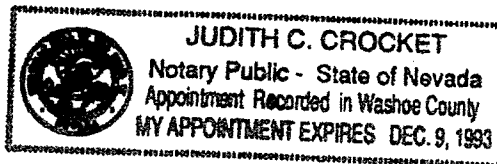


EXHIBIT "A"

WEST PARK

Beginning at a Point 21.10 ft. Left of Engineers Station "04" 197+40.07 (Centerline P.T.) said point being on a 978.90 ft. radius curve to the Right, the radius point of which bears S 31°45'07"E;

THENCE 184.71 ft. along the arc of said curve to the Right through a central angle of 10°48'40", the chord of which bears N 63°39'13"E 184.43 ft. to a point;

THENCE S 34°30'28"E 34.91 ft. to a point;

THENCE S 19°36'19"W 56.82 ft. to a point;

THENCE S 07°22'48"E 40.01 ft. to a point;

THENCE S 36°42'53"E 52.32 ft. to a point;

THENCE S 01°53'30"E 69.35 ft. to a point;

THENCE S 85°36'10"W 222.70 ft. to a point on a 135.00 ft. radius curve to the Right;

THENCE 127.91 ft. along the arc of said curve to the Right through a central angle of 54°17'09", the chord of which bears N67°15'16"W 123.18 ft., to a point on a 20.00 ft. radius curve to the Right;

THENCE 24.37 ft. along the arc of said curve to the Right through a central angle of 69°49'30", the chord of which bears N 05°11'56"W 22.89 ft., to a point on a 110.00 ft. radius curve to the Right;

THENCE 54.78 ft. along the arc of said curve to the Right through a central angle of 28°32'04", the chord of which bears N 43°58'51"E 54.22 ft. to a point;

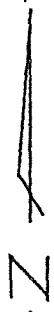
THENCE N 58°14'53"E 112.16 ft. to the Point of Beginning.

Said Parcel as described contains 53,661 sq. ft. or 1.232 Acres more or less.



WEST PARK

SCALE  
1" = 50'



"04" 191+41.07

P.T.

TAHOE BLVD.

S 34° 30' 28" E  
34.91

S 19° 36' 19" W  
56.28

S 07° 22' 48" E  
40.01

S 36° 42' 53" E  
52.32

S 01° 53' 30" E  
69.35

A - 184.71  
R = 978.90  
Δ = 10° 48' 40"

HWY. # 28  
N 58° 14' 53" E  
112.16

A - 54.78  
R = 110.00  
Δ = 28° 32' 04"

R = 20.00  
Δ = 69° 49' 30"  
A = 24.37

R = 135.00  
Δ = 54° 17' 09"  
A = 127.91

S 85° 36' 10" W  
222.70

LAKESHORE DR.

## EAST PARK

Parcel 1,

Beginning at a Point 29.98 ft. Left of Engineers Station "0<sup>3</sup>" 549+54.75 (Centerline P.O.C.), Said point being on a 1821.19 ft. radius curve to the Left, the radius point of which bears S 61°37'45"E;

THENCE 253.65 ft. along the arc of said curve to the Left through a central angle of 7°58'48", the chord of which bears S 24°22'51"W 253.44 ft., to a point on a 25.00 ft. radius curve to the Right;

THENCE 33.86 ft. along the arc of said curve to the Right through a central angle of 77°36'35", the chord of which bears S 59°11'45"W 31.33 ft., to a point on a 110.00 ft. radius curve to the Right;

THENCE 82.89 ft. along the arc of said curve to the Right through a central angle of 43°10'27", the chord of which bears N 60°24'44"W 80.94 ft., to a point on a 182.00 ft. radius curve to the Right;

THENCE 74.54 ft. along the arc of said curve to the Right through a central angle of 23°27'54", the chord of which bears N 27°05'34"W 74.02 ft., to a point;

THENCE N 15°21'37"W 135.91 ft. to a point;

THENCE N 74°38'23"E 35.00 ft. to a point on a 125.00 ft. radius curve to the Left, the radius point of which bears N 48°16'33"E;

THENCE 236.86 ft. along the arc of said curve to the Left through a central angle of 108°34'10", the chord of which bears N 83°59'28" 202.98 ft., to a point being 71.42 ft. Left of Engineers Centerline Station "0<sup>3</sup>"549+56.96 P.O.C.;

THENCE S 60°17'37"E 41.47 ft. to the Point of Beginning.

Said Parcel as described contains 37,832 sq. ft. or 0.87 Acres more or less.

Parcel 2,

Beginning at a Point 188.71 ft. Left of Engineers Station "0<sup>3</sup>" 546+99.82 (Centerline P.O.C.), said point being on a 218.00 ft. radius curve to the Left, the radius point of which bears N 59°03'02"E;

THENCE 71.34 ft. along the arc of said curve to the Left through a central angle of 18°45'03", the chord of which bears S 40°19'30"E 71.03 ft. to a point;

THENCE S 12°47'26"W 27.09 ft. to a point;

THENCE S 36°51'52"W 29.50 ft. to a point;

THENCE N 15°21'37"W 106.35 ft. to a point;

THENCE N 74°38'23"E 6.12 ft. to the Point of Beginning.

Said Parcel as described contains 2141 sq. ft. or 0.049 Acres more or less.

## Parcel 3,

Beginning at a Point 35.08 ft. Left of Engineers Station "0<sup>3</sup>" 546+19.99 (Centerline P.O.C.), said point being on a 1330.80 ft. radius curve to the Left, the radius point of which bears S 82°57'48"E;

THENCE 408.66 ft. along the arc of said curve to the Left through a central angle of 17°35'40", the chord of which bears S 01°45'38"E 407.06 ft. to a point;

THENCE S 79°26'32"W 24.00 ft. to a point on a 1354.80 ft. radius curve to the Right, the radius point of which bears N 79°26'32"E;

THENCE 399.23 ft. along the arc of said curve to the Right through a central angle of 16°53'02", the chord of which bears N 02°06'57"W 397.79 ft. to a point;

THENCE S 74°38'23"W 42.75 ft. to a point;

THENCE N 11°07'00"E 37.57 ft. to a point;

THENCE N 26°17'37"E 21.11 ft. to a point;

THENCE N 42°52'54"E 9.19 ft. to a point;

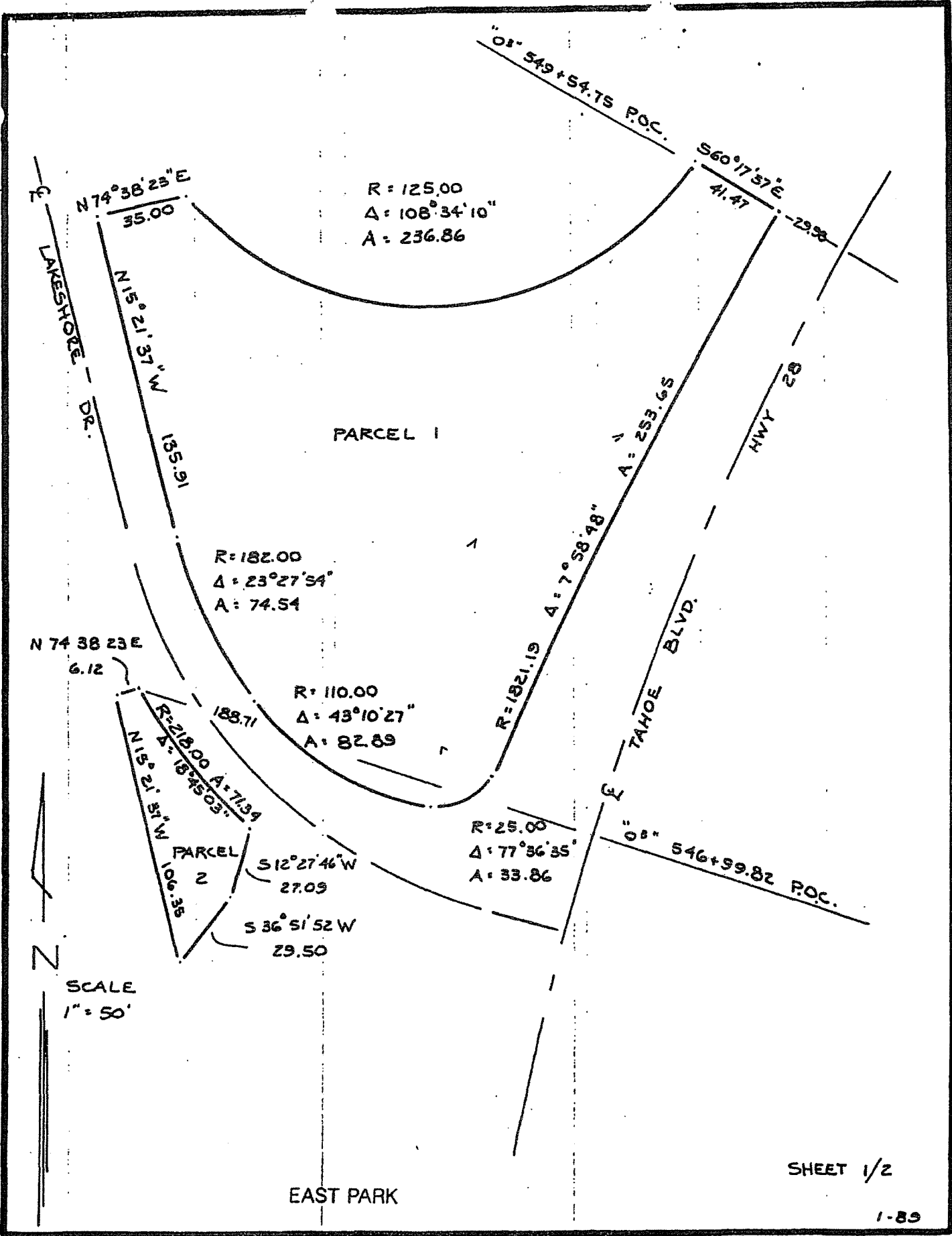
THENCE N 81°18'01"E 5.97 ft. to a point;

THENCE S 58°48'53"E 12.72 ft. to a point;

THENCE S 47°35'01"E 21.29 ft. to a point;

THENCE S 33°48'25"E 20.94 ft. to the Point of Beginning.

Said parcel as described contains 12,128 sq. ft. or 0.278 Acres more or less.



- ① S 74° 38' 23" W 42.75
- ② N 11° 07' 00" E 37.57
- ③ N 26° 17' 37" E 21.11
- ④ N 42° 52' 54" E 9.19
- ⑤ N 81° 18' 01" E 5.97
- ⑥ S 58° 48' 53" E 12.72
- ⑦ S 47° 35' 01" E 21.29
- ⑧ S 33° 48' 25" E 20.94

LAKESIDE DR.

PARCEL 3

03" 546 + 19.99 POC.

35.08

A = 399.23

A = 408.66

Δ = 16° 53' 02"

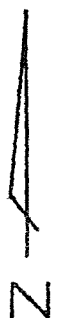
Δ = 17° 35' 40"

R = 1354.80

R = 1330.80

S 79° 26' 32" W  
24.00

SHEET 2/2



SCALE  
1" = 50'

EAST PARK

**EXHIBIT "C"**

## Re: More Evidence Our Rec Fee Pays For All Sorts of Stuff Having Nothing to Do With Making Any District Recreation Venue Available For My Property's Use

---

**From:** "Winqest, Indra S." <ISW@ivgid.org>  
**To:** s4s@ix.netcom.com <s4s@ix.netcom.com>  
**Cc:** Tim Callicrate <callicrate\_trustee@ivgid.org>, Wong, Kendra <Wong\_trustee@ivgid.org>, Sara Schmitz <trustee\_schmitz@ivgid.org>, Michaela Tonking <tonking\_trustee@ivgid.org>, Matthew Dent <dent\_trustee@ivgid.org>  
**Subject:** Re: More Evidence Our Rec Fee Pays For All Sorts of Stuff Having Nothing to Do With Making Any District Recreation Venue Available For My Property's Use  
**Date:** Jun 29, 2021 12:02 AM

---

Aaron - I, and members of the senior management team are meeting with County Manager Brown and Assistant County Manager Solaro on July 9th and we will be discussing how we remedy this moving forward. I already pushed out the capital project that was in the budget until we get the county to agree to pay for it. We will get this resolved. In regards to staff, i will discuss with our parks superintendent in case their was any wrongdoing.

Lastly, as i agree its unfortunate that this slipped through the cracks dating back to the late 90s. Its now been discovered and we cant do anything about the past besides learn from it. It makes zero sense to just let the two parks rot as they are the entrances to each side of town. I don't trust the county will do as good of a job maintaining so i prefer we handle it but get reimbursed by the county. It takes minimal resources to maintain. If the county does not cooperate with us on this which im confident will not be the case, i will start playing hardball.

Indra

On Jun 28, 2021, at 5:57 PM, s4s@ix.netcom.com wrote:

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

So the attached file was sent to me by Frank Wright. It depicts one of our staff maintaining the grounds at one of the Washoe County parks at the intersection of Lakeshore Blvd. and Highway 28.

Why does this continue to take place when I placed the Board on notice of the fact that this is not an IVGID owned park and apparently our wonderful staff apparently haven't billed the county for services such as these in the last 20+ years?

I guess it's called "Financial NON-Transparency" which is the way the District's financials should be described to the public, because that's exactly what they are.

What you didn't see from the attachment file is that after our employee finished maintaining the county's park, he drove to the post office to pick up his mail.

And then he drove to Wells Fargo Bank to do his banking.

And he called up his fellow employee colleagues to arrange a group lunch at the end of the week, using an IVGID



procurement card for payment, because it's hot outside and our employees had a tough week!

So what do you intend to do about this mis-management? Since I assume it's nothing because:

1. Three of you don't care; and,
2. Two of you don't care because you don't pay. Or am I a "blatant liar" about this Mr. Callicrate which you've accused me of without providing any evidence?

And you wonder why the RFF/BFF are being wasted? I've now provided more evidence.

Respectfully, Aaron Katz

div.maildrop\_icon {background-image: url('https://www.icloud.com/mail\_resources/icloud\_download.png');background-repeat: no-repeat;display: inline-block;margin: 15px 18px 13px 18px;height: 25px;width: 26px;}@media(-webkit-min-device-pixel-ratio: 2), (min-resolution: 192dpi) {div.maildrop\_icon {background-image: url('https://www.icloud.com/mail\_resources/icloud\_download@2x.png');background-size: 25px 26px;}}

Download Attachment<[https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA\\_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68\\_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG\\_2653.MOV&sz=27227715](https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG_2653.MOV&sz=27227715)>

Available until Jul 28, 2021<[https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA\\_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68\\_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG\\_2653.MOV&sz=27227715](https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG_2653.MOV&sz=27227715)>

Click to Download<[https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA\\_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68\\_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG\\_2653.MOV&sz=27227715](https://www.icloud.com/attachment/?u=https%3A%2F%2Fcvws.icloud-content.com%2FB%2FAT-FVo7r2ZPPAS3PuvR-TiQneAKiAeMPLVUwexKAqePODFZ9-QYnMzkN%2F%24%7Bf%7D%3Fo%3DAkOc7d0lC4NmOquq6nX-vsH1exkY9IPz1iQ0-hfDpdKS%26v%3D1%26x%3D3%26a%3DCAogbHJG15WQG5g4Z8wyHZtJKZfNJQwW889h3RRVjZFH53QSeBCJtYyf pS8YicWH864vlgEAKgkC6AMA_3hJvmJSBCd4AqJaBCczOQ1qJne2VPVtCuZdP4WZuzaJjpbck9M-QUGRBcs0YdzjBKgiti92uY2ncibevmw7RXaREWN3Xren1L75qialLH5bGeAGa39ep68_d29lmNeUZQ%26e%3D1627497030%26fl%3D%26r%3D8475FEF7-C5A3-4023-ABA7-4BE4AF0F97AB-1%26k%3D%24%7Buk%7D%26ckc%3Dcom.apple.largeattachment%26ckz%3D2B73C0C6-5A1D-402A-9047-FBC485C6962D%26p%3D58%26s%3DCH8lFThWfYJOr5s-cacNm3Jkylg&uk=Cmf41VJYc0tWTbTC-TkgbA&f=IMG_2653.MOV&sz=27227715)>

7/7/2021

EarthLink Mail

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IMG\_2653.MOV

0 bytes

Sent from my iPhone

11/11/2021 11:11 AM

**EXHIBIT "D"**

## Re: Fw: Agreement w/the County For Plowing Country Club All the Way Up to Ski Way and Then to Tirol - P.S.

---

**From:** <s4s@ix.netcom.com>  
**To:** Tim <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, Kendra Trustee <wong\_trustee@ivgid.org>, Sara <schmitz\_trustee@ivgid.org>, Michaela <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, Susan <Susan\_Herron@ivgid.org>, <ISW@ivgid.org>  
**Subject:** Re: Fw: Agreement w/the County For Plowing Country Club All the Way Up to Ski Way and Then to Tirol - P.S.  
**Date:** Jul 6, 2021 8:16 PM

---

And you wonder why we had to just pay for two or possibly three \$260K/each loaders to do our job pursuant to this agreement? Payable with our Rec Fees?

And how come I had to discover and share this mis-use of public funds?

Aaron Katz

-----Original Message-----

**From:** <s4s@ix.netcom.com>  
**Sent:** Jul 6, 2021 8:09 PM  
**To:** Callicrate, Tim <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, Wong, Kendra Trustee <wong\_trustee@ivgid.org>, Schmitz, Sara <schmitz\_trustee@ivgid.org>, Tonking, Michaela <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, Herron, Susan <Susan\_Herron@ivgid.org>, <ISW@ivgid.org>  
**Subject:** Fw: Agreement w/the County For Plowing Country Club All the Way Up to Ski Way and Then to Tirol

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

Attached find an agreement between IVGID and the county for the former to apply sand and snowplow the county's Country Club to Ski Way and Ski Way to First Green (the Big Water Grill). These roads are dedicated county roads. So why are we doing the county's job? Again. Now why are using local property owners' Rec Fee to clear county roads? And this is on top of maintaining two county parks at the intersections of Lakeshore/Highway 28? And how many other jobs are IVGID staff doing that are someone else's job because IVGID property isn't involved?

And where's the yearly budget for taking care of this plowing as required by the agreement? I asked Ms. Herron for this before and received nothing. I am asking again.

7/6/2021

EarthLink Mail

I previously asked the Board to terminate this agreement within 15 days of January 1, 2021, and it did nothing. How about agendaizing this matter to vote to terminate?

IVGID owes me a refund. Please advise when you will be presenting an accounting and providing a refund check?

Thank you for your cooperation. Aaron Katz

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – PUBLIC COMMENTS – AGENDA ITEM C – WHAT DO YOU DO WITH STAFF WHO MAKE DISTRICT DECISIONS REQUIRING BOARD APPROVAL WITHOUT FIRST COMING TO THE BOARD TO SECURE THAT APPROVAL – HERE MODIFICATION TO THE HYATT SPORT SHOP LEASE, AND OUR AGREEMENT WITH VILLAGE SKI LOFT (“VSL”) TO SELL VSL CLOTHING AND SOFT GOODS AND RENT VSL MOUNTAIN BIKES OUT OF THE HYATT SPORT SHOP?**

**Introduction:** Many residents don’t realize that for ten (10) or more years the District has operated a retail sales and rental commercial enterprise out of the Hyatt Hotel’s (“the Hyatt’s”) Sport Shop located within the Hotel’s shopping mall. The IVGID Board has entered into a series of agreements/modifications which are recited on the first page of a Fourth Amendment to Agreement with the Hyatt<sup>1</sup>, and the first page of an April 23, 2010 staff Memorandum re renewal of the Village Ski Loft (“VSL”) retail sales facility lease at Diamond Peak<sup>2</sup>. For some reason our General Manager (“GM”) decided last year to no longer operate the Sport Shop, sell VSL clothing, and rent VSL bikes for half the year (from May 1-October 31. However instead of coming to the Board to explain the reasons why and to secure the Board’s approval, Mr. Winquest simply signed Exhibit “A” as if he has authority to unilaterally modify a written agreement the Board has entered into. And with respect to the VSL agreement, our GM’s modification was oral. Given these episodes are just a small example of a much larger problem, I object. And that’s the purpose of this written statement.

**My June 11, 2021 E-Mail to the Board on This Very Subject:** On June 11, 2021, I e-mailed the Board alerting members to our GM’s agreement modifications with the Hyatt and VSL and without Board approval<sup>3</sup>. I asked what the Board intended to do given this modification was an act in excess of our GM’s jurisdiction. And I also asked the Board agendaize the more comprehensive issue of possibly closing down the Sport Shop for twelve (12) months out of the year (i.e., terminating the lease altogether). So has the Board listened to me? So far the answer is a resounding “no!”

**Conclusion:** I and others have asked this question many times before. Exactly who is running the IVGID bus? If unelected staff can freely enter into and out of agreements with various third parties without obtaining Board approval, even when initially that approval was sought and obtained, why do we need the Board? Just let unelected staff run everything. Which is what they do, and explains why local parcel/dwelling unit owners are compelled to subsidize staff’s operations to the tune of nearly \$7 million annually!

Moreover, no governmental subdivision should be engaged in commercial business sales at retail, let alone in some private third party’s facilities. Yet here that’s exactly what we have done. This

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<sup>1</sup> This agreement is attached as Exhibit “A” to this written statement.

<sup>2</sup> This memorandum is attached as Exhibit “B” to this written statement.

<sup>3</sup> That e-mail is attached to this written statement as Exhibit “C.”



**EXHIBIT "A"**



**FOURTH AMENDMENT TO AGREEMENT**

THIS FOURTH AMENDMENT TO AGREEMENT (the “**Fourth Amendment**”) is made as of the 16 day of September 2020, by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino (hereinafter called “**Hyatt**”) and Incline Village Improvement District, a political division of the state of Nevada, d/b/a Diamond Peak Ski Resort (hereinafter called “**Lessee**”).

**WITNESSETH:**

WHEREAS, Hyatt and Lessee entered into that certain Agreement, effective as of June 1, 2010, (the “**Agreement**”), as amended by that certain First Amendment, dated May 18, 2016 (the “**First Amendment**”), that certain Second Amendment, dated May 30, 2019 (the “**Second Amendment**”), that certain Third Amendment, dated June 17, 2020 (noted in error as “**Second Amendment**”) which provides for Lessee to lease space in the Hotel for the operation of a first class sport shop (“**Lease**”) at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the “**Hotel**”); and

WHEREAS, the parties desire to amend the Agreement to **revise the term.**

NOW, THEREFORE, the parties hereto amend Section 2(b) of the Agreement by this instrument as follows:

“(b) During each calendar year of the Term, Lessee’s operations will exist for the winter season, November 1<sup>st</sup> through April 30<sup>th</sup>. Lessee will temporarily vacate the Premises May 1<sup>st</sup> through October 31<sup>st</sup> of each calendar year throughout the Term. Lessee shall ensure that the Premises is returned to its prior condition by April 30<sup>th</sup> of each year. Failure to do so shall be a breach of this Lease and subject to all applicable provisions of this Lease, including Section 27.”

Except as herein expressly modified, the Agreement shall remain in full force and effect, subject to all terms and conditions contained therein.

IN WITNESS WHEREOF, this Fourth Amendment has been executed by Hyatt and Lessee as of the day and year first hereinabove set forth.

**Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino**

**Incline Village Improvement District, a political division of the state of Nevada, d/b/a Diamond Peak Ski Resort**

By: \_\_\_\_\_

Name: Michael Murphy

Title: General Manager

By: \_\_\_\_\_ 11/24/20

Name: Indra Winquest

Title: General Manager

**EXHIBIT "B"**

## MEMORANDUM

**TO:** Board of Trustees

**THROUGH:** William B. Horn  
General Manager

**FROM:** Ed Youmans  
Diamond Peak Ski Resort Manager

**SUBJECT:** Renewal of Lease – Village Ski Loft  
Three Year Term beginning July 1, 2010

**DATE:** April 23, 2010


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### **I. RECOMMENDATION**

That the Board of Trustees approves the renewal, without changes, of the attached Lease Agreement with the Village Ski Loft for the operation of the retail ski shop located in the base lodge at the Diamond Peak Ski Resort for another three-year term beginning July 1, 2010.

### **II. BACKGROUND**

The first lease with Village Ski Loft was awarded in 1989 and renewed for the sixth time in 2007. The existing lease, which commenced on July 1, 2007, will expire on June 30, 2010. As required under the lease agreement, the Village Ski Loft notified Diamond Peak before September 1, 2009 of their interest in renewing the lease for another three-year term. Following this memorandum is the proposed 2010-13 lease agreement.

 The conditions of the proposed lease have only been modified to include partnership in the operation of the Hyatt Sport Shop. Staff proposes that if the Hyatt Shop Proposal is accepted, the Village Ski Loft will provide goods and services that IVGID does not currently offer in any of our operations, but which are necessary to provide a rounded offering at the Hyatt Sport Shop. Specifically, these are bicycle rentals and some retail soft goods (sunglasses, sun block, clothing, etc.) that are outside of our current golf and tennis soft goods offering. Staff has proposed the following distribution of gross revenue from sales of Village Ski Loft goods and services at the Hyatt Sport Shop: 10% Hyatt, 5% IVGID, 85% Village Ski Loft.

We have enjoyed a positive working relationship with the Village Ski Loft during the past twenty winter seasons. Our good working relationship leads to mutually beneficial business performance. The Village Ski Loft has consistently been recognized by the Ski Business Magazine and Snow Country Magazine as a member of America's top forty ski retailers. Our commission rate of 18% on sales is among the highest in the ski industry for this type of arrangement. Our lease with the Village Ski Loft represents a positive win-win with a key member of our local business community and demonstrates our commitment to privatization where it makes sense to do so.

Staff does not recommend any changes to the existing lease agreement at this time other than the addition as described above of participation in the Hyatt Sport Shop operation.

### III. FINANCIAL IMPACT AND BUDGET

Over the past three years, the Diamond Peak Ski Resort has received \$103,071 from the Village Ski Loft as rental for their allocated space. This represents average annual revenue of \$34,357.

### IV. ALTERNATIVE

There is no obligation placed upon the District to renew the lease and the apparent alternative is to deny the request by Village Ski Loft and end the lease agreement with them on June 30, 2007, as stipulated in the current lease document.

### V. BUSINESS IMPACTS

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

**EXHIBIT "C"**

## What Do You Do With Employees Who Make Board Decisions Without Notifying the Board and the Public? - Fw: RE: Records Request - Modification to Hyatt Sport Shop Lease

---

**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, <Susan\_Herron@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>  
**Subject:** What Do You Do With Employees Who Make Board Decisions Without Notifying the Board and the Public? - Fw: RE: Records Request - Modification to Hyatt Sport Shop Lease  
**Date:** Jun 11, 2021 11:23 AM  
**Attachments:** [4th Amendment.pdf](#)

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

So Indra told me the District had modified its money making contract with the Hyatt Hotel insofar as operation of the Sport Shop is concerned. I therefore asked to examine the modification, as well as the Board's approval of that modification since it was the Board and not staff that entered into the Sport Shop lease. And attached is what I was provided with. In other words, NO APPROVAL BY THE BOARD!

Staff had no power to unilaterally enter into this lease, and for this reason, it has no power to unilaterally modify it.

So what action do you intend to take for staff acting in excess of authority?

Had this matter been presented to the Board and the public we could have had a discussion about abandoning the lease altogether since we have no business operating a purely commercial business enterprise, let alone at a financial loss, and let alone is some private party's shopping mall. But we were deprived of the opportunity.

Plus according to staff, operating this boondoggle is such a financial cash cow to the District, why would we ever give up operation for six (6) months? Why wouldn't we sub-lease the Sport Shop to the current operator and at least make some money on the sub-lease (after all, we paid to make capital leasehold improvements)?

I ask at least one of you to agendize this matter for two purposes.

First, to address what we do with our staff who saw fit to deprive the Board and the public of the opportunity to weigh in on the merits of continuing to operate the Sport Shop as an ongoing business enterprise.

And second, to consider terminating the lease ALTOGETHER!

Thank you for your cooperation. Aaron Katz

-----Forwarded Message-----

From: Herron, Susan Susan\_Herron@ivgid.org

Sent: Jun 3, 2021 10:22 AM

To: 's4s@ix.netcom.com' s4s@ix.netcom.com

Subject: RE: Records Request - Modification to Hyatt Sport Shop Lease

Mr. Katz,

I believe that this is the document you are requesting.

Susan

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]

Sent: Tuesday, May 25, 2021 7:40 PM

To: Herron, Susan

Subject: Records Request - Modification to Hyatt Sport Shop Lease

Hello Ms. Herron -

I would like to examine the modification to the Hyatt Sport Shop lease which relieves the District of the obligation to operate the Sport Shop, at least during summer months.

Additionally, I would like to examine the minutes of the IVGID Board meeting where the Board approved modification of the subject lease.



**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENT – ANOTHER INAPPROPRIATE GIVEAWAY OF A MONEY LOSING PUBLIC RECREATION VENUE WHICH IS INDIRECTLY PAID FOR BY LOCAL PARCEL/DWELLING UNIT OWNERS – TAHOE CONNECTION FOR FAMILIES’ JUNE 6, 2021 CHAMP GOLF “SCRAMBLE GOLF TOURNAMENT”<sup>1</sup> SO IT CAN MAKE MONEY OFF THE PUBLIC’S FACILITIES FOR ITS PHILANTHROPIC FLAVOR OF THE MONTH!**

**Introduction:** After being instructed by the Board that staff *shouldn’t* make the public’s recreation venues available to third parties for less than the District’s costs so those third parties can make money off use of those venues they can retain for themselves, our staff gave away exclusive use of the Champ Golf Course the afternoon of June 6, 2021 to the Tahoe Children’s Foundation<sup>2</sup> dba Tahoe Connection for Families<sup>3</sup> (“TCF”) for fundraising purposes for a paltry \$2,000<sup>4</sup>! Given the average daily cost to operate and maintain this venue is nearly \$42,000, our staff just gave away a public asset at local parcel/dwelling unit owners’ expense. And what have Board members done, if anything? That’s the purpose of this written statement.

**My May 17, 2021 E-Mail Information Request Insofar as This Very Subject is Concerned:** On May 17, 2021 I sent an e-mail request to the District’s Information Officer, Susan Herron, asking: “the amount this non-profit...agreed (to pay) for exclusive use of the Champ Golf Course on (the afternoon of) June 6;” and, the identity of “the doofus...who agreed to allow this non-profit to exclusively use the Champ Golf Course on this date” for its fundraising purposes<sup>5</sup>. On May 25, 2021 Ms. Herron responded to my request by providing Exhibit “C” which is attached to this written statement<sup>5</sup> which in part disclosed the amount to be paid (\$2,000) and the IVGID doofus who had agreed to this giveaway (Darren Howard). Given my e-mail of May 17, 2021 documents that the actual daily cost to the District, on average, to operate and maintain the Champ Golf Course is nearly \$42,000<sup>5</sup>, our wonderful staff just cost local parcel/dwelling unit owners who subsidize overspending at all of the District’s venues including the Champ Golf Course \$40,000!

**But I Have Reason to Believe the Cost to Local Parcel/Dwelling Unit Owners is Really More:** On June 7, 2021 I followed up my initial May 17, 2021 request by asking “to examine records evidencing whatever IVGID donated to the event for its raffle/giveaway/silent auction.” After all, the flyer for this

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<sup>1</sup> See Exhibit “B” attached to this written statement.

<sup>2</sup> See Nevada Business Entity No. C19744-2001.

<sup>3</sup> Go to <https://www.tcfkids.org/>.

<sup>4</sup> See the asterisk on TCF’s application for use of the public’s Champ Golf Course, a copy of which is attached as Exhibit “C” to this written statement.

<sup>5</sup> That e-mail which is a part of string e-mails between Ms. Herron and me is attached to this written statement as Exhibit “A.”

event attached as Exhibit "B" expressly states there will be "great prizes" which can be won! Later that day Ms. Herron responded as follows: "Staff has stated that nothing was donated by IVGID to the raffle/giveaway/silent auction if these actions even occurred."

**The Vehicle Which Allows Staff to Do What it Has Done Here is Resolution 1701 Which I and Others Have Asked Be Rescinded, and Which the Board Refuses to Do:** The reader's attention is directed to the top of Exhibit "C." There he/she will see that TCF's application to use the public's Champ Course was pursuant to "Policy and Procedure Resolution...1701." Exactly what resolution is this, and what does it state?

For those not familiar with this resolution, I direct you to:  
[https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_PolicyAndProcedure132\\_Resolution1701.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure132_Resolution1701.pdf). And what does this resolution state? That "USE OF IVGID FACILITIES BY QUALIFIED LOCAL NON-PROFIT, VOLUNTEER ORGANIZATION, NATIONAL ORGANIZATION WITH A LOCAL CHAPTER, OR ACTIVITY BASED IN OR BENEFITTING INCLINE VILLAGE/CRYSTAL BAY, NORTH TAHOE REGION, GOVERNMENT AGENCY, OR A LOCAL SCHOOL, THAT ADMINISTERS AND CONDUCTS THE ACTIVITY THEMSELVES" will be allowed, either for free or at a substantially discounted user fee compared to the retail user fee assessed, so the organization can make money off that use to the prejudice of local parcel/dwelling unit owners.

On several occasions I have asked that this resolution be rescinded because general improvement districts ("GIDs") are not permitted to give away public assets, let alone at their parcel/dwelling unit owners' expense. I hereby reiterate the request!

**Conclusion:** This is one small example of the hundreds of thousands if not millions of dollars worth of recreational facility usage we give away to any Tom, Dick and Harry with a sob story. And every time one of these giveaways take place, staff suffers a loss of revenue which ultimately must be subsidized by local parcel/dwelling unit owners. This needs to stop!

And to those asking why their Recreation ("RFF") and Beach ("BFF") Facility Fees are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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

**EXHIBIT "A"**

## Tahoe Connection For Families' June 6, 2021 Exclusive Use of the District's Champ Golf Course For its Fundraiser - Follow Up Records Request

**From:** <s4s@ix.netcom.com>  
**To:** <Susan\_Herron@ivgid.org>  
**Cc:** <tim\_callicrate2@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, <ISW@ivgid.org>  
**Subject:** Tahoe Connection For Families' June 6, 2021 Exclusive Use of the District's Champ Golf Course For its Fundraiser - Follow Up Records Request  
**Date:** Jun 7, 2021 10:45 AM  
**Attachments:**

Hello Ms. Herron -

Well as you know the subject event actually took place yesterday. Which I guess means our GM approved the event.

So as a follow up to my records request, I would like to examine records evidencing whatever IVGID donated to the event for its raffle/giveaway/silent auction.

Thank you for your cooperation. Aaron Katz

-----Original Message-----

**From:** s4s@ix.netcom.com  
**Sent:** May 25, 2021 7:35 PM  
**To:** Susan\_Herron@ivgid.org Susan\_Herron@ivgid.org  
**Cc:** "Callicrate, Tim" , "Wong, Kendra Trustee" , "Schmitz, Sara" , "Tonking, Michaela" , dent\_trustee@ivgid.org, "ISW@ivgid.org" ,  
**Subject:** Fw: RE: IV Rotary Club's Connection For Families June 6, 2021 Exclusive Use of the District's Champ Golf Course For Fundraiser

Thank you.

Over half the available spots have been filled. And June 6 is less than two weeks away. I can't imagine that the non-profit would be advertising the event if not permitted to run it. Also, I see the cost to the non-profit will be \$2K. Our cost on average is \$41K+ per day. This favored collaborator's cost is \$2,000. Just for the record. Aaron

-----Forwarded Message-----

**From:** "Herron, Susan"  
**Sent:** May 25, 2021 5:45 PM  
  
**To:** "s4s@ix.netcom.com"  
**Cc:** Tim Callicrate , Matthew Dent , "Wong, Kendra" , Sara Schmitz , Michaela Tonking , "Winqest, Indra S."  
**Subject:** RE: IV Rotary Club's Connection For Families June 6, 2021 Exclusive Use of the District's Champ Golf Course For Fundraiser

Mr. Katz,

Attached is the request for the TCF Golf Tournament on June 6, 2021. I don't know how or if the Rotary Club is involved. Please note that we are reviewing this request and that the request has not yet been approved by the District General Manager.

Susan

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]

Sent: Monday, May 17, 2021 12:51 PM

To: Herron, Susan

Cc: Tim Callicrate ; Matthew Dent ; Wong, Kendra ; Sara Schmitz ; Michaela Tonking ; Winqest, Indra S.

Subject: IV Rotary Club's Connection For Families June 6, 2021 Exclusive Use of the District's Champ Golf Course For Fundraiser

Hello Ms. Herron -

Instead of your providing records, how about answering the two questions which follow:

1. The amount this non-profit has agreed for exclusive use of the Champ Golf Course on June 6;
2. The doofus (that's my term) who agreed to allow this non-profit to exclusively use the Champ Golf Course on this date and at this price.

Thank you for your cooperation.

Since I am sending a copy of this request to the IVGID Board, I want each of you to understand how much money we're losing because doofus has chosen to give away exclusive use of the public's golf course to this non-profit.

Let's first look at staff's proposed budgetary operational expenses at page of the February 24, 2021 Board workshop packet (go to

<https://www.yourtahoepalace.com/uploads/pdf-ivgid/F.2.2 - Budget Workshop Presentation 022421.pdf>) - **\$5,099,456**;

Next let's add in budgeted debt service (\$182,765) and capital expenditures (\$1,554,000) for a total of \$1,736,765.

Let's add the three together and we get - **\$6,836,222**.

So how many days is the Champ Golf Course budgeted to operate in a season? Over the last several years the number has ranged from 154-171 [go to page 51 of the 2015-16 Budget ([https://www.yourtahoepalace.com/uploads/pdf-ivgid/2015-2016\\_Budget\\_Book.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/2015-2016_Budget_Book.pdf))]. So for purposes of this discussion, let's assume that the golf course will remain operational for 163 days which on average works out to **\$41,940 per day!**

So how much money is the subject non-profit paying to gain exclusive use of the Champ Golf Course? We don't know the number but I predict it will be \$1,100. If I am correct, this number will reveal that we are going to lose over \$40,000!

And how much will this non-profit make? In previous years the number has been \$30,000 or more!

Now multiply this loss by the number of similar fundraiser events staff will approve. And you wonder why it's impossible for the Champ Course to operate at a break even or on a positive cash flow basis?

Didn't the board recently have a discussion to the effect that when our facilities are made available for fundraising use by local non-profits, they must at least cover operational costs the District incurs. So what has gone wrong here? The simple fact of the matter is staff don't give a damn. And they're arrogant about it. And they're more concerned with their/their current/former employee-colleagues free/discounted use of our recreational facilities than operating them at a break even or on a positive cash flow basis.



So what are you the Board going to do about this terrible inequity? Because if the answer is nothing, you're no better than your staff

**EXHIBIT "B"**

PRESENTS

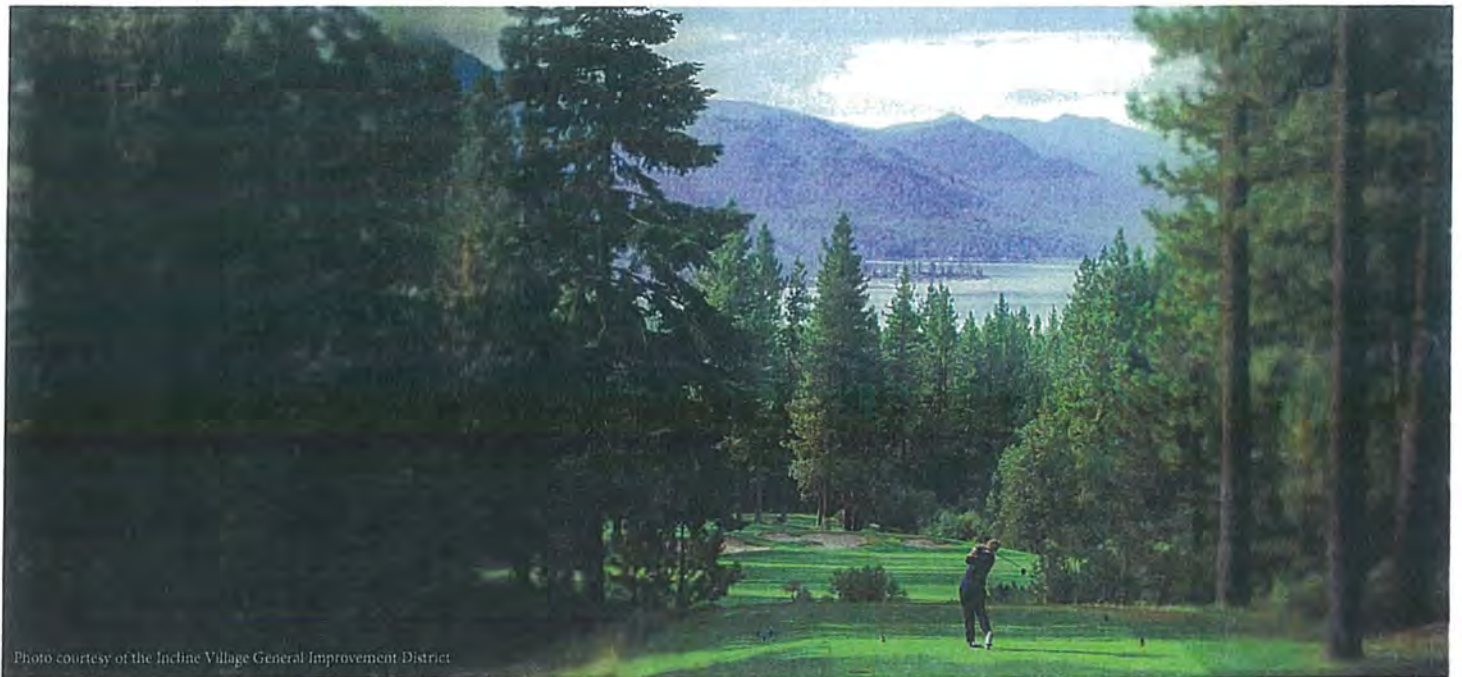


Photo courtesy of the Incline Village General Improvement District

# SCRAMBLE GOLF TOURNAMENT

**Sunday**  
**June 6, 2021**  
1:00pm Start

**Incline Village Championship**  
**Golf Course**  
955 Fairway Blvd, Incline Village, NV 89451

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**Enjoy a day on the green to support Tahoe's Connection for Families**

TCF is a 501(c)3 non-profit serving families in the Tahoe area for nearly 20 years. TCF empowers families through parenting education, early childhood learning experiences, and a supportive community. The only way we can continue to build a better world is through your generous gifts. Thank you for helping us provide parents & children with the tools for success!

For more information and to register, please visit: [www.tcfkids.org/golftournament](http://www.tcfkids.org/golftournament)

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**BECOME A  
SPONSOR**

**SUPPORT OUR  
COMMUNITY**

**WIN GREAT  
PRIZES**

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EARLY BIRD ENDS 5/10!

EARLY BIRD FOURSOME - \$800

EARLY BIRD SINGLE - \$200

**EXHIBIT "C"**





POLICY AND PROCEDURE RESOLUTION 132, RESOLUTION 1701  
APPLICATION

Organization Name: Tahoe's Connection for Families  
Contact Name: Kimberly Warren  
Address (Mailing): PO Box 3074  
City, State & Zip Code: Incline Village, NV 89450  
E-Mail Address: kim@tcfkids.org  
Telephone Number: 775-832-8230  
EIN#/Taxpayer ID#: 88-0503036

Venue/Location: Championship Golf Course  
Date(s) of Event: Sunday, June 6, 21021  
Time Range: 1pm shotgun start

Qualify as a 501(c)3  Yes  No  
OR  
Qualify as a Non-Profit  Yes  No  
OR  
Volunteer Organization  Yes  No

← If yes, please attach a copy of the organization's IRS Determination Letter or a copy of the last Form 990 filed with the IRS.

Service Objective and Beneficiaries: TCF empowers families through parenting education, early childhood learning experiences, and a supportive community. We are dedicated to building a strong community of families in North Lake Tahoe. We are a 501(C)(3) non-profit organization founded in 2001 to provide parent education and a program for young children before they enter preschool.

- Confirm no commercial or personal gain comes from Event (Resolution, paragraph 2)  Yes  No
- Confirm organization will post Certificate of Insurance to IVGID (Resolution, paragraph 6.)  Yes  No
- Confirm organization agrees to indemnify and hold IVGID harmless (Resolution, paragraph 7.)  Yes  No
- Confirm that organization complied with financial records (Resolution, paragraph 15)  Yes  No

Rack Rate for Venue/Location requested: ~~\_\_\_\_\_~~ \$150 per person  
(Based on Board approved Key Rates)

Yield Management (Comment/Remark):

Charge approved by Venue Manager for this Event: \$2000  
(\$50 minimum) (Coded to 4293)

Venue Manager Signature and Date: J. Darren Howard

Administrative Concurrence: \_\_\_\_\_  
(General Manager or designee, Signature & Date)

Distribution: Public Records Officer, Director of Finance, Controller, Venue Manager

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(7) – REITERATE AND POSSIBLY REVISING PRICING POLICY FOR EXCLUSIVE USE OF DISTRICT’S RECREATION VENUES TO LOCAL PARCEL/DWELLING UNIT OWNERS’ DETRIMENT**

**Introduction:** Here the District’s Audit Committee asks for consideration of a preferred payment policy for exclusive use of the District’s recreation venues by preferred third part/non-profit organizations. Current Resolution 1701<sup>1</sup> entitles the GM to give away/severely discount exclusive use of District recreation/beach venues to qualified non-profits. Apparently the Audit Committee wants to continue this objectionable practice, however, to modify the preferred pricing thereunder to possible discounted fair market value. Because I object to the resolution because IVGID has no power to give away use of recreation venues local parcel/dwelling unit owners are involuntarily assessed to financially support, and I object to offering preferred pricing to those who seek exclusive use to make a profit off that use they get to retain to local parcel/dwelling unit owners’ detriment, I object. And that’s the purpose of this written statement.

**My June 8, 2021 E-Mail to the Board on This Very Subject:** On June 8, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking that for the reasons stated therein, they *not* continue preferred access to the District’s recreation/beach venues to qualified non-profits. Instead, I asked the District file a judicial confirmation petition<sup>2</sup> pursuant to NRS 43.100(1) to secure answers to the legitimate extent of use and at what pricing qualified non-profits are entitled to use. Again I urged that the advantage to this kind of petition is that a judge’s opinion becomes a full and final determination of the subject matter(s) presented in that petition, and we’re not forced to rely upon attorney Nelson’s opinion.

**Conclusion:** I reiterate my request in this written statement. As long as the District compels local parcel/dwelling unit owners to involuntarily subsidize staff’s overspending assigned to the District’s recreation venues, I object to any group being given exclusive access and used, at preferred pricing, so they can use those venues to make money for themselves. In my opinion it is insulting and makes a mockery of the concept of community.

And to those asking why their Recreation (“RFF”) and Beach (“BFF”) Facility Fees are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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

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<sup>1</sup> Go to [https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID\\_PolicyAndProcedure132\\_Resolution1701.pdf](https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure132_Resolution1701.pdf).

<sup>2</sup> That e-mail is attached to this written statement as Exhibit “A.”

**EXHIBIT "A"**

## Re: June 9, 2021 IVGID Board Meeting, Agenda Item H(7) - Updating Preferred Pricing Strategies to the District's Recreation Venues to Qualified Non-Profits

---

**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>  
**Subject:** Re: June 9, 2021 IVGID Board Meeting, Agenda Item H(7) - Updating Preferred Pricing Strategies to the District's Recreation Venues to Qualified Non-Profits  
**Date:** Jun 8, 2021 12:38 PM

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

This agenda item seeks to review and possibly modify Resolution 1701 granting preferred access and pricing of the District's recreation venues to qualified non-profits and others (see pages 197-201 of the Board packet). Although the agenda item is characterized, in part, as compliance with Dillon's Rule, I do not view the nature of this agenda item to have direct correlation to the applicability or interpretation of Dillon's Rule to GIDs in general, and IVGID in particular. Rather, I view this agenda item as seeking to put into place a modification of Resolution 1701 which continues the practice of granting exclusive use of and preferred pricing to the District's recreation venues to preferred non-profits and others so they can use those venues to make a profit they get to keep for themselves.

We have an opinion by attorney Josh Nelson which some disagree with and oppose. As explained in my criticism of agenda item H(6), I am against "legal opinions" because a legal opinion is just that; an opinion. And based upon who it is that gives the opinion, we are likely to get a biased or unsatisfactory one.

As I explained in my criticism of agenda item H(6), there is a far better process to determine what limited acts a GID may engage in and again, I urge the Board adopt it. I made the same argument in my public comments addressing the Tahoe Connection for Families' use of the Champ Golf Course for its June 6, 2021 Golf Scramble at a fraction of the public's actual cost. That's NRS 43.100(1) which states, "the governing body may file or cause to be filed a petition...in...district court...praying (for) a judicial examination and determination of the validity of any power conferred or of any instrument (like the beach deed), act or project of the municipality, whether or not such power has been exercised, such instrument has been executed or otherwise made or such act or project has been taken." Given NRS 43.060(1)(b) defines "governing body (to) mean...the...board of trustees...of a municipality," and NRS 43.080 expressly defines "municipality (as a)...general improvement district," IVGID clearly has the power to file such a petition.

NRS 43.160(3) instructs that "all cases in which there may arise a question of the validity of any matter under this chapter shall be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment." In other words, these petitions are entitled to preferential calendaring with an aim for quick adjudication.

And finally, NRS 43.140 instructs that "the court shall...render such judgment and decree thereon as the case warrants." Which means the court's judgment will fully and finally determine all matters petitioned for determination, for once and for all. In other words, so much more than simply someone's "opinion."

If we're going to go down the road of giving away exclusive access to the public's recreation facilities at preferred below cost pricing to a limited segment of our community, and not everyone, then let's go just once and secure a final resolution. The Board should authorize creation of a scope of issues to be included in a petition filed in District Court pursuant to NRS 43.100. And let's seek an attorney who will file such a petition. If we have hundreds of thousands of dollars to blow fighting residents who seek nothing more than public records (i.e., Mark Smith), we surely have a little bit

of money to spend on a NRS 43.100 petition. Who knows, we may even be able to combine a request for a legal opinion on this issue, with the one the subject of agenda item H(6).

Thank you for your cooperation and hopeful pos

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(6) – DEVELOP SCOPE OF WORK AS PRELUDE TO ENGAGE ATTORNEY TO RENDER OPINION RE EMPLOYEES’/THIRD PARTY CONTRACTORS’ ACCESS TO DISTRICT BEACHES ASSUMING THEY DO NOT INDEPENDENTLY HAVE THAT ACCESS, AND PERMISSIBLE EMPLOYEE COST/TRAVEL REIMBURSEMENTS**

**Introduction:** Here the District’s Audit Committee asks for appointment of a third party attorney to render a legal opinion insofar as employees’ right to access the beaches and secure reimbursement of their travel/other expenditures. And in anticipation thereof, the Committee asks a scope of work be created in anticipation of publishing a Request For Proposals (“RFP”) or Request For Qualifications (“RFQ”) to solicit that attorney. I am opposed to hiring another attorney to give another opinion which may or may not be the correct opinion. Rather I request the Board approve the filing of a petition pursuant to NRS 43.100(1) which seeks a full and final judicial determination in lieu. And that’s the purpose of this written statement.

**My June 8, 2021 E-Mail to the Board on This Very Subject:** On June 8, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking that for the reasons stated therein, they *not* approve the agenda item and that in lieu, members approve soliciting for an attorney to file a judicial confirmation petition<sup>1</sup> pursuant to NRS 43.100(1) to secure answers to the same questions. The advantage of this kind of petition is that a judge’s opinion becomes a full and final determination of the subject matter(s) presented in that petition.

**Conclusion:** To those asking why their Recreation (“RFF”) and Beach (“BFF”) Facility Fees are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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

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<sup>1</sup> That e-mail is attached to this written statement as Exhibit “A.”

**EXHIBIT "A"**

## Re: June 9, 2021 IVGID Board Meeting, Agenda Item H(6) - Develop Scope of Work to Solicit Bids to Engage Legal Counsel to Render Opinion re Beach Access For Employees/Outside Contracts Without Beach Access and Employee Reimbursements

---

**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <ISW@ivgid.org>, <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>  
**Subject:** Re: June 9, 2021 IVGID Board Meeting, Agenda Item H(6) - Develop Scope of Work to Solicit Bids to Engage Legal Counsel to Render Opinion re Beach Access For Employees/Outside Contracts Without Beach Access and Employee Reimbursements  
**Date:** Jun 8, 2021 12:16 PM

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Chairperson Callicrate and Other Honorable Members of the IVGID Board -

This agenda item seeks approval for a scope of work for staff to incorporate into a future RFP related to beach access by employees and others without beach access, and the propriety of certain employee expense reimbursements (see pages 184-185 of the Board packet). Although the agenda item is characterized as compliance with Dillon's Rule, I do not view the nature of this agenda item to have direct correlation to the applicability or interpretation of Dillon's Rule to GIDs in general, and IVGID in particular. Rather, I view this agenda item as seeking to secure an opinion from an attorney insofar as beach access and employee compensation are concerned.

As I have previously stated to the Board, I am against any more "legal opinions." A legal opinion is just that; an opinion. And based upon who it is that gives the opinion, we are likely to get a biased or unsatisfactory one. In fact, we already have an opinion from our current attorney and apparently some on the Ordinance 7 committee and otherwise are not satisfied. So now they're in essence "forum shopping" which is what attorneys do when they don't approve of a particular judge.

There is a far better process and again I urge the Board adopt it. That's NRS 43.100(1) which states, "the governing body may file or cause to be filed a petition...in...district court...praying (for) a judicial examination and determination of the validity of any power conferred or of any instrument (like the beach deed), act or project of the municipality, whether or not such power has been exercised, such instrument has been executed or otherwise made or such act or project has been taken." Given NRS 43.060(1)(b) defines "governing body (to) mean...the...board of trustees...of a municipality," and NRS 43.080 expressly defines "municipality (as a)...general improvement district," IVGID clearly has the power to file such a petition.

NRS 43.160(3) instructs that "all cases in which there may arise a question of the validity of any matter under this chapter shall be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment." In other words, these petitions are entitled to preferential calendaring with an aim for quick adjudication.

And finally, NRS 43.140 instructs that "the court shall...render such judgment and decree thereon as the case warrants." Which means the court's judgment will fully and finally determine all matters petitioned for determination, for once and for all. In other words, so much more than simply someone's "opinion."

If we're going to go down this road, then let's go just once and secure a final resolution. The Board should authorize creation of a scope of issues to be included in a petition filed in District Court pursuant to NRS 43.100. And instead of seeking an attorney to render an opinion on those issues, let's seek one who will file such a petition. If we have



hundreds of thousands of dollars to blow fighting residents who seek nothing more than public records (i.e., Mark Smith), we surely have a little bit of money to spend on a NRS 43.100 petition.

Thank you for your cooperation and hopeful positive reply,

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 9, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEMS G(2) AND G(3) – APPROVAL OF PROPOSED DESIGN CONTRACTS WITH HDR AND JACOBS ENGINEERING WHICH INCLUDE REIMBURSEMENT OF UNIDENTIFIED DISTRICT STAFF TIME – ON THE CONSENT CALENDAR NO LESS**

**Introduction:** Here staff ask that the Board approve entry into two professional design contracts. First, a \$115,614 contract with HDR Engineering for design of Phase II of the effluent pipeline replacement project<sup>1</sup>, and second a not to exceed \$35,000 time and materials contract with Jacobs Engineering for design of the effluent pond lining project<sup>2</sup>. Because staff have placed these two approvals on the Consent rather than General Business Calendar (meaning they cannot be discussed – just consented to), and these approvals include payment of additional unidentified unreimbursed engineering staff time, I object. And that’s the purpose of this written statement.

**My June 8, 2021 E-Mail to the Board on This Very Subject:** On June 8, 2021, in anticipation of the Board’s upcoming June 9, 2021 meeting, I e-mailed the Board asking they *not* approve these payments on the agenda Consent Calendar, in part, because approval will represent approval for wasteful unidentified unreimbursed engineering staff time. Since we’ve already hired a Construction Manager as an Agent at Risk (“CMAR”) whose scope of work includes managing HDR and Jacobs Engineering, I asked why pay even more engineering fees to in-house staff to manage the CMAR<sup>3</sup>?

**Conclusion:** As the reader will see, I have questioned how our in-house engineering department is funded and whether part of that funding involves managing a CMAR whose scope of work includes managing HDR and Jacobs Engineering. Therefore we require a robust discussion to get to the truth which cannot take place on the Consent Calendar. And once we get to the truth, we may very well discover that having in-house engineering, fleet and buildings internal services, at a combine cost of \$3,155,929 annually<sup>4</sup>, is a cost we simply cannot afford.

And to those asking why their Recreation (“RFF”) and Beach (“BFF”) Facility Fees are as high as they are, and never seem to be reduced, now you have another example of one of the reasons.

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

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<sup>1</sup> See pages 37-39 of the packet of materials prepared by staff in anticipation of this June 9, 2021 meeting [[https://www.yourtahoepalace.com/uploads/pdf-ivgid/0609\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/0609_-_Regular_-_Searchable.pdf)] (“the 6/9/2021 Board packet”).

<sup>2</sup> See pages 56-59 of the 6/9/2021 Board packet.

<sup>3</sup> That e-mail is attached to this written statement as Exhibit “A.”

<sup>4</sup> See page 166 of the packet of materials prepared by staff in anticipation of the Board’s May 26, 2021 meeting [[https://www.yourtahoepalace.com/uploads/pdf-ivgid/H.1.\\_-\\_Budgets.pdf](https://www.yourtahoepalace.com/uploads/pdf-ivgid/H.1._-_Budgets.pdf)] (“the 5/26/2021 Board packet”).

**EXHIBIT "A"**

## June 9, 2021 IVGID Board Meeting Agenda Items G(2) and G(3) - Remove From the Consent Calendar and Let's Have a Discussion

---

**From:** <s4s@ix.netcom.com>  
**To:** <tim\_callicrate2@ivgid.org>  
**Cc:** <wong\_trustee@ivgid.org>, <schmitz\_trustee@ivgid.org>, <tonking\_trustee@ivgid.org>, <dent\_trustee@ivgid.org>, <Susan\_Herron@ivgid.org>, <ISW@ivgid.org>  
**Subject:** June 9, 2021 IVGID Board Meeting Agenda Items G(2) and G(3) - Remove From the Consent Calendar and Let's Have a Discussion  
**Date:** Jun 8, 2021 9:07 AM

---

Heiswre staff propose approving phased design contracts with HDR and Jacobs Engineering for the effluent pipeline and pond projects.

My objection is NOT that these contracts have been presented for approval but rather, they have been presented on the Consent Calendar and include unidentified additional costs payable to the same staff who have presented these matters on the Consent Calendar.

Before I start listen to staff's justification for presenting these matters on the Consent Calendar: :Th(ese) memorand(a) ha(ve) been placed on the Consent Calendar because (they) do...not include changes to user rates or taxes...or any other action which is subject to...public hearing" (see pages 38 and 58 of the Board packet).

Our Policy 3.1.0.4 describes how matters are placed on the Consent Calendar and here is what it says: "In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar." Although it states what CANNOT go on the Consent Calendar ("the Consent Calendar may not include changes to budget, user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing"), it says nothing insofar as what can or should go on the Consent Calendar. Moreover, Policy 3.1.0 instructs that "any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the General Business section of the meeting."

For the reasons which follow, I ask that at least one board member request both of these agenda items be removed from the Consent Calendar and transferred to the General Business Calendar for discussion.

HDR and Jacobs Engineering will design their respective projects. We will then pay additional management fees for Granite Construction to manage HDR and Jacobs. And now listen to page 39 of the Board packet dealing with funding to HDR Engineering insofar as the design work for the effluent pipeline project is concerned: "Engineering staff time will also be billed to the project to manage the design and bidding phase of the project." And llisten to page 59 of the Board packet dealing with funding to Jacobs Engineering insofar as the design work for the effluent pond lining project is concerned: "Engineering staff time will also be billed to the project to manage the design and bidding phase of the project."

It's the in-house engineering staff time I have an issue with. Let's get in the weeds and clearly understand our in house efforts and compensation, shall we? Because the public doesn't have a clue.

First, how much engineering staff time and at what cost? Both staff memoranda are conspicuously silent insofar as answers to these questions.

Second, our staff has proven to not be competent to manage anything. So why are we paying staff to "manage" the professional design work of others (here HDR and Jacobs)? And why do we have Granite Construction as our CMAR? Wasn't a CMAR engaged because our in house staff are incompetent?

Third, we're going to pay our in house staff to handle the bidding phase of both projects? Again, why do we have a CMAR? Wasn't this type of management part of the scope of work included in Granite's contract?

And this takes us to a more critical fundamental examination of what is going on here. Where is the funding source for the engineering sub fund under the internal services fund? We are told that all internal services are cost recovery. In other words internal services bills out its services to other funds. In other words, when Mr. Underwood writes a staff memo, or shows up at a Board meeting, or writes a RFP, or manages the CMAR, HDR and Jacobs, his time is being billed out to some other fund. And here, I assume it is the sewer sub-fund under the Utility Fund. So we need to know what those costs are.

Indra tells us that when Mr. Underwood writes a staff mem or shows up at a Board meeting his time is not being billed out to some other fund because these functions are included in his job description. But I don't believe this answer. Where exactly is the money coming from to pay for these functions since the Internal Services Fund has no source of revenue other than the revenue it can bill out to other District funds?

Now when Mr. Underwood does work on let's say the Burnt Cedar Pool project, he bills out his time to the Beach Fund. So the CIP cost for the project is not only the various contractors' costs, and here the CMAR's costs, but our own engineering department's costs. In other words, Mr. Underwood's costs become a surcharge to every CIP project staff can concoct. And since we've seen that according to staff recreation and beach CIPs are supposed to be funded by the RFF and BFF, we see that the RFF and the BFF are really paying Mr. Underwood's costs under the guise of a CIP.

And I object!

Mr. Underwood's costs should be the same as Mr. Navazio's. They should be billed to the General Fund and not used to surcharge recreation and beach CIP costs. If Mr. Underwood's costs need to be included in central services cost transfers from other funds, then so be it! The Board needs to take a very, very deep dive into how engineering costs really get funded and by what. I made a prior records request to learn this answer insofar as the Burnt Cedar Pool project is concerned. I received an obviously after the fact prepared spreadsheet of monthly charges from engineering without any invoicing or detail. And essentially all of the charges were in whole numbers like \$2,000 or \$5,000 or \$3,400. In other words, meaningless information which was likely fabricated to make the numbers work.

I asked Ms. Herron to provide the detailed engineering invoicing for this project including a description of services allegedly rendered, time spent, the hourly rate assessed, etc., and I RECEIVED NOTHING! I am reiterating that request here and now Ms. Herron. I want to examine the details of so called engineering costs rendered from inception to the Burnt Cedar Pool project. Are you going to provide it?

We can't afford to pay a CMAR to manage a design engineer, and then pay our staff to manage the CMAR. As Arnold Palmer used to ask, what exactly is the par on this hole? This is why I recommend we DISBAND engineering and simply outsource it to real professionals. And the same thing with buildings and fleet also under the auspices of Internal Services.

The public needs the truth and it needs the Board to do its job of uncovering it. So are you Board members going to do your jobs?

Thank you f