



NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at 6:00 p.m. on **Wednesday, February 12, 2020** in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- C. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.
- 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 STAFF UPDATE (*for discussion only*)
 - 1. Interim District General Manager Indra Winqest – **pages 4 - 7**
- F. REPORTS TO THE BOARD OF TRUSTEES*
 - 1. Verbal Report by the Audit Committee Chair (*to be elected at the 4:30 p.m. Audit Committee Meeting*)
- G. CONSENT CALENDAR (*for possible action*)

Excerpt from Policy 3.1.0, Conduct Meetings of the Board of Trustees

0.15 Consent Calendar. In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar." A memorandum will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section. Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the general business section of the meeting.

- 1. Adoption of 2020/2022 District Strategic Plan – **pages 8 - 28**
- 2. Set date and time for Public Hearing for the 2020/2021 Budget and Recreation Roll for Wednesday, May 27, 2020, 6:00 p.m. – **page 29**

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

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H. GENERAL BUSINESS (*for possible action*)

1. Review, discuss and possibly approve the Board Chairman to work with the Interim District General Manager on an employment contract that is mutually acceptable (Requesting Trustee: Chairman Tim Callicrate) – **page 30**
2. Review, discuss and possibly approve the Interim District General Manager exploring the hiring of a consultant to perform three (3) tasks – perform a Utility Reserve Fund Study and set an appropriate fund balance; revise the Utility Fund Balance Board Policy, Policy 19.1.0 and Practice 19.2.0; and perform a Utility Rate Study (Requesting Trustee: Chairman Tim Callicrate) – **page 31**
3. Review, discuss, and possibly provide direction for the next step in the process to revise Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District which includes incorporating requested changes made by the Board of Trustees on December 11, 2019 and January 22, 2020 and possibly setting a public hearing date for March 25, 2020 (Requesting Staff Member: Interim District General Manager Indra Winquest) – **pages 32 - 52**

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

1. Meeting Minutes of January 22, 2020 – **pages 53 - 139**

J. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. District General Counsel: Law Firm of Hutchison & Steffen
 - A. Report on the Katz Case – Denial of Rehearing and Motion of En Banc Reconsideration – **pages 140 - 160**

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

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

M. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (*for possible action*) – **page 161**

N. ADJOURNMENT (*for possible action*)



NOTICE OF MEETING

Agenda for the Board Meeting of February 12, 2020 - Page 3

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Friday, February 12, 2020 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of February 7, 2020) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

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

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

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

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

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

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

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

MEMORANDUM

TO: Board of Trustees

FROM: Indra Winquest
Interim General Manager

SUBJECT: General Manager's Status Report
Prepared for the meeting of February 12, 2020

DATE: February 5th, 2020

Capital Projects Update February 5, 2020

Design

Championship Golf Maintenance Building Drainage and Washpad Improvements

A 2020 Capital Improvement Project, this project will improve surface and sub-surface drainage, construct a modern wash pad facility, and spot treat pavement failures at the Championship Golf Maintenance Building. An engineering consultant has been hired to complete the design and currently working with staff to develop construction documents for bidding in Spring 2020 and construction in Summer/Fall 2020.

Martis Peak Road - Water Main Replacement

A 2020 Capital Improvement Project, this project includes slip lining a 14-inch water main under State Route 28 and replacing aging steel water main in Martis Peak Road and Rifle Peak Court. IVGID Engineering staff is completing the design and is on schedule to bid in Spring 2020 and construction in Summer/Fall 2020.

Tennis Center Renovation

The Board approved on June 19 for staff to begin the design of the tennis center renovation. The architectural, design and permitting services scope of work was approved at the August 14 BOT meeting with the removal of Bocce Courts. The key project objectives are renovation of the pro-shop buildings and surrounding site to renovate aging restrooms, expand the pro-shop by enclosing outdoor kitchenette area, expand and enhance the deck area, improve wayfinding and flow of traffic through the Tennis Center. The Board selected a design development alternative on November 13. Engineering staff has review 50% Design construction documents and returned comment to the Architect. Project permitting will occur in the coming months and the final design is tentatively scheduled to be presented to the Board on March 11th, prior to advertising for bids.

Construction

WRRF Aeration System Improvements

The aeration process of wastewater treatment supplies oxygen to facilitate the biological activity that converts raw sewage into treated wastewater effluent. The plant has six-200,000-gallon aeration basins with two jet aeration clusters per basin. These clusters utilize

pressurized air to mix and recirculate the wastewater and provide the necessary oxygen to the microorganisms. The pressurized air is delivered by multistage centrifugal blowers that are metered by electronically operated valves in order to keep the correct balance of oxygen in the aeration basins at all times. This project funds the design and replacement of the aeration system equipment at the WRRF. The Board awarded the construction contract to the lowest responsive bidder, KG Walters, on December 11. A preconstruction meeting was held on January 15, 2020 and the Contractor is currently preparing submittals for all the required equipment. Contractor is scheduled to mobilize to the site in mid-March and the project will continue until December 2020.

Water Reservoir Safety and Security Improvements

This project would replace the ladders that access the top of the water reservoirs, install intermediate access platforms, install protective railings and install new fall protection devices. The exterior access to the roof area is required to meet the needs of the District to monitor the water quality in the reservoirs and perform routine repairs to radio communication equipment. The ladders also need to be secured from access by the public. The reservoir ladders, fall protection, platforms, and protective railings will meet the current Occupational Safety and Health Administration (OSHA) safety standards. The Board awarded the contract to Resource Development Company on April 10, 2019. Construction began this summer and is expected to be substantially complete by June 30, 2020.

WPS 2-1 Incline – (Adjacent to Burnt Cedar Beach)

Water Pump Station 2-1 (WPS 2-1) is located at the Burnt Cedar Water Disinfection Plant (BCWDP) and pumps the disinfected potable water into the water distribution system to serve Incline Village and Crystal Bay. WPS 2-1 was largely constructed in 1972 with minor upgrades in 1995 and 2012. The electric motor control centers (MCCs) and switchgear at WPS 2-1 date to the original 1972 installation. This equipment does not meet modern OSHA requirements for Arc Flash safety and the MCCs and switchgear is at the end of its service life and no longer supported by the respective manufacturers. Jacobs Engineering completed the design. The Board awarded the contract on August 28, 2019 to San Joaquin Electric. Notice to proceed was issued on September 9 and project completion is April 2020. An onsite construction coordination meeting occurred on January 22, 2019. Currently equipment cut-over is scheduled for the week of February 24th.

Mountain Course Clubhouse Renovation

On August 11, 2018 a fire occurred in the Mountain Course Clubhouse which led to the closing of the kitchen area. The Board approved renovation plans include a revised allocation of floor space, changes to access and substantial change to customer flow. A new ADA accessibility to the lower level for food service and construction of a new and expanded deck and the installation of new windows and doors. The Board approved the design on May 22, 2019 and authorized advertising for bids which then occurred on June 21, 2019. The Board awarded the construction contract to Houston Smith Construction at the August 14 BOT meeting. Project is currently in construction with grading, utilities, decking and paving complete. Winter work will be the interior renovation.

IVGID Recreation Center Paver Entrance

A 2020 Capital Improvement Project to replace the cracking concrete entrance at the IVGID Recreation Center with concrete pavers. Engineering staff has completed design and project will bid this Spring with an anticipated start date of May 4, 2020.

IVGID Recreation Center Site Lighting Replacement

A 2020 Capital Improvement Project to replace bollard and site lights with modern LED fixtures. An outside Electrical Engineering firm has completed design and project will bid this Spring with an anticipated start date of May 4, 2020.

Incline Village Bocce Courts

At the August 14, 2019 Board of Trustees meeting, the Board prioritized construction of bocce courts. Two bocce courts were initially included in the Tennis Center remodel but were removed in favor of maintaining the existing hitting wall. At the November 13, 2019 Board of Trustees meeting a preferred site was selected adjacent to the IVGID Recreation Center. Engineering staff has completed design and project will bid this Spring with an anticipated start date of June 1, 2020.

Items of Note

Burnt Cedar Pool Project Update

Staff is in the final stages of creating an advisory committee that will include staff, board and members of the community. There will be several meetings to discuss the future of the project as well as to determine a range of possibilities for replacement of the pool. Staff is planning to bring back recommendations over the winter with the hope to send out an RFQ for potential firms interested in the design process in the spring of 2020. Staff will continue to update the board and community.

No Smoking Policy Development

In coordination with the North Lake Tahoe Fire Protection District, Staff is working on developing a potential "No Smoking" policy that could apply to all IVGID facilities and venues. There has been recent legislation that refers to smoking near vegetation and this has been a topic of discussion in the community for quite some time. Staff is planning to bring a formal resolution/policy to the Board of Trustees in March.

Update on Mountain Golf Course Maintenance Building Electrical Evaluation

District Staff contracted with an MSA Engineering Consultants to perform a feasibility study for installation of improvements at the Mountain Golf Course to accommodate an electrical fleet of golf carts. The current fleet of golf carts are gasoline and are serviced from the Maintenance Building. It is not known at this time the extent of building modifications that may be required by Washoe County or North Lake Fire Protection District. This report was to determine the potential cost and feasibility of switching to an electrical charging system to support electrical golf carts; construction costs at this time are estimated at \$240,000.

Update on Bar Services Contract at Burnt Cedar and Incline Beaches

As discussed at the December 11, 2019 BOT meeting, after much consideration and discussion, the district has decided to offer an extension to Incline Spirits to continue to operate the Incline and Burnt Cedar Bar concessions. Staff considered the anticipation of upcoming projects including the potential replacement of the Incline Beach House and the Burnt Cedar Pool, it would be challenge for any new private contractor to assume the contract at this point in time. Staff and the Board agree that a formal process needs to be developed in relation to the frequency that the Districts goes out to Request for Proposal (RFP) for contract services. Staff is currently in the process of working with Incline Spirits on finalizing a two year extension to the existing agreement.

Update on Potential Dog Park Site

Staff met with staff from the USFS on January 27th to kick off discussions about entering into a special use permit for use of the 14 acre parcel across the street from Incline High School. Staff will be meeting with USFS staff for a site visit in mid-February. Staff will continue to provide updates on these discussions.

Update of Diamond Peak's Season to Date

Skier visits for the month of January were 28,735, 4% down for the 10 year average and 15% down within the 5 year average visit count. 8,300 of the total monthly visit count fell within the first week of January. The total visit count of 6,400 during the MLK weekend was 12% better than the 10 year average. Season to date skier visit counts are about average for this time of year. Year to date season pass sales through January have increased by 34% over last season through January for a total of 6,563 passes sold with 2,936 of those being resident passes.

Unfortunately, we saw only one good snowstorm that came in on January 16th leaving 15" of snow other than that we have been relatively dry for the month. Ski area staffing levels are on target as we prepare for the Presidents Holiday week which begins on February 15th through February 23rd, during the nine day period we plan to provide a great experience to over 17,000 visitors.

Financial Transparency

The OpenGov Transparency Tool has been down intermittently after a software update to the integration module in December 2019. Staff is working with the engineers at OpenGov and have created a temporary solution so the reporting tool is now available to the public.

The December 2020 Monthly District Financial reports are posted on the Financial Transparency page <https://www.yourtahoeplace.com/ivgid/financial-transparency>.

The Accounting Staff is currently closing the month of January 2020 and plan to distribute the financials and update OpenGov by Friday, February 15, 2020. As of the writing of this status report, the preliminary revenue for the month of January 2020 indicate all Community Service Venues exceeded budget.

M E M O R A N D U M

TO: Board of Trustees

THROUGH: Indra S. Winquest
Interim District General Manager

FROM: Susan Herron, CMC
District Clerk

SUBJECT: Adopt District Strategic Plan 2020/2022

DATE: January 6, 2020

The District Strategic Plan was included under the General Manager's report item in the December 11, 2019 Board of Trustees packet. At the Board meeting, all members of the Board were asked to review the document and provide any observations or changes; none were received to date. This item is to adopt this document and it is included on the Consent Calendar as it is a routine matter for the District.



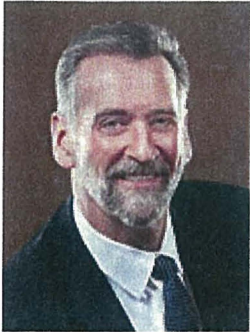
Strategic Plan

FISCAL YEARS 2020 – 2022



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Board of Trustees



Tim Callicrate
CHAIRMAN



Matthew Dent
VICE CHAIRMAN



Sara Schmitz
TREASURER



Peter Morris
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Kendra Wong
SECRETARY

Senior Management Team



Indra Winquest
Interim District
General Manager



Joe Pomroy
Director of
Public Works



Dee Carey
Director of
Human Resources



Susan Herron
Executive Assistant/
District Clerk



Introduction

The Incline Village General Improvement District Strategic Plan provides direction and a planned pursuit of the mission, vision, values, long range principles and objectives and actions of the District from July 1, 2020 to June 30, 2022.

This plan reflects the District's desire to become more strategic and less tactical as the next logical step in the organization's life cycle and planning evolution.

Strategic Planning is a systematic approach to defining longer term principles and identifying the means to achieve them. It provides the District with the ability to channel resources in a direction that yields the greatest benefit to residents, constituents and guests.

The intent of the plan is to identify long range principles that align activities of the District to the strategy of the District. It provides a framework to ensure that a balanced approach toward addressing objectives of District residents, finances, internal processes and learning and growth of employees is integrated into the plan.

The strategic planning process enables the District to plan and execute continuous improvements throughout the organization.

The benefits of strategic planning include:

- Focuses the District's resources on activities that are essential to increasing customer satisfaction, lowering costs, increasing value and achieving measurable outcomes.
- Creates a planning and implementation system that is responsive, flexible, and disciplined.
- Encourages cooperation and support among all District functions.
- Reinforces the continuous improvement culture of the District.
- Empowers managers and employees by providing them with the authority to fulfill planned activities.
- Provides for more seamless internal and external customer service.
- Defines and describes the District's key strategies. As a result, employees and residents know where the District is headed.

Strategic Planning Process

Board of Trustees Policy 1.1.0 states:

The Incline Village General Improvement District recognizes the importance of using some form of strategic planning to provide a long-term perspective for service delivery and budgeting, thus establishing logical links between authorized spending and broad organizational goals. While there is not a single best approach to strategic planning, a sound strategic planning process will include the following key steps:

- 0.1 Initiate the Strategic Planning Process*
- 0.2 Prepare a Mission Statement*
- 0.3 Assess Environmental Factors*
- 0.4 Identify Critical Issues*
- 0.5 Agree on a Small Number of Long Range Principles*
- 0.6 Develop Strategies to Achieve Long Range Principles*
- 0.7 Develop Objectives*
- 0.8 Create an Action Plan*
- 0.9 Incorporate Performance Measures*
- 0.10 Obtain Approval of the Plan*
- 0.11 Implement the Plan*
- 0.12 Monitor Progress*
- 0.13 Reassess the Strategic Plan*

Key Dates in the History of the Strategic Plan

The Board of Trustees initiated the process in February 2015. After a lengthy and exhaustive process, the Board finalized updated Mission, Vision, Value and Mantra statements. The Board reviewed revised long range principles and objectives. On September 3, 2015 the Board reviewed the Final Draft Strategic Plan.

The 2015-2017 Strategic Plan was adopted at the September 23, 2015 Board of Trustees meeting.

The 2018-2020 Strategic Plan was adopted at the May 9, 2018 Board of Trustees meeting.

Statements

IVGID's Vision Statement

With passion for quality of life and our environment, Incline Village General Improvement District will enhance the reputation of our community as an exceptional place to live, work, invest, and play.

IVGID's Mission Statement

The Incline Village General Improvement District delivers exemplary recreational experiences and provides the highest level of water, sewer, and solid waste services while striving for fiscal and environmental sustainability.

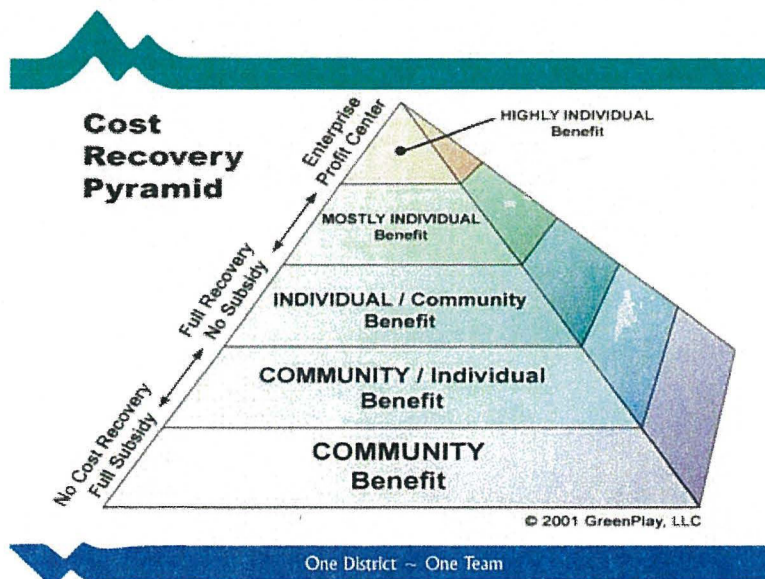
IVGID's Value Statement

We are dedicated people providing quality service, for our community and environment, with integrity and teamwork.

IVGID's Mantra Statement

One District • One Team

IVGID's Cost Recovery Pyramid



Long Range Principles


LONG RANGE PRINCIPLE #1 Resources and Environment

Initiating and maintaining effective practices of environmental sustainability for a healthy environment, a strong community and a lasting legacy.

- Promote and protect Lake Tahoe and other water sources in the Basin as viable sources of drinking water. Promote responsible use of water as a valuable natural resource.
- Develop, implement and maintain an effective watershed control program in order to satisfy recommendations in watershed sanitary surveys, advocate for the protection of Lake Tahoe as a viable source of drinking water and to satisfy additional State and Federal requirements
- Encourage integrated regional strategies for the planning, design, construction and implementation of water system infrastructure for fire suppression

Objectives for 2020-2022

1. Maintain an active watershed management control program and execute the goals of the Tahoe Water Suppliers Association to meet Federal and State requirements for filtration avoidance and other requirements; promulgated by the Surface Water Treatment Rule and its amendments.
2. Enter into available Grant Agreements with the South Tahoe Public Utility District as a member of the Lake Tahoe Community Fire Prevention Partnership. This partnership was formed out of the member agencies of the Tahoe Water Supplier's Association and its purpose is to obtain appropriations from the Federal Government through the United States Forest Service for planning, design, and construction of water system improvements that have a direct relationship to wildland fire suppression.
3. Continue Legislative Advocacy efforts at the Federal Government level to support appropriations for water and wastewater infrastructure improvements that support Principle 1 and Principle 5.
4. Participate in the Tahoe Water for Fire Suppression Partnership. This Partnership will be working with the Regional Fire Districts to submit water system projects for improving fire suppression in the Tahoe Basin.

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5. In partnership with the North Lake Tahoe Fire Protection District, protect District lands and the Lake Tahoe Basin watershed by performing defensible space best management practices.

Budgeted Initiatives for 2020-2022

- A. Operate a residential drop-off household hazardous waste and electronic waste facility or events to reduce the amount of hazardous materials entering the waste stream and landfills and to provide our residents with a convenient local facility. This program will be funded by the Solid Waste Franchise Fee.
- B. Continue membership in the Tahoe Water Suppliers Association and provide the services of Association Director by IVGID staff to execute the goals of the Association for 2020-2022 including the completion of the Annual Watershed Control Program Report.
- C. Submit District Fireflow Enhancement Projects to the Tahoe Water for Fire Suppression Partnership (which the District is a member) for prioritization and ranking. The Tahoe Water for Fire Suppression Partnership submits the priority projects to the United States Forest Service for consideration to obtain funding through the Lake Tahoe Restoration Act.
- D. Provide bear shed rebates for new homeowners in the service area to contain putrescible waste in a safe manner.
- E. Provide water efficiency rebates to customers for the installation of a high efficiency toilet or washing machine.



LONG RANGE PRINCIPLE #2

Finance

The District will ensure fiscal responsibility and sustainability of service capacities by maintaining effective financial policies for operating budgets, fund balances, capital improvement and debt management.


- Adhere to Government Generally Accepted Accounting Principles.
- Comply with State and Federal regulations.
- Maintain Performance Measurement.
- Report results and demonstrate value.
- Develop and maintain a long-term plan to sustain financial resources.

Objectives for 2020-2022

1. Utilize Annual and Interim financial reports, including the OpenGov website, to build understanding of the different aspects between operations, capital improvement and debt service.
2. Prepare Annual Budgets that demonstrate the balance of allocated resources, with service expectations, and the capability to deliver.
3. Prepare a five-year projection of financial results for each fund for operations, capital improvement and debt service as a part of budget deliberations.
4. Continue the evolution of appropriate performance measurement to demonstrate quality as well as quantity.
5. Consider revision of Board Policies and Practices relating to Adequate Fund Balance and, if changed, plan implementation to meet the new targets by June 30, 2022.

Budgeted Initiatives for 2020-2022

- A. Prepare a Comprehensive Annual Financial Report to provide financial position and results of operations to a variety of users and information needs, with an independent auditor opinion.
- B. Comply with Nevada Revised Statutes and Administrative Code requirement for the budget process, indebtedness reporting, and the annual audit.
- C. Maintain the allocation of Facility Fee components for operations, debt service and capital expenditure, with prioritization for debt service, then capital asset replacement and last operations.

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- D. Actively manage planning and financial reporting to inform users for decision making to sustain a strong financial base for operations, while increasing net assets, and maintaining care and condition of capital assets and infrastructure.
1. Prepare standard format and popular reporting presentations of financial position and activity results about budget to actual to inform users on:
 - a) Operations and Programming
 - b) Capital Project Expenditure Status
 - c) Fund Balance, actual and projected, in relation to budgets and Board direction
 - d) Relevant Performance Measures
 2. Utilize OpenGov on the District's Financial Transparency website to provide ready access to a variety of reports and information to support a greater level of detail than standard reports allow.
 3. Present annual results and planned budgeted activity to the community through presentations consistent with the Board of Trustees' direction.
- E. Analyze and evaluate the future effects of changes to Governmental Accounting Standards Board Pronouncements on the Reporting Model requiring pre-planning for budgeting or system revisions.
- F. Staff will work with the Board on conducting a utility reserve and rate study as well as an internal controls audit.



LONG RANGE PRINCIPLE #3 Workforce

Attract, maintain and retain a highly qualified, motivated and productive workforce to meet the needs of District venues:


- Staff will evaluate open position job descriptions, for need to fill, level of and related compensation for the position.
- Re-evaluate, during the budget process, the optimum level of Staff and related total compensation, necessary to each department based on industry standard and levels of service.
- Comply with State and Federal regulations.
- Continue to provide a safe environment and continue to strive for low workers compensation incidents.
- Identify individuals for retention and growth for management succession within the District.
- Work with Staff to improve employee engagement and culture through focused performance management goals, engagement participation and incentives.

Objectives for 2020-2022

1. In order to remain competitive, use the rotating schedule for evaluating each position to ensure District is competitive with its total compensation and benchmarks.
2. Finalize selection and begin implementation of new Human Resources system for better efficiencies and automation.
3. Identify potential changes of status, costs and retention for year round Operations at various summer locations throughout the District.
4. Continue goal setting that encompasses employee engagement participation for measured performance measurement goals and objectives with set increases that correlate directly with goals and engagement measures.
5. Educate Management Staff through specific trainings on how to engage, educate and foster better communication.

Budgeted Initiatives for 2020-2022

- A. Review budget, number of positions to salary and benefits and conducts surveys to ensure we are doing our best to attract, maintain and retain qualified employees across the District and all statuses.

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- B. Understand the potential financial impacts of staffing, hourly wages, increased minimum wage and retention of year round employment changes at current recreational exemption status.
 - C. Continued communication, implementation and change to increase employee engagement participation that correlates with accountability and meeting set mutual goals for year round employees.
 - D. Conduct Management trainings at various times throughout the year to bring awareness to communication, the impact you can have on your employees and educate management and staff on Federal, State and our own personnel policies.
 - E. Choose and implement a new HRIS/Payroll system to increase efficiencies, automation, and communication to be used across all venues throughout the District.



LONG RANGE PRINCIPLE #4 Service

The District will provide superior quality service and value to its customers considering responsible use of District resources and assets.


- Provide well defined customer centric service levels consistent with fiscal goals, and community expectations.
- Apply Performance Management to meet or exceed established venue customer service levels.
- Utilize best practice standards for delivery of services.
- Commit to evaluate customer loyalty/satisfaction to demonstrate the value of results.
- Maintain customer service training and resources for new, returning and existing employees.

Objectives for 2020-2022

1. Continue to establish, enhance and evaluate metrics through key performance indicators for each venue.
2. Continue to establish and enhance specific performance indicators to evaluate customer loyalty/satisfaction.
3. Align performance metrics through industry benchmarking.
4. Analyze the net effect of established service levels on the District operations, apply changes as needed, and encourage/reward continuation of appropriate performance.
5. Utilize venue and/or community surveys to evaluate and measure customer service as it relates to existing service level demands.
6. Develop a short and long term strategy to utilize the community services master plans as a service level metric and roadmap for the future.
7. Develop a service level strategy as related to the current project priorities directed by the Board of Trustees to include operational analysis.
8. Maintain venue standard operating procedures to help venues have the highest standards possible.

Budgeted Initiatives for 2020-2022

- A. Each venue has time budgeted for new, returning and existing employees to participate in Customer Service Training.

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- B. Understand, communicate and demonstrate service level baselines at each venue. The emphasis is on providing the best customer experience.
 - C. The District is continuing the Customer Care program for all of Community Services, which includes empowerment for any actions that generate a hard cost to remedy a customer satisfaction issue.
 - D. Seek venue specific community feedback to determine customer satisfaction.
 - E. Gain an understanding of how service levels are impacted by recruitment challenges and develop strategies to limit these impacts when experienced.
 - F. Utilize employee surveys to further define areas of improvement as well as celebrate successes.



LONG RANGE PRINCIPLE #5

Assets and Infrastructure

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation activities.


- Maintain, renew, expand and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.
- Maintain, procure and construct District assets to ensure safe and accessible operations for the public and the District's workforce.
- Maintain current Community Service and Public Works master plans.
- Maintain a 5-Year and 20-Year capital improvement plan.
- Conduct planning and design, in advance of undertaking projects or procurement, to ensure new District assets meet operational requirements and enhance the customer experience.
- Maintain an asset management program leveraging technology, as appropriate by venue/division, to ensure timely and efficient asset maintenance.
- Comply with regulatory requirements and industry standards.

Objectives for 2020-2022

1. Complete environmental and regulatory entitlements for the Diamond Peak Master Plan.
2. Set direction and begin implementation of the Community Service Master Plan priorities as defined by the Board of Trustees.
3. Effluent Export Project – Phase II, continue to pursue project partnerships and federal funding to reduce District costs.
4. Execute the Ski Way Pavement reconstruction project.

Budgeted Initiatives for 2020-2022

- A. Continued use of the Five Year Rate Study as a way to ensure proper funding of capital projects such as the Effluent Pipeline replacement.
- B. Allocate capital expenditures in Community Services to maintain service levels, while planning for some facility replacement for facilities that are crossing 20 years in service.
- C. Continue to work through the environmental clearances and regulatory approval process of the Diamond Peak Master Plan.
- D. Complete the design of the Tennis Center Renovation.

- 
- E. Complete the site selection for the Bocce Facility.
 - F. Complete the design for reconstruction of Ski Way.
 - G. Complete the design for the Burnt Cedar pool.



LONG RANGE PRINCIPLE #6 Communication

The District will engage, interact and educate to promote understanding of the programs, activities, services, and ongoing affairs.

- Promote transparency in all areas including finance, operations and public meetings.
- Provide clear, concise and timely information in multiple, publicly accessible formats.
- Ensure that both internal and external communication is responsive, comprehensive and inclusive.

Objectives for 2020-2022

1. Continue to implement best practices for sharing information with the public.
2. Work diligently to improve all external entity relationships as well as participate in any necessary legislative committees and/or discussions.

Budgeted Initiatives for 2020-2022

- A. Host Quarterly Board of Trustees Community Workshops each fiscal year.
- B. Complete, by 2020, the codification of IVGID's ordinances, policies, procedures, etc. thus to create an easy to work with and update IVGID code.
- C. Provide informative and timely releases of information to our employees, media, and the public.
- D. Ensure that the District is well represented in external agency discussions where there may be an impact to either our District or our community.

Implementation

The annual budget document serves as the Action Plan for implementing the 2020-2022 objectives.


Budget Initiatives

The budget initiatives for the Fiscal Years 2020/2022 are described in conjunction with each Long Range Principle.

Review Process

Implementation of the Strategic Plan requires a process of review, improvement, refinement, and measurement and following is the criteria for successful implementation of the Strategic Plan. It represents the commitment and discipline required to institutionalize the process.

- All employees and Board of Trustees members should receive a copy of the plan or electronic access to the Plan and should become a regular part of Staff and Board of Trustees orientation.
- The Strategic Plan becomes the guidepost for the District. When decisions or responses to the community are needed, the Strategic Plan serves as a strong reference point for decision-making and whether or not new issues or responses are of higher importance than what's been established as existing direction.
- Post a summary or shortened version of the Strategic Plan on the District's website and track results on the website as well. It may also be helpful to print a short summary of the Strategic Plan's progress to distribute to interested partners and community members.
- The District's General Manager and the Senior Management Team will have the responsibility of being the Strategic Plan Managers to ensure successful implementation.
- Regular reporting of the Strategic Plan's progress should occur. Break the Strategic Plan into separate fiscal years and report, one year at a time, as an ongoing annual work plan. Each initiative for the year should include a list of actions that support the goal's completion. Actions are developed prior to each year. Each year's data will be entered on a spreadsheet that lists the Themes, Objectives, Initiatives, supporting actions and associated start and completion dates, as well as the staff person responsible for the Initiative.
- At the end of the year, perform an annual review and documentation of progress on initiatives.

- 
- Provide an update on the Plan's implementation and results on an annual basis.
 - Conduct Staff meetings on a quarterly or semi-annual basis to review the Strategic Plan's progress and results and report on progress to the Board of Trustees.
 - The performance appraisal process should reflect the completion of the Strategic Plan initiatives as an evaluation criterion. Also, performance criteria should be aligned with values of the District such as innovation, teamwork, and accountability.
 - Track the measurement system on a quarterly basis. Some of the measures will be calculated annually. Provide an annual narrative about the results. Review the measures on an annual basis and make adjustments as necessary to ensure the measures continuously add value to decision making. Include a combination of lagging and leading indicators. (Lagging indicators or outcomes measure past performance; leading indicators or performance drivers assist in establishing future performance.)
 - After completion of the first year of the Strategic Plan and baseline results are quantified, targets should be initiated for the measurement system.
 - After each year of the Strategic Plan, the Staff should review the Strategic Plan's process and re-tool any parts of the process that need improvement. This review should include a "just-in-time review" of the following year's Initiatives to determine if priorities have changed. The review of Initiatives should tie into the budget process
 - Staff meetings should regularly include discussion of strategy. Create a visualization process to emphasize the Strategic Plan's importance and the District's commitment to execution. For example, posting charts on office walls of each year's initiatives, with a check-off column, can provide a visual tracking of initiative completion.



Reassessment

Many external factors, such as the local and national economy, demographic changes, statutory and legislative changes, and climate may affect the environment and thus achievement of strategies. To the extent that external events have long-range impacts, strategies, objectives and actions may need to be adjusted to reflect these changes.

New information about residents, constituents, and guests needs or results may also require changes to the Strategic Plan. It is desirable to minimize the number of adjustments to long range principles in order to maintain credibility.

However, the District's Board of Trustees expects to conduct interim reviews each year, and more comprehensive strategic planning processes every five years, depending on how quickly conditions change. Performance measure results will be reviewed more frequently than the Strategic Plan.



Incline Village General Improvement District

893 Southwood Boulevard

Incline Village, Nevada 89451

Telephone Number: 775-832-1100

Questions: info@ivgid.org



yourtahoepace.com

MEMORANDUM

TO: Board of Trustees

FROM: Indra S. Winqest
Interim General Manager

SUBJECT: Review, discuss, and possibly set date and time for Public Hearing for the 2020/2021 Budget and Recreation Roll for Wednesday, May 27, 2020, 6:00 p.m.

STRATEGIC PLAN: Long Range Principle #2 - Finance

DATE: February 4, 2020

I. RECOMMENDATION

Staff recommends that the Board of Trustees makes a motion to set the date of a public hearing for the 2020/2021 Budget **and** Recreation Roll for Wednesday, May 27, 2020 under the Nevada Revised Statutes. The time of the meeting is expected be 6:00 p.m. or as determined by the Board of Trustees.

II. DISTRICT STRATEGIC PLAN

Long Range Principle #2 – Finance – Comply with State and Federal regulations.

- Comply with Nevada Revised Statutes and Administrative Code requirement for the budget process and document content.

III. BACKGROUND

The Nevada Revised Statutes (NRS) requires that the public hearings of the District’s budget be held between the third Monday in May and by May 31. The Board of Trustees has indicated a desire to incorporate this meeting into the regular meeting schedule. Staff will also ask the Board to adopt, as final, the Operating Budget for the Fiscal Year 2020/2021 from the tentative budget (Form 4404LGF) as presented. This includes the Recreation and Beach Facility Fees.

The calendar, as dictated by the NRS, is as follows:

DATES	ACTION
April 15, 2020	Tentative budget to be filed with the Department of Taxation.
May 13, 2020	Earliest date for notice of public hearing. The NRS reads “...notice of public hearing for tentative budget shall be published not more than 14 days or less than 7 days prior to the date set for the hearing.”
May 27, 2020	Tentative Budget hearing for general improvement special district and all other districts. (Note: Staff will also ask the Board to adopt the final budget the same day).
June 1, 2020	The final budget shall be adopted on or before June 1.

This is on the Consent Calendar as it is a routine matter of only setting a hearing date.

IV. ALTERNATIVES

The Board of Trustees could designate another date between May 21 and May 31 for the required meeting.

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Board Chairman

SUBJECT: Review, discuss and possibly approve the Board Chairman to work with the Interim District General Manager on an employment contract that is mutually acceptable

DATE: February 4, 2020

I. RECOMMENDATION

That the Board of Trustees appoint the Board Chairman to work with the Interim District General Manager on an employment contract such that the Board of Trustees would be able to hire the current Interim General Manager as the District's General Manager effective on a date mutually acceptable to both parties.

II. BACKGROUND

The District has had an Interim District General Manager since the departure of its former District General Manager in August of 2019. An employment contract is customary for this position. It is time for the Board of Trustees to make our appointment and get a contract in place with our present Interim District General Manager.

Assuming mutually agreeable terms can be achieved, it is anticipated that this item will be on our February 26, 2020 agenda at the earliest and the March 25, 2020 agenda at the latest.

MEMORANDUM

TO: Board of Trustees

FROM: Indra S. Winqest
Interim District General Manager

SUBJECT: Review, discuss and possibly approve the Interim District General Manager exploring the hiring of a consultant to perform three (3) tasks – perform a Utility Reserve Fund Study and set an appropriate fund balance; revise the Utility Fund Balance Board Policy, Policy 19.1.0 and Practice 19.2.0; and perform a Utility Rate Study

DATE: February 4, 2020

I. RECOMMENDATION

That the Board of Trustees makes a motion to approve the Interim District General Manager exploring the hiring of a consultant to perform three (3) tasks – perform a Utility Reserve Fund Study and set an appropriate fund balance; revise the Utility Fund Balance Board Policy, Policy 19.1.0 and Practice 19.2.0; and perform a Utility Rate Study.

II. BACKGROUND

At the Board meeting of January 29, 2020, the Board of Trustees asked for an agenda item to have a discussion about hiring a consultant to do the aforementioned tasks. If the Board of Trustees wants this done, a discussion needs to be held with the Director of Public Works to determine the following:

- a. Does the Board of Trustees want Staff to **not** do a Utility Rate Study this year?
- b. Does the Board of Trustees want Staff to hold utility rates to the current amounts with **no** percentage increase?
- c. Does the Board of Trustees understand that by holding the utility rates to the current amounts this **will have** operating, capital budget and Utility Fund Reserves impacts?
- d. Does the Board of Trustees want Staff to provide a Utility Rate Study, if so, at what meeting?

Once the above questions are answered, the Interim General Manager will understand the desires of the Board of Trustees and be able to proceed accordingly. Further, whatever consultant is selected, that contract will come before the Board for approval with a deadline of March 25, 2020 for that contract award item coming before the Board of Trustees.

MEMORANDUM

TO: Board of Trustees

FROM: Indra Winqest
Interim District General Manager

SUBJECT: Review, discuss, and possibly provide direction for the next step in the process to revise Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District which includes incorporating requested changes made by the Board of Trustees on December 11, 2019 and January 22, 2020 and possibly setting a public hearing date for March 25, 2020

STRATEGIC PLAN: Long Range Principle 4 – Service
Long Range Principal 6 – Communication

DATE: February 12, 2020

I. RECOMMENDATIONS

That the Board of Trustees review, discuss the presented redline version of Ordinance 7 based upon the outlined changes presented December 11, 2019, and January 22, 2020; and provide direction to Staff to proceed with next steps in the process of making administrative revisions to Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District, which includes but is not limited to setting a public hearing date and agenda item at a future meeting. If acceptable, Staff recommends a hearing date for the second meeting in March (March 25, 2020).

II. DISTRICT STRATEGIC PLAN

Long Range Principle 4 – Service
– Provide well defined customer centric service levels consistent with fiscal goals and community expectations.

Long Range Principal 6 – Communication
– Promote transparency in all areas including finance, operations, and public meetings.

III. BACKGROUND

At the March 28, 2019, Board of Trustees workshop, the Board of Trustees undertook a conversation about Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District. There was additional Board discussion regarding Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District, at the April 10, 2018 and May 1, 2019 Board of Trustee meetings.

The Trustees prioritized the following issues as future discussion items for the possible modification of Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District:

- No longer combine beach policies and regulations with other recreational policies and regulations;
- Remove sections which are outdated or are purely administrative in nature;
- Review punch card policies; and
- Review guest access policies and procedures

As part of the public input process for these potential modifications, there was a public forum on Beach policies and procedures on July 24, 2019. This was the second public meeting regarding the beaches in twelve months. A very well attended "Beaches 101" public meeting was held on July 11, 2018. A recording of the meeting along with the supporting materials is available on the District's website.

At the December 11, 2019 meeting a list of administrative changes by section or item were presented in detail for review by the Board and to expose the intent of those changes to the Ordinance. Additionally, on January 22, 2019 the Board was presented with a red lined version to represent the proposed changes. Additional feedback and requested revisions were suggested and required by the Board.

IV. FINANCIAL IMPACT AND BUDGET

None at this time.

Review, discuss, and possibly
provide direction on next steps to
revise Ordinance 7, An Ordinance Establishing Rates, Rules
and Regulations for Recreation Passes and Recreation
Punch Cards by the Incline Village General Improvement District
which includes but is not limited to setting a public hearing date for March 25, 2020

-3-

February 12, 2020

V. ALTERNATIVES

The Board of Trustees can direct Staff to make additional revisions to Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District and bring said revisions back to the Board for an additional review.

VI. COMMENTS

Time is of the essence to act for the changes to be implemented by summer 2020.

ORDINANCE NO. 7

*(As amended June 13, 1991; November 17, 1993;
May 8, 1995; June 12, 1995; March 25, 1998, TBD 2020)*

**AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS
FOR RECREATION PASSES AND RECREATION PUNCH CARDS BY THE
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT**

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ORDINANCE NO. 7

*(As amended June 13, 1991; November 17, 1993;
May 8, 1995; June 12, 1995; March 25, 1998, TBD 2020)*

**An Ordinance Establishing Rates, Rules and Regulations
for Recreation Passes and Recreation Punch Cards by the
Incline Village General Improvement District**

RECREATION PASS ORDINANCE

**Be it ordained by the Board of Trustees of
the Incline Village General improvement
District, Washoe County, Nevada, as follows:**

ARTICLE I. GENERAL PROVISIONS

1. **Short Title.** This ordinance shall be known and may be cited as the "Incline Village General Improvement District Recreation Pass Ordinance."
2. **Words and Phrases.** For the purpose of this ordinance, all words used herein in the present tense shall include the future; all words in the plural number shall include the singular number; and all words in the singular number shall include the plural number.
3. **Separability.** If any section, subsection, sentence, clause or phrase of this ordinance or the application thereof to any person or circumstances is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance or the application of such provision to other persons or circumstances. The Board hereby declares that it would have passed this ordinance or any section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared to be unconstitutional.
4. **Posting.** The adoption of this ordinance shall be entered in the minutes of the Board and certified copies hereof shall be posted in three (3) public places in the District for ten (10) days following its passage.

ARTICLE II. DEFINITIONS

When used in this ordinance, the following terms shall have the meanings defined below:

5. **Affinity** signifies the connection existing in consequence of marriage between each of the married persons and the blood relatives of the other.
6. **Agent** means the person designated by an owner to represent the owner in matters pertaining to the assignment of recreation privileges.

7. **Assignment** means the naming of persons to receive recreation privileges.
8. **Beach Pass** means a daily pass, good for one day only, sold by the District allowing entry onto the District-owned beaches.
9. **Board** means the Board of Trustees of the Incline Village General Improvement District.
10. **Card Holder** means the person who is in possession of a Recreation Punch Card.
11. **Commercial Tenant** means an individual or corporation who rents, or leases, a commercial property for the purposes of conducting business or commercial activity.
12. **Consanguinity** means a blood relationship.
13. **County** means the County of Washoe, Nevada.
14. **Director of Parks and Recreation** means the person appointed as the department head of the Parks and Recreation Department.
15. **District** means the Incline Village General Improvement District (acting through its duly authorized officers or employees within the scope of their respective duties).
16. **Family** means a social unit consisting of people related to the property owner by marriage and to the extent of the first and second degrees of consanguinity and affinity,- including parents, children, grandparents, grandchildren, brothers and sisters, and their spouses. (*See attached Exhibit A.*)
17. **General Manager** means the person appointed by the Board of Trustees as the General Manager of the District.
18. **Owner** means any person owning fee title to the property, or portion thereof, or any person in whose name the legal title to the property appears, in whole or in part, by deed duly recorded in the County Recorder's office, or any person exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the Owner.
19. **Parcel** means a single plot of land with or without a dwelling on it, or a single unit within a multi-unit residence as defined by the District Recreation Roll.
20. **Pass Holder** means an individual who has been issued a Recreation Pass.
21. **Recreation** means any leisure or sports facility, program, or service owned, operated or provided by the District, including, but not limited to, beaches, parks, playgrounds, athletic fields, trails, Nordic and alpine ski areas, golf courses, recreation centers, tennis courts, swimming pools, sports leagues, contests, events, classes, and special events.

22. **Recreation Punch Card** means the transferable punch card issued by the District to eligible parcel owners and/or their assignees that can be used to pay the difference between the resident rate and the retail or nonresident rate for access to various District recreation facilities and bears a face value established by the Board. The District can sell additional Recreation Punch Cards to eligible parcel owners or assignees for their personal use as provided in Article VIII, Item 69 herein.

23. **Recreation Fee** means the annual Recreation Standby and Service Charge assessed by the District to finance recreation programs and facilities.

24. **Recreation Pass** means the non-transferable photo identification pass issued by the District for free access to District beaches and for hourly, daily, and seasonal discounts at District-owned recreation facilities. Subject to the familial limitations described herein, the District can sell additional Recreation Passes to eligible parcel owners, residents or assignees for their personal use as provided in Article VIII, Item 69 herein. Additional Recreation Passes sold cannot be used to obtain a resident discount at the District-owned golf facilities.

25. **Recreation Privilege** means any privileges of recreation access or special rates afforded to pass holders or card holders, including the privilege to provide admission for guests.

26. **Resident** means any individual maintaining residence within the boundaries of the District as constituted by law.

ARTICLE III. RECREATION PRIVILEGE ELIGIBILITY

27. **Eligible Parcels**. Each District parcel which is assessed a recreation fee, is eligible to receive recreation privileges so long as the assessment on that parcel is current.

28. **Fees Kept Current**. All property taxes, special assessments and recreation fees on a parcel must be paid for the current and prior years to maintain the parcel's eligibility for recreation privileges. The District Recreation Fee must be ~~paid current as of~~ paid current as of ~~by~~ October 1 (no delinquency shown through the most recent tax year ending June 30) of the year billed in order to continue receiving recreation privileges as determined by the Washoe County Treasurer.

29. **Resident Eligibility**. All residents are eligible for an assignment of recreation privileges, provided that they have proof of residency.

30. **Available Privileges**. Every eligible parcel may receive any combination of up to five (5) Recreation Passes or Recreation Punch Cards.

ARTICLE IV. APPLICATION PROCEDURES

31. **Application**. Application for recreation privileges must pertain to a specific, eligible parcel. An application will be accepted when filed on the Application Form provided by the District; when accompanied by proof of ownership as set forth in Section 32; and when signed by any owner of the parcel. The form must be filed with the District's Parks and Recreation office, in person, by ~~fax~~ electronic formats, or by mail, prior to any issue of recreation privileges as provided by this ordinance.

32. **Proof of Ownership.** Proof of ownership shall be made in one of the following forms:

- (a) Written copy of legal deed of title.
- (b) Confirmation of ownership by the District from the County Assessor's office.
- (c) Confirmation of ownership by the District from a local title company.

33. **Proof of Residence.** Proof of residence shall be made in one, or more, of the following forms:

- (a) Written, completed form for Assignment of Privileges (required):
- (b) If tenant, a written copy of a legal lease signed by the parcel owner or authorized agent (required):
- (c) Valid photo identification issued by a governmental agency, i.e. driver's license, driver's identification card (required):
- (d) Verifiable copies of current utility (telephone, electric, water and sewer, etc.) bills in assignee's name (optional)
- (e) Valid Washoe County, Nevada, voter's registration card (optional)
- ~~(a) Written copy of legal lease signed by parcel owner, or authorized agent.~~
- ~~(b) Valid Nevada Driver's License indicating current street address.~~
- ~~(c) Verifiable copies of current utility (phone, electric, water and sewer, etc.) bills in assignee's name.~~
- ~~(d)(f) Valid Washoe County, Nevada, voter's registration card.~~

34. **Proof of Commercial Tenancy.** Proof of commercial tenancy shall be made with the submittal of a written copy of legal lease signed by the parcel owner, or authorized agent and a completed form for Assignment of Privileges (required).

Confirmation must be by written document. Written documents need not be certified; however, the District may require further confirmation of uncertified documents.

35. **Application Acceptance.** Application will not be accepted on any parcel if another valid parcel owner or resident application already exists on that parcel. Any application will expire with a change of ownership, residency or tenancy where no party listed on the application continues ownership, residency or tenancy.

36. **Application Approval.** Upon review and verification of the application by the District, the Director of Parks and Recreation, or the Director's designee, shall approve the application. It is the applicant's responsibility to provide the District with all information required for approval.

37. **Application Amendment.** To update information on the application, an approved

application may be amended by any verified owner of the parcel, whether or not that owner signed or submitted the original application form.

ARTICLE V. ASSIGNMENT OF PRIVILEGES

38. Assignment Procedures. Assignment of recreation privileges will be accepted when filed on the Assignment Form and when accompanied by an approved application, or when an approved application is already on file, and when signed by any owner listed on the application

or any listed owner's designated agent. The assignment form must be filed with the District's Recreation office, in person, by [fax/electronic formats](#), or by mail.

When there is an assignment of recreation privileges, the property owner and assignor shall be jointly and severally liable with assignee(s) respecting any sums of money assignee(s) owes the District related to the use of recreation facilities, including the use of all District-owned meeting facilities.

39. Agent Designation Any Owner listed on an approved application may designate an agent by filing and executing an Agent Authorization Form. An owner may only designate one agent. The agent form must be filed with the District's Parks and Recreation office, in person, by [fax/electronic formats](#), or by mail. Upon review and verification of the agent form by the District, the Director of Parks and Recreation, or the Director's designee, shall approve the form. It is the owner's responsibility to provide the District with all information required for approval.

40. Multi-Parcel Agent Designation. If one agent is to serve as a representative of all units in a multi-parcel complex, an Agent Authorization Form signed by the president of the appropriate homeowners' association and a petition signed by owners representing at least two-thirds (2/3) of the affected parcels must be filed with the District's Parks and Recreation office, in person, by [fax/electronic formats](#), or by mail.

41. Assignment Acceptance. Assignment will not be accepted, on any parcel, if another valid assignment already exists on that parcel. Assignment will expire with a change of ownership, where no party listed on the application continues ownership.

42. Privileges Assignable - Residential Parcels. Every eligible residential parcel may receive any combination of up to five (5) Recreation Passes or Recreation Punch Cards. A Recreation Pass may be assigned to any property owner's eligible family member, or resident, or resident's eligible family member.

43. Privileges Assignable - Commercial Parcels. Every eligible commercial parcel may receive any combination of up to five (5) Recreation Passes or Recreation Punch Cards. A Recreation Pass may be assigned to any property owner's family member, commercial tenant principal, or commercial tenant corporate officer.

44. Assignment Approval. Upon review and verification of the assignment by the District, the Director of Parks and Recreation, or the Director's designee, shall approve the assignment. It is the owner's or agent's responsibility to provide the District with all information required for approval.

45. Assignment Amendments. To update information, the assignment may be amended, and may only be amended, by the person signing the original assignment form. Provided, however, that any owner listed on the approved application or a designated agent of any listed owner may add names of persons to be assigned recreation privileges, to the extent additional privileges are available.

ARTICLE VI. RECREATION PASS

46. A **Recreation Pass**, subject to the other conditions and restrictions of this recreation pass ordinance, provides the pass holder:

- a. free admission to all District-owned beaches; and
- b. reduced season pass rates, at District-owned golf, ski and tennis facilities; and
- c. reduced daily rates at District-owned golf, ski and tennis facilities; and
- d. reduced yearly, quarterly, monthly, or weekly membership rates at District-owned Recreation Center; and
- e. reduced daily rates at the District-owned Recreation Center; and
- f. reduced rates for the rental of the Chateau, Aspen Grove Community Building, Diamond Peak Ski Lodge, Recreation Center, and District-owned athletic fields; and
- g. watercraft launching access at the District-owned boat ramp, for a fee; and
- h. guest access to District-owned golf, ski, tennis facilities, and beaches for a fee; and
- i. any other recreation privileges determined by the Board.

47. **Term of Pass Issuance**. The Recreation Pass of any person will be limited to a term of not less than six (6) months or ~~more than five (5) years~~ not beyond the person's eighteenth (18) birthday. The Recreation Pass of any person older than eighteen (18) will have ~~if no term is~~ specified. ~~the minimum term shall apply.~~

48. **Pass Expiration**. A Recreation Pass expires when:

- a. the stated expiration date has been exceeded; or
- b. the parcel changes ownership; or
- c. the pass is withdrawn or reassigned to another individual by the owner or his agent; or
- d. payment of the District Recreation Fee is delinquent, or
- e. the pass is voided pursuant to this ordinance.

49. **Ability to Transfer**. All Recreation Passes shall be issued for the sole use of the pass holder and are non-transferable.

- 50. Responsibilities of Pass Holder.** It is the responsibility of the pass holder to:
- a. renew his pass on or before the expiration date shown on the pass;
 - b. report lost, stolen, or destroyed passes;
 - c. return all valid passes when eligibility to use passes has expired or when asked by the District to surrender the passes;
 - d. be responsible for the conduct of his/her guests and for any liability resulting from the guests' use of the District's facilities, or the guests' presence in, or at, the facilities.
- 51. Lost/Stolen Recreation Pass.** A charge of ~~\$15.00 per pass~~ will be assessed to replace any Recreation Pass that is lost or stolen prior to its date of expiration.
- 52. Reassignment Fee.** Reassignment will not be allowed within the initial six months of pass issuance except for the following conditions: (a) the parcel on which the pass is issued changes title; (b) the passholder is deceased; and (c) other circumstances that the Director of Parks & Recreation deems appropriate. In the event of a reassignment where the issued passes are not returned, there will be a charge of ~~\$15.00 per pass~~ assessed to the parcel owner. New passes will not be issued for any other individuals unless this fee is paid or the passes are returned.
- 53. Ownership Transfer Fee.** A charge of ~~\$25.00 per parcel~~ will be assessed to the new owner of a parcel if the Recreation Passes issued on the parcel are not returned to the District when a property changes ownership.

ARTICLE VII. RECREATION PUNCH CARD

- 54. A Recreation Punch Card** provides the cardholder with a face value of recreation privileges, determined by the Board, which may be applied toward:
- a. the difference between the resident rate and the guest rate for daily beach access, daily boat and jet ski launching; and
 - b. the difference between the resident rate and the retail or nonresident rate for daily access to the District-owned golf, ski, recreation center, and tennis facilities; and
 - c. the difference between the resident rate and the retail or nonresident rate for any other recreation use fee or rental fee as may be determined by the Board.
- 55. Expiration Date.** Recreation Punch Cards shall have a term of one year beginning on ~~May/June~~ 1. All Recreation Punch Cards expire on the first ~~April 30th~~ May 31st following the date of issuance, regardless of when issued during the course of that year.
- 56. Transferability.** Recreation Punch Cards are issued against the parcel and are transferable to anyone.

57. **Replacement.** Recreation Punch Cards will not be replaced if lost, stolen, destroyed or used up.

58. **Exchange for Recreation Pass.** Once the Recreation Punch Card is used, it can be exchanged for a Recreation Pass only if all amounts that appear to be punched are paid for by the card holder and an ~~\$15.00~~ invalidation fee is paid to the District.

59. **Refund.** The Recreation Punch Card has no monetary exchange value and therefore cannot be returned to the District for any form of refund or credit, except as provided in paragraph 58 hereof.

ARTICLE VIII. GENERAL USE REQUIREMENTS

60. **Use of Recreation Pass and/or Card at Golf.** A maximum of five (5) Recreation Passes per parcel can be used to obtain discounts for daily access for the District-owned golf courses. No other Recreation Passes can be used to obtain seasonal and daily discounts at the District-owned golf courses, beyond the five.

61. **Recreation Pass or Card Ownership.** All Recreation Passes and Cards are the property of the District and must be returned upon request, and/or upon the loss of eligibility by the pass holder or card holder.

62. **Deed Restrictions.** Parcels annexed to the District after May 30, 1968, are not eligible for District beach access as per deed restrictions listed on the beach property.

63. **Assumption of Risk.** The pass holder or card holder assumes all risk of personal injury to himself and loss of, or damage to, his personal property resulting from use of the recreation facilities.

64. **Fraudulent Use.** False or misleading information to obtain a Recreation Punch Card or Recreation Pass, or any fraudulent use of such card or pass, will be grounds for voiding all recreation privileges issued against the parcel. The District reserves the right to pursue any other legal action.

65. **Selling of Recreation Privileges.** It is strictly forbidden for any individual to sell an assignment of Recreation Privileges, or to sell individual Recreation Passes or Recreation Punch Cards. Any such sales of privileges, passes, or cards is considered to be fraudulent use and will be grounds for voiding all recreation privileges issued against the parcel. The District reserves the right to pursue any other legal action.

66. **Misconduct.** Use of the District's facilities by any pass holder or card holder is a privilege. For misconduct, a pass holder or card holder may be removed from the facilities- and/or his/her privileges, including the immediate confiscation of the Recreation Pass or Recreation Punch Card, may be suspended for any period deemed appropriate by the District or those privileges may be revoked, at the District's sole discretion. Misconduct includes but is not limited to:

- a. failure to abide by any rule, policy, procedure, or regulation established by the District and all such supplemental rules, policies, procedures, or regulations established for each recreational facility; or
- b. violation of any law or ordinance; or
- c. disorderly and/or abusive behavior; or
- d. excessive or improper use of alcohol and/or drugs; or
- e. vandalism or any other form of property damage.

The parent(s), conservator, or guardian of a child who engages in willful misconduct may be jointly and severally liable for the resulting damage. (NRS 41.470, as amended.)

67. Disciplinary Procedures for Misconduct.

a. Incident Report. An employee may, in a timely fashion, submit a written incident report of facts within that employee's own, personal knowledge concerning the alleged misconduct of a user, regardless of whether that user was removed from the premises for that same alleged misconduct.

b. Removal. Under exigent circumstances, a District employee may remove a user from District property, with or without the assistance of the Washoe County Sheriff's Office. Exigent circumstances include but are not limited to a threat of bodily harm, to him/herself or others, a risk of property damage, and/or a persistent refusal to obey the law and/or policies and procedures, or regulations of the District.

(1) Washoe County Sheriff Assistance. The District may request at any time the assistance of the Washoe County Sheriff's Office in maintaining order.

(2) Incident Report. The employee(s) involved in the removal shall file an incident report with the department head of that facility within 24 hours of the occurrence.

c. Suspension, Revocation, or Other Disposition.

(1) **Department Head.** Within a reasonable time following receipt of an incident report, the Department Head may determine that sufficient evidence of serious misconduct exists, indicating adequate grounds for suspension or revocation of privileges. Upon such an assessment, the Department Head shall provide the user with written notice of the accusation(s) and the possible sanction/penalty which may result. The notice shall also provide the user with the date, time and place at which the user may appear before the Department Head and the accusing employee(s), to respond to the claims and to explain the user's position concerning the incident.

(a) **Notice.** The written notice shall be signed by the Department Head and mailed, certified return receipt requested, to the District's record address of the user. Attached to the notice shall be a copy of the incident report(s). If the user is a minor, an additional copy of the notice shall be mailed to the parent(s) or person(s) in loco parentis of the user-child.

(b) **Hearing.** Within five (5) business days of mailing the written notice, unless otherwise agreed by the Department Head and the user, the Department Head shall hold a hearing to determine the accuracy of the representations contained in the Incident Report and to determine what, if any, further action shall be taken by the District. At this hearing, the employee(s) bringing the charges shall provide testimony and the user shall have opportunity to respond and explain. At the close of the hearing, the Department Head may render his/her opinion orally or take the matter under submission. The Department Head shall deliver a written decision concerning the allegations and any resulting suspension or revocation within two (2) business days following the hearing.

(c) **Decision.** The Department Head shall include findings of facts, conclusions of misconduct, and sanction/penalty, if any imposed, in the decision; additionally, the Department Head shall inform the user in the decision of the user's right to appeal the decision to the District's General Manager. Such disposition shall include, but not be limited to, the following: suspension, revocation, reprimand (oral or written), or a determination of no action of no misconduct.

(d) **Notice of Appeal.** In order to avail him/herself of the right to appeal to the General Manager, the user must so inform the General Manager by letter delivered to the District's Administrative Building (located at 893 Southwood Boulevard, Incline Village, NV 89451) within two (2) business days of issuance of the written opinion.

(2) **District General Manager.** Within five (5) business days of the user's notice of appeal letter, the General Manager shall hear the user's appeal. Also at this hearing shall be the charging employee(s) and the deciding Department Head, to respond to the user's assertions. The General Manager shall render his/her written decision within two (2) business days of the appellate hearing. In the decision, the General Manager shall uphold, modify, or reverse, in whole or in part, the Department Head's decision. The General Manager shall advise the user in this written decision of the user's right to appeal the General Manager's decision to the District's Board of Trustees. In order to avail him/herself of the right of final appeal to the Board of Trustees, the user must so inform the Board by letter delivered to the District's Administrative Building (located at 893 Southwood Boulevard, Incline Village, NV 89451) within five (5) business days of issuance of the written opinion from the General Manager.

(3) **Board of Trustees.** The Board of Trustees shall hear the user's duly agendized appeal at the Board's next regularly scheduled public meeting. (NRS 241.030 (43) (d): nothing contained in the Chapter 241 shall require that any meeting be closed to the public.) Also at this hearing shall be the charging employee(s), the deciding Department Head, and General Manager, to respond to the user's assertions. The Board shall render its decision at this

hearing. By its decision, the Board shall uphold, modify, or overturn, in whole or in part, the General Manager's decision. The Board's decision is final.

d. **Right of Representation.** The user may enlist the assistance of legal counsel, of the user's choice and at his/her expense, at any and all stages of these proceedings.

e. **Reservation.** Nothing herein shall preclude the District from utilizing any and all legal and/or equitable remedies, in the stead of or in addition to the present procedure.

68. **Other Issuance.** Nothing in this ordinance shall prevent the District from issuing recreation privileges to employees, former Board members, or anyone else, in the past, present or future, as approved by the Board of Trustees.

69. **Purchase of Additional Recreation Passes or Cards.** If any owner wishes to purchase additional Recreation Passes or Recreation Punch Cards, the owner may do so by paying an additional fee equal to one-fifth of the current District Recreation Fee for each Pass or Card for the parcel in question. Additional Recreation Passes are valid for a period of one (1) year from the date of purchase, unless they expire on an earlier date as provided in paragraph 48 hereof. Additional Recreation Passes can only be purchased for eligible family members of parcel owners or residents. Additional Recreation Punch Cards are valid from the ~~date of purchase until purchase~~ until the first April 30th May 31st following the date of purchase and can be used by any individual. Additional Recreation Passes or Cards cannot be purchased for commercial parcels and their tenants. An application for additional recreation passes or cards must be filed with the District's Parks and Recreation office.

70. **Personal Identification.** Prior to issuance of any recreation privilege, identification of the person receiving the privilege may be required in the form of a valid photo identification card, such as an automobile driver's license.

71. **Administration.** Only the Board of Trustees can amend the Ordinance. The General Manager may from time to time adopt, amend, or rescind ~~rules administrative procedures~~ consistent with this ordinance. The General Manager shall hold the final authority to interpret this ordinance and rules adopted thereunder. Such authority shall include the application of this ordinance and rules to specific people, parcels, and circumstances. The day- to-day administration of this ordinance is hereby delegated to the Director of Parks and Recreation.

71.

ARTICLE IX. AMENDMENTS

72. **Modification of Privileges.** The recreation privileges issued under this ordinance shall be modified by the terms of any amendments to this ordinance subsequently adopted by the Board. Nothing in this ordinance shall be deemed to limit the Board's discretion to modify the terms of this ordinance or the application of any such modification to Recreation Passes, Recreation Punch Cards and other recreation privileges outstanding, including alterations in the terms or expiration dates thereof.

73. **Effective Date.** The effective date of this ordinance was January 1, 1988. The terms of this ordinance applied to all recreation privileges that were outstanding on that date. The

Director of Parks and Recreation is empowered to determine how to administer the application of this ordinance to existing privileges. The effective date of this amendment shall be ~~March 26,~~ ~~1998~~TBD 2020.

EXHIBIT A - FAMILY TREE

Relationship #	PROPERTY OWNER		Relationship #	SPOUSE OF PROPERTY OWNER
0	OWNER/CO-OWNER	FIRST DEGREE	00	OWNER/CO-OWNER
1	MOTHER		7	MOTHER
2	MOTHER'S SPOUSE		8	MOTHER'S SPOUSE
3	FATHER		9	FATHER
4	FATHER'S SPOUSE		10	FATHER'S SPOUSE
5	CHILDREN		11	CHILDREN
6	CHILD'S SPOUSE		12	CHILD'S SPOUSE
13	GRANDMOTHER	SECOND DEGREE	23	GRANDMOTHER
14	GRANDMOTHER'S SPOUSE		24	GRANDMOTHER'S SPOUSE
15	GRANDFATHER		25	GRANDFATHER
16	GRANDFATHER'S SPOUSE		26	GRANDFATHER'S SPOUSE
17	GRANDCHILDREN		27	GRANDCHILDREN
18	GRANDCHILD'S SPOUSE		28	GRANDCHILD'S SPOUSE
19	SISTER		29	SISTER
20	SISTER'S SPOUSE		30	SISTER'S SPOUSE
21	BROTHER		31	BROTHER
22	BROTHER'S SPOUSE		32	BROTHER'S SPOUSE

EXHIBIT B – FEE SCHEDULE

The following fees are effective May 1, 2020:

<u>Lost/Stolen Fee (reference paragraph 51)</u>	<u>\$15.00</u>
<u>Reassignment Fee (reference paragraph 52)</u>	<u>\$30.0015.00</u>
<u>Ownership Transfer Fee (reference paragraph 53).....</u>	<u>\$25.00</u>
<u>Invalidation Fee (reference paragraph 58)</u>	<u>\$15.00</u>

The above fees shall be posted in a conspicuous place inside the Recreation Center and on the District’s website. These fees shall be reviewed periodically by the Director of Parks and Recreation and if change is necessary, brought before the Board of Trustees for review and approval. These fees may be revised as a separate schedule and **do not** require a noticed public hearing on said proposed changes rather they may be an agendaized General Business item.

MINUTES

REGULAR MEETING OF JANUARY 22, 2020 Incline Village General Improvement District

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairwoman Kendra Wong on Wednesday, January 22, 2020 at 6:00 p.m. at the Chateau located at 955 Fairway Boulevard, Incline Village, Nevada.

A. PLEDGE OF ALLEGIANCE*

The pledge of allegiance was recited.

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

Also present were District Staff Members Director of Public Works Joe Pomroy, Director of Human Resources Dee Carey, Diamond Peak Ski Resort General Manager Mike Bandelin, and Engineering Manager Nathan Chorey.

Members of the public present were Pete Todoroff, Michael Roberts, Aaron Katz, Judith Miller, Steve Dolan, Wayne Ford, Paul Smith, Gerry Eick, Bruce Simonian, Patrick McBurnett, Omar Rains, Margaret Martini, Millie Carter, Frank Wright, Joe Schulz, Linda Newman, Mike Abel, Kathleen Watty, Jack Hubbard, Jack Dalton, John Eppolito, and others.

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

C. PUBLIC COMMENTS

Margaret Martini read from a submitted written statement.

Linda Newman read from a submitted written statement.

Patrick McBurnett said he has lived in Incline Village for twenty seven years and my how time flies. Now that the Trustee business has been settled, congratulations to Trustee Schmitz who will be an excellent member of the Board, it is time to stop and put Indra Winquest in as permanent General Manager. He has shown he is qualified, capable, well respected in the community, with Staff, and with local

politicians – he is a nice guy who coaches girls' basketball here. He already has plans to fix things so act now and put it on your next agenda for a vote because you have a right and a duty to give him the support he so richly deserves.

Milcah Valiente said that she supports the renovations at the beaches as she, as well as her two kiddos, use the beaches and that they have no complaints except they do want to see renovations in food as they were not able to purchase healthy food and when they did purchase food, it was subpar and not quality food. Please look at that when you are thinking about that aspect.

Aaron Katz said he was distressed when he first saw the agenda that was created by the Chairwoman because it has the election of new Board officers at the end of the meeting instead of at the beginning of meeting which has been the tradition when there has been a change. Please don't approve the agenda as written and move this item up so it becomes effective with this meeting because we want a new agenda and not the current Chairwoman. Mr. Katz continued that he would also like to ask that the Board restore public comment before the Board votes on any matter as well as the two comment periods at the start and at the end. Please eliminate food at the meetings as it is totally unnecessary and if members want to eat, bring a bag lunch. Take advantage of the community expertise by selecting community members to investigate and report back to the Board because the community is far better at coming up with recommendations. He watched the selection of the new Trustee and there were new faces that came of the wood work such as Mr. Lillios, Mr. Hess and Ms. Tonking. He might be wrong but he doesn't see any of these people who were so interested but they are not here which is very telling. Mr. Katz concluded by stating that he has a written statement and urged the Board to not pay Mr. Beko.

Judith Miller said that she wants to hear all your new ideas and that she is encouraged by and that it is refreshing to have a willingness to communicate in two directions. After we hear from you, she hopes that the Board will encourage the public to speak so you can hear from us. Ms. Miller concluded by stating that she hopes that your actions will mark the beginning of a new year for IVGID.

Steve Dolan said congratulations to Trustee Schmitz and that he is very happy that you are sitting where you are as he knows that you won't be polarizing but rather be honest and balanced. Regarding our General Manager, he too would like to see the Board move forward with Indra Winquest and do that appointment so that gets settled. Going back to Trustee Schmitz's appointment, the Washoe County Commissioners should be complimented, especially Commissioner Berkbigler who basically organized the process which was unanimous, so credit to her.

Regarding the food, everyone is eating which makes everyone have a better attitude so he is in favor of keeping the food.

Mike Abel read from a submitted written statement.

Frank Wright said first of all that he would like to congratulate Incline Village, the people, the employees, everyone as we have our community back. Good things are going to happen. We have gotten rid of our power struggle on the Board who did nothing but was self-serving. We will go forward and do wonderful things for this community. We have gotten rid of our legal counsel who has raped us for lots of money and we can cheer now because we have a Board that will get things done. We are not going to see the public comment advisory statement anymore which shut people up and was horrible. Every time the Chair didn't like something, we got another line added. Hopefully, that will all come back to us. Mr. Wright continued by congratulating Sara Schmitz as she deserves this job and that he was proud to run against her at the County and that he is proud of that appointment which was done right. Commissioner Hartung said things and even mentioned our Chair. Commissioner Hartung called him after the candidate hearings and said it was unbelievable and asked me how do I put up with this and I told him we don't. Everyone can relax and get things done. As to cutting people off, we are a community, we live and recreate here, so put your button away.

John Eppolito said that he has lived here for twenty one years and that he wanted to thank everyone who ran in the interest of our community. One person who ran is here, Bruce Simonian, and while we don't agree all the time, he does respect him. Thank you to Sara Schmitz who he did go to Reno to support. He thinks she will do a great job and he doesn't think she is divisive. We need her class, dignity, and respect. As to the agenda items 7 and 8, he is not sure why they aren't 1 and 2; he doesn't get it. Regarding Mr. Winquest and food, he supports Mr. Winquest for that position as he has respect and dignity as well as he listens and cares. On the food, please don't stop the food.

D. APPROVAL OF AGENDA (for possible action)

Trustee Callicrate asked that agenda items 7. and 8. be moved to agenda items 1. and 2. and made effective immediately. District General Counsel Alex Velto said that the notice has to be clear and complete and that the notice already has January 23, 2020 as the effective date so that change would not make it clear therefore his advice is to not make that change as it might cause an open meeting law issue. Trustee Callicrate said that up until this agenda came out, this item has usually been at the beginning of the meeting. Saw we were to move it forward and

someone was to file an open meeting law complaint, what would be the ramifications. District General Counsel Velto said by law, any action taken would be void. Trustee Schmitz said that it is a very unfortunate situation that the agenda was put together incorrectly. Trustee Callicrate asked who runs the meeting if we don't have any policies and don't choose to have new officers. District General Counsel Velto said that Policy 3.1.0, subparagraph 0.11 states that "...one year or until reorganization is required.." so there are two ways to read that – terms of one year and then the latter part is when the agenda calls for it. You will not be acting unlawfully if you proceed tonight. As to clear and complete, if you want to change the date, that would be troubling. Chairwoman Wong said that we have voted on a slate of officers at the end of December or at the first meeting in January and it has been made effective at the next meeting so this is consistent with what we have done and it hasn't disrupted the meeting as it did when we did it once. Trustee Dent said that every time a new Trustee has been seated and before the approval of the agenda, we have elected the officers. In those three instances, there has never been a date on it. Chairwoman Wong said that we have done the regular election of officers every year when we have a new Board and we are just following what we have been doing every year and not what we have done when we have a change in the Board makeup. Trustee Schmitz said it is unfortunate that it was written that it takes effect tomorrow and that we should comply with the agenda as that is what it says. Chairwoman Wong said that she is fine with moving them up to 1. and 2.

Trustee Dent asked to pull Consent Calendar Item G.2. to after General Business Item H.1. Receive, discuss and direct Staff to file the June 30, 2019 Comprehensive Annual Financial Report including an Unmodified Report by the District's Auditor, as required by NRS 354.624.

Trustee Schmitz asked to move General Business Item H.5. Case No. CV18-01564 Mark E. Smith v. IVGID, Review, discuss and possibly approve providing Interim District General Manager Winqest with a not-to-exceed \$7,500.00 in legal fees and costs to cover fees that were not budgeted as of the last update and H.6. Case No. CV18-01564 Mark E. Smith v. IVGID, Review, discuss and possibly approve legal fees and costs to cover fees that were not budgeted as of the last update (estimated to be not to exceed \$13,000.00 over current authorization) to after appointment of Audit Committee members.

Chairwoman Wong recapped the order of the General Business Items as follows:

Election of officers
Audit Committee

Smith
Smith
CAFR
Popular Reporting
Beach House
Internal Controls
Ordinance 7

Trustee Morris made a motion to have a flexible agenda. Chairwoman Wong seconded the motion. Hearing no further comments, Chairwoman Wong called the question and the motion was passed unanimously.

E. DISTRICT STAFF UPDATE (for possible action)

E.1. Interim District General Manager Indra Winqest

Interim District General Manager Winqest went over his submitted report and said he has the following updates:

- ✓ The District has an accepted and signed offer for the position of Director of Finance with Mr. Paul Navazio who last position was the City Manager at the City of Woodland.
- ✓ He will be extending the Incline Spirits contract for the beach bars.

Trustee Dent said that he has received an e-mail about making our Board packets searchable. Interim General Manager Winqest said he will look into doing that.

Trustee Schmitz said, regarding the MSA report, that she would like to ask the venue manager to please do an assessment to see if we need fifty-eight carts and that when Staff puts together the cost estimate to be sure to include the necessary fire suppression system as well. Interim General Manager Winqest said that we have had the conversation about fifty-eight charging stations and we are not confident that we need that many. Staff will evaluate that if we move forward with retrofitting that building for lithium golf carts. Chairwoman Wong said that all the conclusions are predicated on having no as built analysis. Director of Public Works Joe Pomroy asked if this was about a fire system analysis. Trustee Wong said that there were no as-builts out to Wilson Way which was part of this. Director of Public Works Pomroy said that this work was about doing an analysis to get electric

charging systems and that the capital projects needs to be put together. Staff hasn't gotten enough direction on that project or a different type of system like gasoline. Staff needs to get direction, from the Board, about a capital project and a commitment of funds. Trustee Morris said that he really liked this analysis as it seemed to be very thorough. He doesn't know if it is valuable to do as-builts if we are considering electric carts. We could make that decision the next time around as he doesn't see the need for them. Chairwoman Wong said that the point is we don't know what we are working with so how can we estimate the construction costs. Director of Public Works Pomroy said that all Staff has been looking at is the electrical system and what the work consists of. That is a reasonable cost and a reasonable sum of the project and NV Energy is pretty firm, as is the electrical engineer. Staff has not investigated the building nor has an analysis been done on the building from a fire perspective. We will need to go through the pre-design and the design process and that all we did, at this point, was we got special permission, from the Board, to do this analysis. Chairwoman Wong asked when do we plan on talking about this again. Director of Public Works Pomroy said that we will during the March meetings and then there is the capital improvements projects tour. It will be in the packet and we will show the schedule/funnel as it is a three year project. In March, there will be a data sheet for the Board to review and discuss.

F. REPORTS TO THE BOARD OF TRUSTEES*

There were no reports to the Board of Trustees.

G. CONSENT CALENDAR (for possible action)

G.1. Acknowledgement of Receipt of Letter dated December 24, 2019 from the State of Nevada, Department of Taxation re: Medium-Term Financing – Lease Purchase Agreement, Fifty-eight (58) EZ-Go Gas Powered Golf Carts signed by Melanie Young, Executive Director, Department of Taxation – Nevada Revised Statute 350.089

Trustee Morris made a motion to approve the Consent Calendar as modified. Trustee Schmitz seconded the motion. Chairwoman Wong asked for further comments, receiving none, called the question – the motion was passed unanimously.

H. GENERAL BUSINESS (for possible action)

H.1. Election of Board of Trustees Officers for the 2020 Term - effective January 23, 2020 (Requesting Trustee: Chairwoman Kendra Wong) *(was General Business H.7.)*

District Clerk Susan Herron conducted the election of Board of Trustees officers as follows:

Trustee Dent nominated Trustee Tim Callicrate for Board Chair. No other nominations were received for this position therefore Trustee Callicrate is elected Board Chair effective January 23, 2020.

Trustee Callicrate nominated Trustee Matthew Dent for Board Vice Chair. No other nominations were received for this position therefore Trustee Dent is elected Board Vice Chair effective January 23, 2020.

Trustee Callicrate nominated Trustee Sara Schmitz for Board Treasurer. No other nominations were received for this position therefore Trustee Schmitz is elected Board Treasurer effective January 23, 2020.

Trustee Dent nominated Trustee Kendra Wong for Board Secretary. No other nominations were received for this position therefore Trustee Wong is elected Board Secretary effective January 23, 2020.

H.2. Review, discuss and possibly appoint Audit Committee Members for the 2020 Term – Effective January 23, 2020 (Requesting Trustee: Chairwoman Kendra Wong) *(was General Business H.8.)*

Trustee Morris said that he doesn't want to be on the Audit Committee.

Trustee Callicrate made a motion to have Trustees Schmitz, Dent and Callicrate on the Audit Committee. Trustee Wong seconded the motion. Chairwoman Wong asked for any further comments, hearing none, called the question – the motion was passed unanimously.

H.3. Case No. CV18-01564 Mark E. Smith v. IVGID) - Review, discuss and possibly approve providing Interim District General Manager Winquest with a not-to-exceed \$7,500.00 in legal fees and costs to cover fees that were not budgeted as of the last update

**(Requesting Staff Member: Interim District General Manager
Indra Winquest) (*was General Business H.5.*)**

Chairwoman Wong said that the Board, Mr. Beko, legal counsel, and Interim General Manager Winquest had a legal non-meeting to discuss the merits of the case and where it could be proceeding and that there were no decisions made during the meetings. One of the items we discussed was the fees. Essentially, we discussed the possibility of settlement and that with that being said, Mr. Beko has met the limit and entering into settlement discussions is going to cost us money.

Trustee Morris said that it is everyone's best interest to try and reach an amicable conclusion and he does think, that for the reasons Mr. Beko discussed with us, that it is important to protect ourselves. There have been one or two motions that have been filed by the plaintiff and it would be negligent, or far worse, to not respond so we have to have some funding to get those covered. If this does prolong, we have to try and bring this to a settlement so we don't continue this legal mire. It is something that we need to do so we are covered thus he is in favor of this item.

Trustee Callicrate said, as a District, we need to continue representing ourselves and protecting our attorney/client privilege. Regardless of how we entered into this, and he has strong feelings on that topic, this is to protect us on the attorney/client privilege as this is critically important to the District thus he will be in support of this item. In the future, we won't be having this situation as the General Manager will come forward with the litigation but we need to do this because we stand to lose a lot.

Trustee Schmitz said that she agrees and we can't change the past as we must deal with here and now today. She believes that Interim General Manager Winquest is working diligently on behalf of the District to finish this off.

Trustee Dent said that he doesn't like where we are at and the fact that we have spent unbudgeted monies makes him torn on this item. He understands what legal counsel said but he will be voting opposed to this item. The Board didn't have a say in getting into this and thus he is fine voting against this and he is doing so on principle. We shouldn't be in this situation, he understands where his colleagues are, and this is about principle. Chairwoman Wong said that this is about moving forward and not retroactive and that this is not about time that has already been spent.

Trustee Dent said that he does understand that we are all on the same page on settlement but he will still be voting no on this item. Trustee Morris said that if this motion is voted down, it sounds like that Trustee Dent will be content with giving up our privilege. Trustee Dent said that our attorney responded to things that the Board didn't give direction on and the Board should be giving direction on litigation. Trustee Morris said we don't need to rehash this as we are where we are and that he is concerned that a Trustee is willing to give up that privilege as it sends the wrong message to the community because moving forward, as a Board, we have absolute responsibility to protect the District in the best way we can and the best way we can is to move forward with this.

Trustee Schmitz said that she respects your comment and that there have been actions taken by legal counsel that was directed by the Board. If we do go ahead and approve this item, she would ask that Interim General Manager Winqest be the individual who is working very closely with Mr. Beko so we don't have a situation like our next agenda item. She would like to see a little bit tighter management of these funds and she agrees with the comments.

Chairwoman Wong said we haven't given any amount to the Interim General Manager to manage as our policies gives that ability to our Interim General Manager. Trustee Schmitz said that she wanted to be clear on management. Chairwoman Wong said that she understands and that she just wants that to be clear.

Interim General Manager Winqest said that there needs to be a level of trust with these funds and that this is one of those things that he stumbled upon. It is his intention to get through this as quickly as possible. He appreciates the comments and that this straddled the holidays with motions being filed, etc. He is not going to spend above the authority that he has been given however we were challenged with the timing of the Board meeting. He will update the Board so you are well informed. He has met with Mr. Smith and he is going to work with him and his legal counsel to put this to an end.

Trustee Dent said that he appreciates the Interim General Manager communicating with the Board as it is nice and he appreciates the efforts.

Trustee Morris made a motion to approve providing Interim District General Manager Winqest with a not-to-exceed \$7,500.00 in legal

fees and costs to cover fees that were not budgeted as of the last update in Case No. CV18-01564 Mark E Smith v. IVGID. Trustee Callicrate seconded the motion. Chairwoman Wong asked if there were any further comments, hearing none, she called the question – Trustee Dent voted opposed and Trustees Wong, Schmitz, Morris, and Callicrate voted in favor; the motion passed.

H.4. Case No. CV18-01564 Mark E. Smith v. IVGID - Review, discuss and possibly approve legal fees and costs to cover fees that were not budgeted as of the last update (estimated to be not to exceed \$13,000.00 over current authorization) (Requesting Staff Member: Interim District General Manager Indra Winquest) *(was General Business H.6.)*

Chairwoman Wong said that the Board had a legal non-meeting back at the end of last year in which Mr. Beko informed us that he had incurred cost. Trustee Horan resigned and we decided to wait until we had a full Board. Mr. Beko gave us a run down on this case. She is disappointed by this and doesn't think we should pay the full thirteen thousand dollars because it was his responsibility to come back and get the authorization. Mr. Beko does do good work for us and he always has IVGID's best interest in mind so she would like to start at paying half of what is owed – six thousand five hundred dollars.

Trustee Schmitz said, not having the history and relationship, who is Mr. Beko taking direction from and who is he communicating with and did Mr. Beko communicate with anyone about the fact that he had used up the ten thousand dollars. Interim District General Manager Winquest said that there was communication back and forth with no approval of additional spending. He does believe that Mr. Beko was, in his mind, protecting the District with our best interests in mind. There are statutes for responses to motions that are filed and from his standpoint he thought he was doing what he was supposed to do. Trustee Schmitz said that there were motions that were filed that the Board didn't approve so there is a need for improved communications.

Chairwoman Wong said that she was released from the case yesterday and that she will be voting on this item and did so on the last one. She was copied on the motions but didn't respond because she has no dollar authority.

Trustee Schmitz said that she would request that we ask that Mr. Beko generate statements every thirty days and that he works closely with the Interim General Manager. Interim General Manager Winquest said Mr. Beko totally gets it and that this is a valid request. We can work with him on getting billings on a more timely basis.

Trustee Morris said that the significant challenge has been the timing of the motions filed by the plaintiff and that Mr. Beko is only responding proactively. There is a necessity of days for responses and that we couldn't get the Board together to decide so he still has to protect his client. Nothing was done with malice and yes, he can do a better job on reporting of hours and this is a big pill to swallow. It would have been better if he would have notified us on what has been spent because then we wouldn't be in this position but he has done work that we would have supported. Given that he did do the work; he is okay with splitting the baby on this one.

Trustee Callicrate said he is having a hard time with this as it was his lack of his own urgency. Here is where we are at and that we are spending this amount of money on something that we should have had a better entrée in to. He is not feeling comfortable on the split and noted that Mr. Beko did make a comment about eating this as a lesson learned. He needs to do a better job on monthly statements. Trustee Callicrate continued that he wouldn't feel comfortable paying thirteen thousand dollars more and he is not willing to split the costs and that is the lesson that needs to be learned.

Trustee Dent said he will not be supporting this item.

Trustee Schmitz said she is very uncomfortable with the contract to enter into this litigation as it was signed without Board knowledge, approval and without budget. The two people who signed the contract were named in the case and that is troublesome in authorizing a contract. This is indicative of our prior management; we are in litigation, agrees with Trustee Callicrate that at this point we should forget the thirteen thousand dollars and all learn a few lessons.

Trustee Morris said that there is a mood to not pay any of the money and asked if Mr. Beko has indicated what he would or would not do. Interim General Manager Winquest said he has not had that discussion and that we need to be prepared that there is a possibility that he will not move forward on this case and he hasn't indicated that and he hopes that doesn't happen but it is real as he reserves the right to not continue.

Chairwoman Wong said that there doesn't seem to be any support to move this forward so she would suggest that Trustee Callicrate and Interim General Manager Winquest have a conversation with Mr. Beko to come to some on resolve on this matter.

Trustee Morris made a motion that at this stage we do not approve the legal fees of thirteen thousand dollars submitted by Mr. Beko but rather that we ask incoming Board Chair Callicrate and Interim General Manager Winquest to meet with Mr. Beko to determine if there is some better solution that we can come to and bring that solution back to the Board to vote on. Trustee Callicrate seconded the motion. Chairwoman Wong asked for further comments, hearing none, called the question – the motion was unanimously passed.

Chairwoman Wong called for a break at 7:20 p.m., the Board reconvened at 7:31 p.m.

H.5. Receive, discuss and direct Staff to file the June 30, 2019 Comprehensive Annual Financial Report including an Unmodified Report by the District's Auditor, as required by NRS 354.624. (Requesting Staff Member: Interim District General Manager Indra Winquest) *(was General Business H.1.)*

Interim District General Manager Winquest introduced Gerry Eick, former Director of Finance, to present this item as requested by the Board.

Former Director of Finance Eick gave a brief overview of the submitted material.

Chairwoman Wong said that where we left it was that she asked each Trustee who had issues to meet with Mr. Eick and our auditors. Did everyone have the opportunity and did you take advantage of it and if not, why not.

Trustee Callicrate said he didn't take it as he has been sick for the past several weeks and working virtually every day therefore he wasn't able to meet with either Mr. Eick or the auditor. His health took a turn, he apologizes, as it was his intent but that things went haywire. He has made numerous notes and his question is on the first thirty-day extension, on agenda packet page 210, the State of Nevada gladly granted a thirty-day extension but now won't go any further or can we get another extension. Former Director of

Finance Eick said that the State of Nevada has only given the District the one and stated that they have no interest in giving the District another extension.

Trustee Morris said that he had the opportunity to meet with everyone and given that he has done that, he has no follow up questions as he is comfortable with what we have before us.

Trustee Dent said that shortly after the December 11, 2019 meeting, he had a request that took almost a month to fulfill and that last Tuesday or Wednesday, he received that information on the capital improvement plan projects and he dug into those details. He hasn't reached out to EideBailly or Mr. Eick and has does have several questions about the Excel sheet that took over a month to receive which slowed his process.

Chairwoman Wong asked who wants to go first in terms of questions.

Trustee Dent said, referencing agenda packet page 76, page 41 of the Comprehensive Annual Financial Report (CAFR), footnote on the fund balance, second paragraph, he doesn't know of a policy or practice that supports this. Former Director of Finance Eick said it is GASB 54 which specifically identifies as relative as done by management which is our General Manager. The Board takes an action and the General Manager makes it a commitment.

Trustee Schmitz said so Staff has complete control over the fund balance. Former Director of Finance said no, Staff can make an assignment of the fund balance but has not authority over the fund balance.

Trustee Schmitz said that she has memorandums that are dated September 3 and September 17 that refer to prior year improper classifications of assets. They are thoughtful memorandums and she thinks we should have a response from the auditor on these two memorandums. Former Director of Finance Eick said that the proceeds of the sales went to the funds that owned the assets which is either capital funds or special funds. The golf mower goes to the golf course because the special revenue fund is the owner. Trustee Schmitz followed up by asking if they clarified that in writing. Former Director of Finance said that the auditor doesn't have to respond to the public. Trustee Schmitz asked if the Audit Committee responded. Former Director of Finance Eick said they asked, the State called, they talked to the auditor and confirmed this to the State.

Trustee Schmitz said on page 1 of the audit report it references the framework of internal controls. Chairwoman Wong said that is in our agenda packet.

Trustee Schmitz said that we don't have a facility fee rather we have recreation and beach fees. There are other places that explains how dedicated funds are done for a variety of funds per resolutions which was abandoned for the 2019/2020 budget so have we revised the resolutions so the budget could be changed in that way. Former Director of Finance Eick said there are Board policies and practices, they were discussed during the budget process, and that the direction of the Board came from the year prior in approving the budget. Trustee Schmitz said that this doesn't comply with the Board policy that the Board is to follow. On page 11 of the CAFR, the auditors listed what they reviewed, why didn't they review the Utility Fund. Former Director of Finance Eick said on agenda packet page 45, the last sentence, the Utility Fund is in the second line, part of the business type activities. The others are governmental types and the Utility Fund is not required.

Trustee Schmitz asked for, referencing CAFR page 17, an explanation on why some costs have increased; legal fees due to litigation, reflecting higher service levels – can she get documentation on what services levels are or where she can get those. Former Director of Finance Eick referred Trustee Schmitz to the budget documents and the dashboards for the discussions of service levels.

Trustee Schmitz said, referencing CAFR page 21, that there are some missing grants as it doesn't reflect the grant for the Incline Ballfield for \$1.4 million dollars, capitalized amount of \$77,000 which was the cancelled contract on the Incline Beach House, and then the temporary fix on the Mountain Clubhouse which was capitalized versus being expensed. Can Staff clarify page 21? Former Director of Finance Eick said that the auditor looked at these items and believes they are fairly represented. On the ballfield, it was because we did not enter the job until July 9 and it was concluded that it was neither a grant nor a contract so it couldn't be recognized in this fiscal year. It has been identified that it exists and received but not as revenue but as reimbursement for costs incurred and that it wouldn't be a cost incurred until the current fiscal year.

Trustee Schmitz said, referencing CAFR page 22, facility fees - \$6.561 million as a governmental activity in charges for services in program revenues. Former Director of Finance Eick said that those items were not completed, they are projects that are not yet completed and they will be part of project costs when completed.

Trustee Schmitz asked about the \$1.4 million; is that construction in progress? Former Director of Finance Eick said there is a footnote on page 45 of the report, agenda packet page 85. On the top of the next page, Utility Fund, page 46 of the report and agenda packet page 81, there is a substantial reduction that was capitalized and assets in service as part of Phase II of the Effluent Pipeline because they were put into service.

Trustee Dent said that the policy is if the life has to be between ten and fifty years; if we are planning on replacement, why capitalize. Former Director of Finance Eick said it is five thousand dollars and three years of estimated life and then the estimated life is based on the system and buildings is ten thousand dollars. Trustee Dent said the life is between ten and fifty years so the financial statements could be manipulated; former Director of Finance Eick said it is a matter of choice.

Former Director of Finance Eick said on page 22 the facility fees are listed and on pages 21 and 22 are the District wide activities and direct charges to users. On page 22, the column in the middle, general revenue is because of both operating and debt service. Up above are charges for services. Some years ago, we didn't have it that way and the auditors asked us to make it this way.

Trustee Schmitz asked if the central services costs allocation was reflected on this page; former Director of Finance Eick said yes, governmental fund on page 22.

Trustee Schmitz asked, referencing CAFR page 23, can you explain why no assets are there for depreciation. Former Director of Finance Eick said, on agenda packet page 58, that by definition for governmental fund accounting, long term assets or long terms debts are not part of the fund accounting because the focus is the flow of resources. If you look on CAFR page 24, agenda packet page 59, part of the reconciling items they add in are capital assets with long term liabilities being on page 26 and add to the expenses, depreciation and interest. We follow governmental standards to include only current assets and then long term are brought in.

Trustee Schmitz said, on CAFR page 23, that the Rapid Construction contract was classified as committed and the same thing was done for the Kodiak contract – committed but not referenced here. Former Director of Finance Eick said we don't have permit so it didn't begin and that is footnoted in the back and it is not a liability because there have been no bills received. Trustee Schmitz said but a contract was signed. Former Director of Finance Eick said it is in the footnotes as commitments.

Trustee Schmitz said, on CAFR page 28, how do we have a negative revenue of five hundred and ten thousand dollars. Former Director of Finance Eick said it is because of punch cards and utilization of payment, budget as a form of payment, which comes from Recreation Administration area of service. In this case, because of punch cards being shown as a revenue, account for a plus and a minus.

Trustee Schmitz said, on CAFR page 54, paid on punch cards, don't see how the numbers line up and that she can't correlate to this. Former Director of Finance Eick said that they receive some revenue and that \$757 doesn't match up with \$727 because they receive some revenue for selling things like additional punch cards and that footnote 18 shows how much in punch cards were used.

Trustee Schmitz asked, regarding punch cards, to explain how go about classifying revenue; when the District receives the recreation and beach monies, is it recorded in special revenue funds and how are we accounting for additional revenues. Former Director of Finance Eick said, referencing CAFR page 28, agenda packet page 63, top of the page, that through Ordinance 7, it was established the right to use punch cards as payments. The punch cards receive the revenue, into the Recreation Administration fund. Plus for a dollar, subtract for a dollar and that recognition occurs. The added twist is that when a customer uses their punch card for the beach, the beach gets the revenue and Recreation Administration get the minus. There is a charge, see footnote 18, that is where there is a split and if you have beach privileges, the punch cards are worth more. We track what they have and we allocate the value for the subtraction to ensure revenue neutral while maintaining integrity. Trustee Schmitz asked for further clarity; former Director of Finance Eick said when golf makes a sale for one dollar that is paid with a punch card, golf gets the one dollar and Recreation Administration pays eighty-five cents and beaches pays fifteen cents. Trustee Schmitz asked how does this impact those who don't have beach

access. Former Director of Finance Eick said golf gets a dollar and Recreation Administration pays the whole dollar because they don't have beach access.

Trustee Dent asked, referencing CAFR page 50, agenda packet page 90, about the capital improvement plan budget carryover; has Staff gone over and checked all these numbers against reports and finalized them. Former Director of Finance Eick said yes, he believes they have. Trustee Dent said with this line item and within that report, we bought a vac truck for four hundred and thirty thousand dollars which was purchased in December 2018 so it was a part of the 2018/2019 budget. That vac truck should have been a carry over yet we are not putting it in the carryover and it is not accounted for – why? Former Director of Finance Eick said unfortunately when we were still adopting our carryover, we thought at that time that there was going to be a timely delivery of that vac truck. Staff started off to include that accrual and because that truck was not even delivered after ninety days after the close of the fiscal and the District had no title, it was reversed. This refers to our budget and what we knew in May but not what happened in October which is included elsewhere as not completed. Trustee Dent said so we committed those funds but we didn't have to pay for it. Former Director of Finance Eick said we didn't until early November and there was no title in December. Trustee Dent said so it would be a carryover project. Former Director of Finance Eick said it is but not one when the Board adopted the budget. It was included within the items of note and unfortunately we are stuck with what happened. The CIP report is an internal one just for us and if you want to embellish within that report, we can do that. We have to stick with what was legally adopted and legal with the State of Nevada included in contractual arrangements and commitments. Trustee Dent said he doesn't understand why it didn't carry over. Former Director of Finance Eick said Staff thought it was going to be here by June 30 so we didn't know that when we set the carryover schedule. Trustee Dent said that it looks odd when you look at the CIP report; Former Director of Finance Eick said he doesn't like it any more than you do.

Trustee Schmitz said, referencing CAFR page 30, that we don't reflect any of the committed funds in the Utility Fund and in an effort to be more transparent, shouldn't we show the committed funds to better understand an appropriate fund balance. Former Director of Finance Eick said in an effort to make the public aware, there is a footnote. The policy was designed in 2008 based on the definitions at that time. If this Board ever gets around to accepting the new IVGID Code, you can change the formula to include it.

Right now, the presentation has to stand and he hopes that people appreciate the inclusion of the footnote. He understands the frustration but we have done what we can within the rules. Trustee Schmitz said she would like it to be more clear; Former Director of Finance Eick said standards don't allow it however they granted us the footnote.

Trustee Schmitz said, referencing CAFR page 41, could you comment on the appropriate fund balance, what they are, and are we complying. Former Director of Finance Eick said that the District does have policies on fund balances and that based on how they are defined, it does meet its policies. He doesn't think it meets this Board's expectations because of the carryover and when this Board gets around to modifying its policies, he hopes that the Board will modify the targets. Trustee Schmitz said that is not reflected in this document for comparison; former Director of Finance Eick said we say it exists and that we are within it.

Trustee Schmitz said, referencing CAFR page 35, she didn't see the liability for the Mark Smith legal case and on agenda packet page 70, she didn't see anything in the notes. Former Director of Finance Eick said it is included in the budget document and not the nature of an auditor's report as it is not a substantial project. Trustee Schmitz said that it is a liability and a commitment that the District has made. Former Director of Finance Eick said it is an accrual within accounts payable. Trustee Schmitz said so no note; former Director of Finance Eick said no note.

Trustee Schmitz said there was nothing referenced about the Diamond Peak land or anything related to the Parasol building. Former Director of Finance Eick said that is correct that there is nothing for annual use of land with the United States Forest Service and we don't pay the Parasol Tahoe Community Fund rather they pay us one dollar per year which may not have made the list; we could expand it next year but it is not a requirement.

Trustee Callicrate said that not having the Diamond Peak ski lease under these notes, and whilst it is correct that it wasn't, being that Diamond Peak has been a tremendous financial asset to us and knowing that the lease is coming due within the next couple of years, it would seem to him that this is a substantial omission. If we were to find out that we can't renew our lease or several other what ifs, it should in as a huge reflection of our financials. Former Director of Finance Eick said that the audit report is highly aggregated and that the lease is somewhere around fifteen hundred to eighteen hundred dollars so it doesn't make. Going forward, we might want

to have a disclosure on the memorandum of understanding which isn't about the money but about the acreage. The definition is that this is for financial information and you are talking about operational items; this is a financial document and this doesn't meet that standard. Trustee Callicrate said he is looking at the impact. Former Director of Finance Eick said he is trying to clear that this is driven by finance not operations or the bigger picture. He is not saying this is wrong rather that this is a financial audit. Trustee Callicrate said it is a critical component for financials for Diamond Peak and it could shut us down so it is important to include and understand it and he likes the idea about the memorandum of understandings because they do impact the District.

Chairwoman Wong asked when the new leasing standard for governmental becomes effective. Former Director of Finance Eick said it was originally intended for this year however it has gotten delayed for two years. The State of Nevada sent out their survey and when we talked about the golf cart lease going forward the payments will continue to be an expenditure but it will be like you are purchasing them and it will be an acquisition which will require much closer disclosure.

Trustee Schmitz said, referencing CAFR page 46, that the consulting services for the Diamond Peak Master Plan, the Community Services Master Plan, and the Incline Beach Facility Study are included as construction in progress. Former Director of Finance Eick said they are governmental activities on page 45 and yes, there are included as master plan are a capital asset. Trustee Dent said even though they may have nothing to do with what might happen. Former Director of Finance Eick said they have value over time and that it is a matter of choice and this Board can change that policy.

Chairwoman Wong said in listening to the questions that everyone had today, she would highly suggest that the new Audit Committee go over the nuances of governmental accounting with the new Director of Finance and go over the standards within the Nevada Revised Statutes as well as GASB. When she joined the Board, there were books to help them which she you can find by their mail boxes. It would also be a good refresher for you to go back to fund accounting and the related nuances; it would be especially useful for Trustee Schmitz and the new Audit Committee members.

Trustee Morris said that he really appreciates the depth of knowledge on policies and procedures that you have at your fingertips such that he doesn't

know how the new Director of Finance is going to fill your big shoes and he also appreciates all the time you have spent with him to go through all of his questions. Thank you for everything you have done. Former Director of Finance Eick said you are very welcome and said that there are a lot of things about this that are a matter of choice. You would be far better off getting the pamphlet as you should become familiar with the concept. It is obvious that there will be changes and take advantage of those to make new choices. Make sure that you are clear with the part that the State emphasizes such as reporting our finances as there is still the matter of communication and finding other ways to report out.

Trustee Dent said he hasn't received the financial booklet and that this was a handoff that got dropped as it was something that he wasn't given. Chairwoman Wong said it is next to all of our boxes. Trustee Dent said he will pick one up. Former Director of Finance Eick said if you want more, we can get them.

Interim District General Manager Winqest thanked Mr. Eick for coming out of retirement and answering all the questions. Thank you to Trustee Schmitz for asking her questions. We do need an overhaul of the Audit Committee and there is a lot of opportunity, a lot of which is philosophical, and they should look at that. Many of these questions were asked by members of our community and he appreciates their ability to ask these questions. It is unfortunate that there were only two Board members present at the last Audit Committee meeting. He hopes that moving forward that Trustee Schmitz would ask all her questions and have them vetted through the Audit Committee and stated that he will do everything he can to work with the Audit Committee. If that had been done, we probably wouldn't be sitting here today on the verge of violation of submittal. Interim District General Manager Winqest said that he wants to re-emphasize what Ms. Langley at the State of Nevada, Department of Taxation told him – if this Board votes not to receive this report then each Board member needs to state, on the record, why they are not receiving it and that it would be better to submit that, in writing, so that the State understands why you are not receiving this report. We have a unique opportunity to approach the audit moving forward.

Former Director of Finance Eick said that the Board is saying that the audit report is received and the issue for the statute is to file it.

Trustee Morris made a motion to receive the June 30, 2019 unmodified audit report and direct Staff to file the Comprehensive

Annual Financial Report (CAFR) with the State of Nevada and make it generally available for public use. Chairwoman Wong seconded the motion. Chairwoman Wong asked if there was any further comment.

Trustee Schmitz asked what is the deadline. Interim District General Manager Winquest said January 31.

Trustee Dent said that one of the things that has been very consistent by the District is that when we receive memorandums from the public, we don't respond. He asked the Audit Chair to get a response in writing and he was assured he would. The response that we received from the Audit Committee was, pretty much, that we looked at them and we disagree. It would put a lot of this to rest if there was a response and yes, it may cost a little bit of money but it would put a lot of these annual requests to rest. It would also help us to understand the issues and take away the issues of several outstanding memorandums by getting a response in writing but it didn't happen and he would like to see that we get a response in writing and get these memorandums answered. He doesn't see the need to take action tonight as we could take action in a week so as to allow the Interim District General Manager the time to reach out to the auditors, get an answer, and if it costs us a thousand or two thousand dollars so be it because we need to get an answer and put this behind us. We do need to address what we said we were going to. He will not be in support of this motion as we have plenty of time to get a response that we should have gotten months ago.

Trustee Callicrate said what are the policies and procedures that the audit was based on and where was the information that they were responsible for providing; there is no complete statement of what this audit was based on, no answers in a written format, and he understand about the additional expenses, but we need to answer the questions from the people that are in or slightly out of the business. Last year, there were transfers or non-transfers that were considered rather at odds with what we should have been doing and there were unlawful transfers and those has to be reversed. There were concerns that were accepted and they were filed with the State and then there were amendments which had to go back to the State and there has been a lot of retroactive activities over the years with some being minor and some not so. He can't pinpoint it but he knows it could be a clearer situation rather than so after the fact. Former Director of Finance Eick said that on page 56 of the CAFR, agenda packet page 91, there is a rather long footnote to the Workers Compensation Fund being closed and that there were a series of two that were brought to the Board earlier in the year. It was

the State of Nevada that realized what they were and they were the ones that asked that we clarify and that spanned two fiscal years so it required it to go on for an additional year. It is regretful, absolutely, and we told the State what we were doing when we started out and we didn't know about the end piece that would close the fund. We kept after it and found a better solution that got settled for fifty five thousand dollars instead of many thousands of dollars more. It stuck with the budget process and then four months later something else happened. We have a very good system and there is one flaw – we are not good at change management. We need to get better at reporting it and communicating it. As you go forward, we have to find a way to recognize change is happening at a faster pace. A lot can change in a period of time and we all get it. It is difficult that there are a lot of standards and reporting processes that are just as old and that we are not up to speed with change management. It is not perfect but we did the best we could; we did enough to meet the standards and yet if you want something else, that is your opportunity and we can do it.

Trustee Callicrate said, referencing page 56 of the CAFR, that he would have liked to have gotten from them the policies and procedures on internal controls and asked if there were comprehensive internal controls on framework that we provide to EideBailly. Former Director of Finance Eick said that auditors have the responsibility and that this is a financial document. As it relates to financial controls, there are a series of checklists and controls that they go through and all they are doing is expressing an opinion on presentation. The documentation referred to is their work papers, not our document(s), rather it is an auditors work paper and by their professional standards, it is not ours, it is theirs and that they have detailed checklist that is theirs. Part of the challenge is that people have asked for something that doesn't exist because that document is theirs. One of the challenges in this is that the Auditor's client is the District, not a member of the public, not an individual Trustee, nor him. We do sign the representation letter because they ask a lot of questions of him. The auditors don't ask us about everything and we don't tell them about everything because some are not big enough. They live at a fairly high level. He was an Auditor for twenty-eight years and one of the difficulties is that is the process. If you think ten thousand dollars is important, that's your choice. The Auditors went into great detail four years ago and they keep getting asked again and again so we paid an extra five thousand dollars. The Audit Committee told them to talk to them. Trustee Callicrate asked if for that five thousand dollars did they provide a written or verbal reply. Former Director of Finance Eick said it was a written reply to that party who made a public records request. He thinks

that the Auditor did comply but he doesn't know that for a fact. He understands that the past Audit Chair answered in one way and there was an expectation of something different; he would suggest that those minutes get sent to the State so they are aware.

Trustee Morris said that good and valid concerns have been raised today and in previous sessions. He is concerned that, as a Board, we have to follow the law in terms of submitting a report. He understands about next week and if that happens, that happens. His fear is that between now and next week nothing will change as there are not many working days between now and then. Chairwoman Wong agreed that there is no time. Trustee Morris continued then if nothing will change between now and next week and we are only required to receive it and not to anoint it or bless it, then let's just receive it and submit it to the State. Former Director of Finance Eick said he talked to the State about this and they want us to submit the minutes to make sure the concerns are identified. The State's point is they have a process, auditor was designated, asks for a report, you have one in front of you, acknowledging it and that this is probably going to change. Trustee Morris said with the make up of the new position, he thinks we will continue to look at ways to improve and thinks we have an obligation to submit this and that if we fail, either tonight or next week, he is worried about the implications from the State. He thinks we should receive it and submit it even though individual members have expressed concerns.

Chairwoman Wong said that we have a request for public comment so is Trustee Morris willing to withdraw his motion. Trustee Morris said he is happy to withdraw his motion. Chairwoman Wong, as the seconder to the original motion, agreed to removing her second.

Chairwoman Wong opened the matter for public comments.

Steve Dolan said that he thinks the Board is opening up a precedent that is improper and that the auditors are not responsible to the public rather you are responsible to the public. If you hired a contractor to put in a sidewalk, the General Manager would be responsible and he wouldn't be responsible to those walking by. Litigation has been a big problem if you try and interface a contractor with the public. Really consider how you are going to vote on this. Agree to receive it and submit it just to keep the process as it has been. There is a hostile environment that doesn't want to agree to a further extension so finish this item and get on with it.

Margaret Martini said now is your time to correct your past mistakes and what is desperately need is an audit on internal controls, that is what is needed. We have spent money on consultants so an audit on internal controls should give the Board the comfort it needs.

Frank Wright said he has had the unusual luxury of being here over and over for the past ten years and listening to Staff give their song and dance. There are serious problems with our financial reports and serious problems with the reports that have been submitted to the Department of Taxation. If you don't do it now, then when. To the listen to the mumbo jumbo and then have Trustee Morris validate it – we need to find where the money is going and see if it is accurate – it is not. People have looked at it and say whoa, there are mistakes. You can't shuffle money from one fund to another. Crystal Bay has been spending money for the beaches without access. Your books are not in order, haven't been in for forever, and there is no access to our financials. You are not giving information so you must be hiding something.

Charley Miller said that he and Staff have worked together and had a couple of runs in and if there is anything to say about Staff, they know their stuff and he is proud of Mr. Eick and thanked him for coming back. No one is hiding things. If you need an education, find the book. Welcome abroad to Trustee Schmitz as it seems that you are doing your homework but did you ever reach out and try to get educated? This doesn't need to be played out in this environment as you all should have done your prep work. To disagree is one thing but why something is the way it is, that's an education, and that shouldn't play out here. Come prepared with your Cliff notes and understand what you are talking about and show up educated as he has hopes that the Board is going to come together. Further, he believes in the Interim General Manager who is doing a fantastic job. Step it up on public records and just get it out there. As for interrogating Mr. Eick, he has done nothing but what is right.

Hearing no further public comments, Chairwoman Wong closed public comments and brought the matter back to the Board.

Trustee Morris made a motion to, with concurrence by the District's Audit Committee from December 11, 2019, that the Board of Trustees note receipt of the June 30, 2019 unmodified audit report, and direct Staff to file the Comprehensive Annual Financial Report (CAFR) with the State of Nevada and make it generally available for public use. Chairwoman Wong seconded the motion.

Trustee Schmitz asked District General Counsel what were the ramifications of submitting an incorrect CAFR. District General Counsel Velto said there is no penalty as you are abiding by the NRS; the ramification for not filing is that the State independently orders an audit and sends the District a bill which will be in the fifty thousand dollar range.

Hearing no further comments from the Board, Chairwoman Wong called the question – Trustees Dent, Callicrate and Schmitz voted opposed and Trustees Wong and Morris voted in favor; the motion failed.

Chairwoman Wong said to Trustee Callicrate that, as incoming Board Chair, you must meet with our Interim District General Manager and our Former Director of Finance and call the State of Nevada tomorrow; Trustee Callicrate agreed to do that action.

District General Counsel Velto asked each Board member to explain their rationale. Trustee Schmitz said she will submit hers tomorrow morning.

Chairwoman Wong called for a break at 9:10 p.m., the Board reconvened at 9:20 p.m.

H.6. Report of Sample “Popular Report” format for District Capital Improvement Projects as of June 30, 2019 *(was Consent Calendar Item G.2.)*

Trustee Dent said that the former Director of Finance Eick said that he had a couple of things he wanted to share with us.

Former Director of Finance Eick said since he prepared this report, he did two more quarters as a test and in doing so one of his questions, as users of the report, was that you specified the columns. The challenge he found was in using the original budget column for multi-year and multi-phase projects. What is the original budget, pre-design or when it took the item we were acquiring thus can we have a definition of what the original budget represents. The other he runs into, with rolling stock, is buying a piece of rolling stock that is on a six rotation and the pricing increases each year and the fact that as we get closer to the purchase, say two or three years out, we get a number so what is the original budget. The number would be important for budgeting but in terms of after the fact reporting, not sure it

lends value and that this is his singular vision. Staff is looking for ideas on what original budget means and how it is defined as it is a moving target. Then for the issue of change management, he recommends it is every quarter and not each annual report.

Trustee Dent said from where we started, we have come full circle on this and Staff has done a great job of providing information; we are moving in the right direction but we are not there yet. On the original budget, he doesn't know but he will think about it and will have an answer for you. A few of the definitions seem to be convoluted – carry over – project rescheduled to another year and had the budget updated – there are plenty of times when there is no budget change. Former Director of Finance Eick said he will add the word sometimes because it is not always. A good example is the project at the golf courses for greens and tees; they spent it down and the carryover balance is what they intended to use. His suggestion would be to include sometimes or could be and could be reduced unless you to come to the Board and the Board has granted the authority to have additional spending. Trustee Dent said he agrees.

Chairwoman Wong said for expenditures that cross fiscal years, can we simplify and identify that it has been rescheduled to another fiscal year or that the expenditure crosses fiscal years. Trustee Schmitz said she looked at that definition and multi-year is defined.

Trustee Dent asked about addressing actual columns. Former Director of Finance Eick said if we can't finish it in one year, it goes into the next year. Trustee Dent said delayed is a new term that has been added; he then read the definition and suggested adding the word "for". Former Director of Finance Eick said he can delete delay; he gets the point. Trustee Dent continued that in progress means construction that is ongoing. Former Director of Finance Eick said he added that term since we met last to cover a gap; he is okay with that.

Chairwoman Wong asked if we have a definition for ongoing. Former Director of Finance Eick said we could be adding to it and that it would be used on the paving project which is largely out of our control; he wanted to get rid of some of these but try to cover the bases. Trustee Dent said about ongoing either eliminate or annual project. Trustee Morris said that they are two different types and that he is fine with annual and keep repeating. Former Director of Finance Eick suggested in progress. Trustee Morris said

go with two definitions and then let's try and review it again in four to six months. Former Director of Finance Eick said he has tested it.

Trustee Schmitz said with ongoing does that mean added revenue. Former Director of Finance Eick said it really means added authority. Trustee Dent asked what that meant. Former Director of Finance Eick said added more money and an example would be the golf course. He will drop ongoing. Trustee Dent asked for it to be reoccurring or annual.

Trustee Dent said, referencing page 24 of the report, that within Parks, at the top, third one up, unbudgeted with money spent delayed. Former Director of Finance Eick said we went into this project using our own dollars which was something that was discussed with the Board and then with the grant, the grant was received but we couldn't get the project started as it was delayed until July 9 so it was changed to in progress as we did the pre-design but we weren't allowed to get it started and that the Tahoe Regional Planning Agency didn't give us the permit until July 9.

Trustee Dent said on the vector truck we had a contract but it was not carried forward. Former Director of Finance Eick said it brings up the perfect question, this report is not for anyone but ourselves so he is not worried about matching it to the budget document and we can include information for change management. This is not tied into the carryforward document that we send to the State of Nevada. Trustee Dent said so this is an internal report that will be on our website. Former Director of Finance Eick said it is not a regulation. Trustee Dent said he has asked in the years past, prior to the CAFR, that having this would be a helpful thing and that he would urge that this be on the agenda in the fall so we can get any questions answered. Former Director of Finance Eick said Staff usually does it in advance. Chairwoman Wong asked if it could be labelled as such – not tied to the CAFR. Former Director of Finance Eick said yes and that it is in an internal report. Trustee Morris agreed.

Chairwoman Wong said for the original budget that it aggregates that the original budget that was approved by the Board and that doesn't factor any inflation and that the original budget is all of the parts of the budget. Former Director of Finance Eick said that is up to the budget. Trustee Schmitz said that she agrees with Chairwoman Wong about having the original breakdown by the phases of the projects and then do the funding. Also it would be nice to have an asterisk when there is a scope change as it is important to understand that. Former Director of Finance Eick said Staff can

expand it for the budget preparation to have those items. Chairwoman Wong said if we did every phase we would have a forty page report. Trustee Schmitz said we had it with the repair at the Recreation Center as it included some many sidewalks, railings, etc. which changed the scope of the budget and that when you do a final report and correlate it back to its budget and the asterisk, you can understand that. Former Director of Finance Eick said on agenda packet page 23, there is one of those types of projects where money was moved from one project to another project and it was larger on one and smaller on the other and he used the adjustments column and noted that he will be adding a legend. Chairwoman Wong said so we start with this and then include the adjustments and end up with an adjusted year end budget.

Trustee Dent said we have two million dollars every year on the effluent pipeline yet we have only the two million dollars we are carrying over and why not the full \$9.6 million. Former Director of Finance Eick said we can include that on the report; he is willing to put that back in as it fits into this format but not the old format.

Trustee Dent thanked Staff for their efforts on this as it is a really good starting point and noted that we have made a lot of progress. Former Director of Finance Eick said that the next example will see two more columns with more information.

Trustee Schmitz asked if opengov had any ability to do this type of report; former Director of Finance Eick said no but that Staff has been encouraging them to include something.

H.7. Review, discuss and possibly select a preferred alternative for the Incline Beach House – A Community Services Master Plan Priority Project to include in the 5-year Capital Improvement Plan Budget (Requesting Staff Member: Engineering Manager Nathan Chorey) *(was General Business Item H.2.)*

Engineering Manager Nathan Chorey gave an overview of the submitted materials.

Trustee Morris said, regarding Scheme #1A, as a user of the food service, that we have a pretty awful food service option with a long line and wait thus are we duplicating or transferring one problem for another as it worries him that we don't have the scramble area which is a signature area for us and

something that says yes this is Incline. Is there an opportunity for an expanded internal space or for a temporary scramble area where people can buy grab and go products. Engineering Manager Chorey said that this goes into the operation of this facility and the experts have to weigh in there. We have three windows in this scheme and we are at the top of the funnel and just trying to establish the rough concept. Trustee Morris said he would advocate for year round usage as it would be great to be able to have a hot toddy at the bar or a cup of coffee and look at the lake. The bar is external and he likes the tiki bar at the moment but can we build something there that we can use year round.

Trustee Callicrate said that all the schemes have merit and he understands that we are at the top of the funnel and in order to make best use of everyone's time, we should have one or two Trustees and community members convene as an ad hoc group to fast track the opportunities that we have. The original was far too grandiose, it was beautiful, but too much. We have talked about the entire site and whatever we do is going to be an inconvenience to all so it is his feeling that we go down and do it all at one time as trying to piecemeal this would just be prolonging the agony. A small group would be able to drill down and many of us have been here for several years so let's do it right the first time. We only have x amount of dollars and that this is a good first step in downsizing but let's have a smaller group look at it and drill down to put realistic dollars to it as there is an opportunity there.

Interim District General Manager Winqest said he has been the venue manager for the beaches and so he spends a lot of time down there. This is just a starting point and Staff did what the Board asked them to do. He has reached out to the community and we have one member here, Mr. Dolan, who we have reached out to and gotten their feedback. We don't need to survey our residents again because we hear from them. Staff is well qualified to do this and there will be a lot of questions that will come through a focus group or an advisory committee with members of our committee, Staff, food service experts, and financial experts. This will happen either late spring or early summer as we want to have the beaches open. Agree that we do have to improve the speed of service as it is our largest issue. The amount of food preparation space – we have to expand that as our Food & Beverage team are running back and forth and he has personally stopped traffic to allow them access and that we should appreciate the job that Staff does to a manageable scale. Also agree that we aren't discussing the ancillary parts such as ingress, egress, and parking; we are not going to build a second level of parking at this site. It is also not just about getting in quicker but

rather it is about safety and we have the same issue at Ski Beach as well. We need to consider everything and that this is not going to be cheap but that we need to do the right thing and tear it apart and get it right. We will have a focus group to fine tune it and everything that is around it and he understands that and then it will go to the architect. That is how Staff intends on proceeding on this project.

Trustee Schmitz said it is important for this focus group to think about outsourcing food services and have it separate from the bar area as well as how do two separate vendors interact as we might want to outsource. Interim District General Manager Winquest said we will vet that out in a flexible way with that thought in mind.

Trustee Dent said that there is a million dollars not included in this budget and that this is for the building and the site. Engineering Manager Chorey said that is correct that this is just for the building site. Trustee Dent said on the food service equipment number that you said that was the original number.

Chairwoman Wong asked how big is the scramble area at the Diamond Peak Base Lodge and that Staff can get that information later. We have a pretty big week coming up, President's Week, so how many people go through there and how many are we able to serve at the current beach house as that might help us to determine if we need a scramble area or not. We have enough time to gather that data and we can do that with internal staff. District General Manager Winquest said that Staff can do that and that our Food & Beverage Staff should be able to give us a good idea of that flow.

Trustee Morris said that he saw affirmative nods for getting a group of people together and asked if we were at that point and what will be the next steps. District General Manager Winquest said we are at that point with a focus group and a couple of those members are snowbirds and he has a lot going on right now. He would like to hit things methodically and do this in late spring and into the summer. They may want to go down there and look at it and look at the challenges. He would like to lock down four or five members and one or two Board members. He recalls that it was Trustees Dent and Callicrate last time so he would like to have one of the two of them, if not both. The first meeting would be mid to late May and then continue meeting until we are comfortable with the scope and have factored in all of the concerns; so start in May.

H.8. Review, discuss, and provide further direction for consideration of possibly seeking a request for proposals to conduct a review of District Internal Controls (Requesting Trustee: Chairwoman Kendra Wong) *(was General Business Item H.3.)*

Chairwoman Wong gave an overview of the submitted materials.

Trustee Morris said he was really pleased to read this document and it really helped him think through it and that as we have got a new Director of Finance coming on board, he is sure he has some ideas and that he will want to feed into this and that he wants to get his input.

District General Manager Winqest said that he wants this to be the Board's item and that he talked to our new Director of Finance and he recommends that it is a great idea, he is confident about what he is walking into, want to give him a good starting point, and that it doesn't make any sense to do this until we have a scope and until the new Director of Finance is on site. He will get up to speed and then we can ask him for his input.

Trustee Dent suggested sending this to the Audit Committee to work on and then bring it back to the Board; Chairwoman Wong agreed to that suggestion.

H.9. Review, discuss, and possibly provide direction for the next step in the process to revise Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District which includes but is not limited to setting a public hearing date for February 26, 2020 (Requesting Staff Member: Interim District General Manager Indra Winqest) *(was General Business Item H.4.)*

Interim General Manager Winqest gave an overview of the submitted materials.

Trustee Schmitz asked, regarding paragraph 47, if Interim General Manager Winqest would explain what we talked about and having it reflected here – if you are a parcel owner, no term specified and if you are a tenant, that term should be linked to your lease and have that reflected here. Interim General

Manager Winqest said that we can add that. Trustee Schmitz said that would avoid confusion. Chairwoman Wong said that she thought it would be better at 48. Interim General Manager Winqest said it is issued for the term of the lease agreement and expires at that time.

Trustee Callicrate said, for 60., leave that as it is as it could potentially open up a need to get those peak spots and when it comes to golf, the less we do the better as it is a critical component of what we do and let's avoid the perception of abuse as it seems to be working quite well and his gut feeling tells him to leave it at no golf on the additional pass. Trustee Morris said he agrees that it is not something that we need to change and that we can find different ways to fill. Trustee Schmitz said that she agrees as it could take a financial situation at golf and make it work. Interim General Manager Winqest said he has always been fifty/fifty on this issue and he is fine with leaving that as it.

Trustee Callicrate said, for 70., because this has always been at the Board level, he is not concerned with the present Interim General Manager, but he is looking at the next individual and wanting that to be kept at the Board level. It insulates the General Manager and keeps it at the Board level as this is the holy grail of all of the ordinances and keeping it at the Board level shows that it is a serious one. He wants to keep it at the Board level and then direct the General Manager on the maintenance and upkeep. Interim General Manager Winqest said that this speaks to the rules that are consistent with the ordinance and that the guest access ticket is a perfect example. Just to clarify, he is going to bring this back to the Board and have them approve the change. Chairwoman Wong suggested adding that the Board of Trustees is responsible for the ordinance at the front of the paragraph and then leave the rest as is. Trustee Callicrate said he agrees with that change.

Trustee Morris asked if we have checked through Legal, etc. on the changes that are being proposed. Interim General Manager Winqest said that he has met with Mr. Balkenbush and he has checked it out; we will also have District General Counsel look this over.

Trustee Schmitz said, regarding 71., the authority to interpret – she doesn't like the wiggle room. Interim General Manager Winqest said we will change that statement.

Interim General Manager Winquest said that Staff will bring back the changes on February 12 and at that time we will ask the Board to set the public hearing date/time.

Trustee Schmitz said, regarding 33. on page 189, can you remove b., c., and d. Interim General Manager Winquest said yes we can remove them. Trustee Morris asked what if someone doesn't have a lease. Interim General Manager Winquest said then it has to be signed by the authorized agent. Trustee Morris asked how do you prove who you are. Interim General Manager Winquest said that is not a problem and that we can require it. Trustee Schmitz said that 32. is proof of ownership and 33. is for non-owners. Trustee Morris said he understands what you are saying. Interim General Manager Winquest said we don't need to create a solution to a problem that doesn't exist. Trustee Schmitz said that this is cleaning up the language to how you actual operate.

I. APPROVAL OF MINUTES (for possible action)

I.1. Regular Meeting of December 11, 2019

Chairwoman Wong asked for any changes; none were requested – the minutes were approved as submitted.

I.2. Special Meeting of December 18, 2019

Chairwoman Wong asked for any changes; none were requested – the minutes were approved as submitted.

Trustee Dent asked that the public records request made for the one hundred and fifty letters in support of candidates be added to these minutes.

J. REPORTS TO THE IVGID BOARD OF TRUSTEES*

J.1. District General Counsel: Law Firm of Hutchison & Steffen

District General Counsel Velto said he had nothing to report.

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

Trustee Dent said that the League of Cities held their annual lunch.

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

Pete Todoroff said the only thing he is upset about is that we have an Interim General Manager and everyone in the community wants him as General Manager so put on the agenda next time and let's get it done.

Frank Wright said that he has got some things to expose; thank you to the members of the Board who pushed the CAFR down the road. He has a big issue with Staff who doesn't use their real names and changes the text. The context takes out their real names and you can't make it out; he has never seen anything like it and it was a pathetic effort. Also, where is the seven hundred and fifty thousand dollars for the pond liner; he did a public records request and he got Costco receipts. Another problem is our District Legal Counsel as they were down there lobbying for one of the candidates which is unethical; he saw them. He did some damage there and is that what we want from our legal team and that having them go down there without Board direction is horrible. The Board agenda was pretty sneaky with the new Board offices having a date and such that our District General Counsel was prepared – that was pretty well organized.

Margaret Martini said one thing she noted on getting into the beaches and having vendors at the beaches, there is usually a simple solution, all vendors should be set up and fully stocked by 8 a.m. and then you don't have to have vendor vehicle control. This seems like a no brainer to have an 8 a.m. cut off at the beaches and that it is a little odd that it would have to happen in another way.

Denise Davis said she would like to repeat for the record that part of the conversation, during our last break, there was discussion about the Board action on the CAFR, that she would like to state to all of you that there was no reason that we could not file that we have the audit report and that you can put a huge disclaimer that you have some concerns or don't agree or might want to modify. There is no reason that report could not be filed. Regarding the comment about financials have to be perfect, as someone who has worked in the trenches, nothing is perfect and you get them to the best of our ability and it is sadly not uncommon to restate opinions that you have made and it is not uncommon to revise your statements because we have better information now than we had then. Ms. Davis said thank you to Mr. Eick for being here as it is nothing that he had to do rather it is that he has pride in the job he has done for us whether you like or don't, agree

or disagree, it says a lot about him that he is here tonight and finishing the job that he started.

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

Interim District General Manager Winquest went over the long range calendar and the following was added/revised:

- 2/12 – appoint District General Manager
- 3/25 – move meeting to old Boardroom at Administrative offices
- 3/27 – budget approval

N. ADJOURNMENT

The meeting was adjourned at 10:55 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 Margaret Martini (2 pages): January 22, 2020 IVGID Board of Trustees Meeting – Public Comment by: Margaret Martini to be included with the Meeting Minutes

Submitted by Linda Newman (2 pages): IVGID 1-22-20 Board of Trustees Meeting Public Comments By: Linda Newman – To be included with the Minutes

Submitted by Aaron Katz (20 pages): Written statement requested to be included in the written minutes of this January 22, 2020 regular IVGID Board Meeting – Agenda Item H(7) – Election of Board officers

Submitted by Aaron Katz (23 pages): Written statement requested to be included in the written minutes of this January 22, 2020 regular IVGID Board Meeting –

Agenda Item C – Public Comment – What kind of candidate should the IVGID Board select to fill the vacancy created by former Trustee Horan’s resignation, and who authorized Susan Herron to notify candidates of a selection process never approved by the Board which was intended by her to maintain the status quo?

Submitted by Aaron Katz (2 pages): Written statement requested to be included in the written minutes of this January 22, 2020 regular IVGID Board Meeting – Agenda Items H(5) and H(6) – Possible payment of Attorney Beko’s attorney’s fees incurred in the Mark Smith litigation

Submitted by Michael Abel & Cliff Dobler (1 page): A story of financial and logistical failure

January 22, 2020 IVGID Board of Trustees Meeting

Public Comment by: Margaret Martini to be included with the Meeting Minutes

New Year! New Resolutions! And Good News! We are fortunate that our County Commissioners unanimously appointed Sara Schmitz as IVGID Trustee. We appreciate their respect for the will of our voters and the choice of close to 500 citizens who took the time to sign a petition, write letters of endorsement and stand up for her at the meeting. Thank you Trustee Schmitz for your willingness to serve and running the distance to earn our confidence and our trust.

We can all stand together tonight for a new and improved era in IVGID's governance. One that will benefit our Board, our General Manager, our staff and our citizens. It starts with new Board officers that will take an active role in determining District policy and its implementation; a Board that will dig into the issues and assist the General Manager in finding and implementing solutions. A Board that will welcome our citizens to participate in public meetings, answer their questions and correspondence and leverage the extraordinary skills, talents, resources and experience they voluntarily offer. The audit committee must be reorganized to exercise oversight and ensure that our District is in compliance with all laws and Board approved policies and practices. A Board that takes charge and fulfills all its fiduciary responsibilities will command the respect and support of everyone.

Burning public money in endless and unnecessary litigation must come to an end. It doesn't improve our utility infrastructure, our facilities or recreational amenities. And it doesn't put one more dollar in our employees' paychecks. Vote no on approving more Beko legal fees and settle the Smith litigation without delay. Our taxes and fees should be used to benefit our community and not to enhance Mr. Beko's lifestyle and pay Trustee Wong and Jason Guinasso's legal expenses. Stop this now and set the right precedent for the future.

Start producing financial and accounting reports that are complete and accurate. Start now by not approving this CAFR. Demand revisions to ensure that you do not deceive our citizens and our overseers by trampling over Nevada statutes, Generally Accepted Accounting Principles and the District's own policies. The District's financial credibility is at stake. And you, are ultimately responsible.

The Beach house is one of our community's priorities and requires important community input. Set up a workshop meeting and put the project on a fast track. Include discussion of your plans for implementing the New Burnt Cedar Pool. You can add recommendations for Ordinance 7 at that time. The draft proposed does not meet the Board's objectives. It doesn't address the critical issues of separating the community services venues from the beaches nor define the term "guest." These are important issues that must be resolved.

Now is your time to correct past mistakes. Use the present to positively shape our future.

IVGID 1-22-20 Board of Trustees Meeting Public Comments

By: Linda Newman – To be included with the Minutes

Happy New Year everyone and welcome Trustee Schmitz. We appreciate your commitment to improving our community and your energetic and passionate determination to improve our governance.

We have an opportunity tonight to correct past mistakes and errors in judgment and chart a course for new leadership to confront the challenges ahead.

I request the Board take action to correct the material misstatements in the audited and unaudited sections of the CAFR and ensure that all of the accounting and reporting is in compliance with GASB and Nevada law. As one of the most important documents in establishing financial transparency, it cannot be accepted and approved tonight. Pay close attention to the punch card utilization scheme. It has been developed to create fictitious revenues at our recreational venues and our Beaches AND has enabled the undisclosed and unlawful transfers of millions of dollars of our Rec Fee to be transferred to the Beaches. This year alone, the District transferred \$468,000. If you are paying a Rec Fee and don't have Beach access, the District is using your money to pay expenses for beaches you cannot use. This is not only unlawful it is immoral.

The new Audit Committee must review our current Internal Controls and establish the scope of work for an independent audit with recommendations for improvements. Currently, there is no evidence of written policies or supervisory oversight. Unfortunately, there is too much evidence of our District's failure to comply with Nevada Statutes and its own Board approved ordinances, resolutions, policies and procedures.

Our Board can no longer allow our public money being expended on unnecessary and unproductive litigation. We have a right to public records and object to spending close to \$100,000 of unbudgeted and unapproved legal fees to stop a citizen from getting those records and to defend our retained Counsel and Trustee Wong. The NV Attorney General and the Nevada Supreme Court determined that all legal decisions and appropriation of public funds must be made by the Board in a public meeting. In the Smith lawsuit, the Board never approved the engagement of Mr. Beko, nor did it appropriate funds for the defense of Ms. Wong and Mr. Guinasso. Although required by law, the Board has not made any decisions in a public meeting on the motions filed by Mr. Beko. This Board should not retroactively approve the expenditure of unbudgeted funds already spent to

continue the unauthorized engagement of Mr. Beko and the continuance of a lawsuit instigated by legal counsel. This lawsuit should be settled now and Ms. Wong and Mr. Guinasso should reimburse the District for all the unbudgeted and unappropriated public money expended on their behalf.

Mr. Winqvist is carrying the burden of correcting his predecessor's major missteps. Please engage independent experts to assist our General Manager in improving our Accounting and Reporting, IT, Infrastructure Improvements and Project Management.

**WRITTEN STATEMENT REQUESTED TO BE INCLUDED IN THE WRITTEN
MINUTES OF THIS JANUARY 22, 2020 REGULAR IVGID BOARD MEETING –
AGENDA ITEM H(7) – ELECTION OF BOARD OFFICERS**

Introduction: Here the Board proposes electing officers “as provided by Nevada Revised Statutes 318.085¹...for the 2020 Term – effective January 23, 2020.”² The problem with this agenda item is at least fourfold. First, the agenda item’s placement at essentially the end of the General Business Calendar. Rightfully it should be at the beginning of the agenda as item C.

Second, this agenda item has been artfully crafted to specify that the election of officers be effective *after* this meeting (“effective January 23, 2020”) rather than for this meeting.

Third, staff purports to represent that NRS 318.085 “the officers of the Board shall...consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and Secretary.”¹ As the reader(s) will see, this is a misrepresentation of NRS 318.085(1).

Finally, who on the Board has requested each of the foregoing, and why? According to the agenda², “(Requesting Trustee: Chairwoman Kendra Wong).”

These are the purposes of this written statement.

This Agenda Item Demonstrates That Kendra Wong Has Never Performed Her Trustee Duties in the Spirit of Respect For Her Fellow Trustees and as a Consensus Builder:

Placement on the Agenda: Typically, new officers are elected as the first item of business at the first meeting in January of each year given Board Policy 3.1.011 provides that “the(ir) term(s) of office shall be for one (1) year or until a reorganization of the Board is required.”³ I have gone back to the last three Board meetings where officers have been elected due to a change in the Board make-up⁴; January 9, 2013, January 14, 2015, and January 18, 2017⁵. And in each instance the

¹ See page 201 of the packet of materials prepared by staff in anticipation of the Board’s January 22, 2020 meeting [“the 1/22/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_1-22-2020.pdf)].

² See page 3 of the 1/22/2020 Board packet. This page as well as the remainder of the agenda are attached as Exhibit “A” to this written statement.

³ See pages 12-13 at <https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID-Board-Policies.pdf>.

⁴ That is election of a new and different trustee.

⁵ Officers for 2019 were not elected until the Board’s February 6, 2019 meeting [see agenda item G(7) at https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Agenda_Regular2-6-19.pdf]. Moreover, when elected there had been no change in the Board make-up from the year before. In other words, the Board in effect in December of 2018 was the same as January and February of 2019.

election of officers appeared before any/ other General Business⁶. Yet here the agenda proposes electing officers for 2020 at the end of proposed General Business for this meeting. Given this represents a marked departure from the past, and Ms. Wong is the one who created this agenda, one must ask *why*?

Effective Date: Here the agenda recites that the election of new officers shall be effective January 23, 2020. In other words, the day *after* tonight's meeting. I and others I know object. Tonight's meeting hopefully represents a marked departure from the way things have been done in the District for the last twenty-five (25) or possibly longer years. There has been a changing of the guard. Let not this meeting be shackled with the "old guard's" agenda. New officers should take their positions immediately after being elected.

Conclusion: Ms. Wong is attempting to advance her agendas as long as possible and to the bitter end. She continues to be in denial that there has been a changing of the guard. The time to start the change this community has for so long sought, is right here and now with this agenda item. Elect new officers, have them begin their duties from the very start, and have them take action on their rather than the old guard's agenda.

Moreover, NRS 318.085(1) Does Not Mandate the Election of a Vice-Chairperson; a Thinly Veiled Attempt to Insure That Kendra Wong or Peter Morris Get Elected as Officers: The Board's Policies are set forth at <https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID-Board-Policies.pdf>, and its practices are set forth at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Board_Practices_762016.pdf. A careful examination of both reveal that the subject of replacing vacancies on the IVGID Board is *nowhere* discussed.

Yet if there are four officers who are elected, and each office is held by one trustee, Trustee Wong will have ensured that either she or Trustee Morris is elected as an officer.

Conclusion: Here we have an example of Trustee Wong attempting to advance her IVGID agenda as long as possible. One would have thought that after Sara was selected by the Board of County Commissioners to fill the vacancy on the IVGID Board, Kendra would have turned conciliatory in an effort to heal the current divisiveness. But no. By skewing the placement of officer elections on the agenda until after the remainder of her agenda items, she is able to insure they come to the forefront. I urge Board members to not approve the agenda in its current form, and that it advance the election of officers and members of the audit committee to the top of the agenda.

I also urge the new chairperson to return public comment and transparency to Board meetings by allowing public comment on each general business matter before the Board decides the matter, in addition to the traditional periods at the beginning and end of the meeting.

⁶ The agendas for the Board's January 9, 2013, January 14, 2015 and January 18, 2017 meetings are attached to this written statement as Exhibits "B," "C" and "D," respectively. Asterisks have been placed on each where the election of officers was agendized. In all instances, the election of new officers took place before consideration of any other General Business item.

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

EXHIBIT "A"



NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at 6:00 p.m. on **Wednesday, January 22, 2020** in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- C. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.

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

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

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 STAFF UPDATE *(for discussion only)*
 - 1. Interim District General Manager Indra Winquest
- F. REPORTS TO THE BOARD OF TRUSTEES*
- G. CONSENT CALENDAR *(for possible action)*

Incline Village General Improvement District

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NOTICE OF MEETING

Agenda for the Board Meeting of January 22, 2020 - Page 2

Excerpt from Policy 3.1.0, Conduct Meetings of the Board of Trustees

0.15 Consent Calendar. In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar." A memorandum will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section. Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the general business section of the meeting.

1. Acknowledgement of Receipt of Letter dated December 24, 2019 from the State of Nevada, Department of Taxation re: Medium-Term Financing – Lease Purchase Agreement, Fifty-eight (58) EZ-Go Gas Powered Golf Carts signed by Melanie Young, Executive Director, Department of Taxation – Nevada Revised Statute 350.089
2. Report of Sample "Popular Report" format for District Capital Improvement Projects as of June 30, 2019

H. GENERAL BUSINESS (*for possible action*)

1. Receive, discuss and direct Staff to file the June 30, 2019 Comprehensive Annual Financial Report including an Unmodified Report by the District's Auditor, as required by NRS 354.624. (Requesting Staff Member: Interim District General Manager Indra Winquest)
2. Review, discuss and possibly select a preferred alternative for the Incline Beach House – A Community Services Master Plan Priority Project to include in the 5-year Capital Improvement Plan Budget (Requesting Staff Member: Engineering Manager Nathan Chorey)
3. Review, discuss, and provide further direction for consideration of possibly seeking a request for proposals to conduct a review of District Internal Controls (Requesting Trustee: Chairwoman Kendra Wong)
4. Review, discuss, and possibly provide direction for the next step in the process to revise Ordinance 7, An Ordinance Establishing Rates, Rules and Regulations for Recreation Passes and Recreation Punch Cards by the Incline Village General Improvement District which includes but is not limited to setting a public hearing date for February 26, 2020 (Requesting Staff Member: Interim District General Manager Indra Winquest)
5. Case No. CV18-01564 Mark E. Smith v. IVGID
Review, discuss and possibly approve providing Interim District General Manager Winquest with a not-to-exceed \$7,500.00 in legal fees and costs to cover fees that were not budgeted as of the last update (Requesting Staff Member: Interim District General Manager Indra Winquest)
6. Case No. CV18-01564 Mark E. Smith v. IVGID
Review, discuss and possibly approve legal fees and costs to cover fees that were not budgeted as of the last update (estimated to be not to exceed \$13,000.00 over current authorization) (Requesting Staff Member: Interim District General Manager Indra Winquest).



NOTICE OF MEETING

Agenda for the Board Meeting of January 22, 2020 - Page 3

7. Election of Board of Trustees Officers for the 2020 Term - effective January 23, 2020 (Requesting Trustee: Chairwoman Kendra Wong)
8. Review, discuss and possibly appoint Audit Committee Members for the 2020 Term – Effective January 23, 2020 (Requesting Trustee: Chairwoman Kendra Wong)
- I. APPROVAL OF MINUTES (*for possible action*)
1. Regular Meeting of December 11, 2019
 2. Special Meeting of December 18, 2019
- J. REPORTS TO THE IVGID BOARD OF TRUSTEES*
1. District General Counsel: Law Firm of Hutchison & Steffen
- K. BOARD OF TRUSTEES UPDATE (**NO DISCUSSION OR ACTION**) ON ANY MATTER REGARDING THE DISTRICT AND/OR COMMUNITIES OF CRYSTAL BAY AND INCLINE VILLAGE, NEVADA*
- L. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration; see **Public Comment Advisory Statement** above.
- M. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (*for possible action*)
- N. ADJOURNMENT (*for possible action*)

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Friday, January 17, 2020 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of January 22, 2020) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

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

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

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

Board of Trustees: Kendra Wong, Chairwoman, Tim Callicrate, Peter Morris, Matthew Dent, and Sara Schmitz.

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



NOTICE OF MEETING

Agenda for the Board Meeting of January 22, 2020 - Page 4

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

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


EXHIBIT "B"



NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **3:00 p.m.** on Wednesday, January 9, 2013 in the IVGID Boardroom at 893 Southwood Boulevard, Incline Village, Nevada.

3:00 pm

- A. PLEDGE OF ALLEGIANCE*
- B. SWEARING IN OF TRUSTEES CONDUCTED BY WASHOE COUNTY CLERK AMY HARVEY – **page 1**
-  C. ELECTION OF BOARD OF TRUSTEES OFFICERS FOR THE 2013 TERM CONDUCTED BY SECRETARY BRUCE SIMONIAN – **page 2**
- D. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- E. APPROVAL OF AGENDA (*for possible action*)
- F. APPROVAL OF MINUTES OF THE SPECIAL MEETING OF NOVEMBER 15-16, 2012 – **pages 3 – 8** AND THE REGULAR MEETING OF DECEMBER 12, 2012 - **pages 9 – 52** (*for possible action*)
- G. RELEASE OF PAYMENT FOR BILLS OVER \$2,500 DURING THE PERIOD STATED (*for possible action*) – **pages 53 - 60**
- H. REPORTS TO THE IVGID BOARD OF TRUSTEES*
 - 1. Washoe County Manager Katy Simon – Update of Roads (Snow Removal, etc.)
 - 2. Tahoe Family Solutions' Executive Director Robin Glasgow – Announce a Federal Tax help program available to our community members
 - 3. Board Updates provided by the IVGID Board of Trustees
 - 4. District Staff Updates
 - a. General Manager Bill Horn – **pages 61 – 70**
 - b. Venue Managers as appropriate (may be added at the discretion of the General Manager)
 - i. General Manager Diamond Peak Ski Resort Brad Wilson

Incline Village General Improvement District

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NOTICE OF MEETING

Agenda for the Board Meeting of January 9, 2013 - Page 2

- II. Director of Finance, Accounting and Risk Management Gerry Eick – Budgeting Process for 2013/2014
- III. Director of Human Resources Dee Carey – Set a Workshop date and time to discuss the Affordable Health Care Act and its potential impact on the District
- IV. Director of Information Technology Karla Harker – Webcasting Update
- V. Engineering Manager Brad Johnson – Capital Improvement Project Budgeting Process

5. District General Counsel T. Scott Brooke

I. CORRESPONDENCE RECEIVED BY THE DISTRICT* - **pages 71 - 78**

J. PUBLIC COMMENTS* *(During the Public Comment section of the agenda, the public may comment on any subject pertaining to Incline Village General Improvement District, that is in Reports and/or on the Consent Calendar and/or is not on the agenda for action. Comments from the public, relating to a General Business agenda item, will be taken during the Board's consideration of that item. When recognized by the Chair, speakers are requested to come to the podium at the front of the room, state their name and address, and direct their comments to the Chair. All speakers are made aware that their comments will be included in the minutes of the meeting. Speaking time is limited to three minutes and yielding of time is prohibited. Persons are invited to submit comments in writing on the agenda items and/or attend and make comment. The Chair may or may not provide a response or may take the comment under advisement. The Board of Trustees conducts the business of Incline Village and Crystal Bay and its citizens during its meetings. The Chair may order the removal of any person whose conduct disrupts the orderly, efficient or safe conduct of the meeting. Warnings against disruptive behavior may or may not be given prior to removal. Reasonable restrictions may be imposed upon the time, place and manner of speech.)*

K. CONSENT CALENDAR *(for possible action)*

- 1. Interlocal Agreement with the Nevada Division of State Lands for Sale and Transfer of Coverage Owned by Incline Village General Improvement District (Requesting Member of Staff: Director of Public Works Joe Pomroy) – **pages 79 - 81**
- 2. Interlocal Agreement with the Tahoe Transportation District for Initial Scoping for the Co-location of the IVGID Export Pipeline with the SR-28 Bikeway (Requesting Member of Staff: Director of Public Works Joe Pomroy) – **pages 82 - 86**

L. GENERAL BUSINESS *(for possible action)*

- 1. Resolution 1814: A Resolution in Support of the Consolidated Tax Bill Draft Generated by the Interim Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account (Requesting Member of Staff: General Manager Bill Horn) – **pages 87 - 106**



NOTICE OF MEETING

Agenda for the Board Meeting of January 9, 2013 - Page 3

2. Changes to the Board of Trustees Meeting Schedule and Venue – Policy 3.1.0 (Requesting Trustee: Jim Smith) – **pages 107 - 117**
3. Hiring of Ruby Newell-Legner, Certified Speaking Professional, to perform training of the Board of Trustees and the District Management Committee in order to improve the conduct of, as a whole, the Board of Trustees meetings and including techniques of how to best work as One District • One Team in representing the parcel owners (Requesting Trustee: Jim Smith) – **pages 118 - 121**
4. Letter of support for the ELearning Cafe and Incline Library (Requesting Trustee: Bruce Simonian) – **pages 122 - 124**
5. Discussion of Committee Assignments made during the December 12, 2012 Board of Trustees meeting (Requesting Trustee: Jim Smith) – **page 125**
6. Discussion regarding the hiring of an Executive Search Firm to assist the Board of Trustees in identifying who the next General Manager of the District should be (Requesting Trustee: Joe Wolfe) – **pages 126 - 128**

M. PUBLIC COMMENTS*

N. ADJOURNMENT (*for possible action*)

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Friday, January 4, 2013 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of January 9, 2013) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following six locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

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2. Incline Village Post Office
3. Crystal Bay Post Office
4. Raley's Shopping Center
5. Incline Village Branch of Washoe County Library
6. IVGID's Recreation Center

/s/ Susan A. Herron, CMC
Susan A. Herron, CMC
Clerk to the Board of Trustees

Board of Trustees: Bruce Simonian, Joe Wolfe, Bill Devine, Jim Hammerel, and Jim Smith

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EXHIBIT "C"



NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at 6:00 p.m. on Wednesday, January 14, 2015 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

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

MOMENT OF SILENCE* in honor of T. Scott Brooke, Incline Village General Improvement District's former General Counsel who passed away on December 24, 2014

- A. **PLEDGE OF ALLEGIANCE***
- B. **SWEARING IN OF TRUSTEES KENDRA WONG AND TIM CALLICRATE BY WASHOE COUNTY CLERK NANCY PARENT***
- C. **ROLL CALL OF THE IVGID BOARD OF TRUSTEES***
- D. **PUBLIC HEARING (TIME CERTAIN) - Proposed amendments to IVGID Solid Waste Ordinance No. 1, entitled "An Ordinance Regulating Solid Waste Matter and the Collection, Removal and Disposal Thereof by the Incline Village General Improvement District" – page 1 – 1W**
- E. **PUBLIC COMMENTS*** *(During the Public Comment section of the agenda, the public may comment on any subject pertaining to Incline Village General Improvement District, that is in Reports and/or on the Consent Calendar and/or is not on the agenda for action. Comments from the public, relating to a General Business agenda item, will be taken during the Board's consideration of that item. When recognized by the Chair, speakers are requested to come to the podium at the front of the room, state their name and address, and direct their comments to the Chair. All speakers are made aware that their comments will be included in the minutes of the meeting. Speaking time is limited to three minutes and yielding of time is prohibited. Persons are invited to submit comments in writing on the agenda items and/or attend and make comment. The Chair may or may not provide a response or may take the comment under advisement. The Board of Trustees conducts the business of Incline Village and Crystal Bay and its citizens during its meetings. The Chair may order the removal of any person whose conduct disrupts the orderly, efficient or safe conduct of the meeting. Warnings against disruptive behavior may or may not be given prior to removal. Reasonable restrictions may be imposed upon the time, place and manner of speech.)*
- F. **ELECTION OF BOARD OF TRUSTEES OFFICERS FOR THE 2015 TERM (for possible action) – page 2**
- G. **DISTRICT STAFF UPDATE – GENERAL MANAGER**

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NOTICE OF MEETING

Agenda for the Board Meeting of January 14, 2015 - Page 2

- H. APPROVAL OF AGENDA *(for possible action)*
- I. CONSENT CALENDAR *(for possible action)*
- J. GENERAL BUSINESS *(for possible action)*
 - 1. Resolution No. 1832 – Adoption of IVGID Solid Waste Ordinance No. 1, entitled “An Ordinance Regulating Solid Waste Matter and the Collection, Removal and Disposal Thereof by the Incline Village General Improvement District” (Requesting Staff Member: Interim General Manager/Director of Public Works Joe Pomroy) – **pages 3 - 23**
 - 2. Board Policy 3.1.0, Conduct Meetings of the Board of Trustees, Proposed revisions effective January 1, 2015 (Requesting Staff Member: General Manager Steven J. Pinkerton) – **pages 24 - 33**
 - 3. Resolution 1831: Identify January 2015 as Radon Action Month in Incline Village and Crystal Bay, Nevada (Requesting Staff Member: Director of Public Works Joe Pomroy) – **pages 34 - 36**
 - 4. Independent External Management Audit (Requesting Trustee: Tim Callicrate) – **page 37**
 - 5. Independent External Wages and Compensation Audit (Requesting Trustee: Tim Callicrate) – **page 38**
- K. RELEASE OF PAYMENT FOR BILLS OVER \$10,000 DURING THE PERIOD STATED *(for possible action)* – **pages 39 - 47**
- L. APPROVAL OF MINUTES *(for possible action)*
 - 1. Regular Meeting of September 10, 2014 – 6 p.m. – **pages 48 - 105**
 - 2. Regular Meeting of November 19, 2014 – **pages 106 - 235**
 - 3. Special Meeting of December 2, 2014 – **pages 236 - 240**
 - 4. Regular Meeting of December 10, 2014 – **pages 241 - 295**
- M. REPORTS TO THE IVGID BOARD OF TRUSTEES*
 - 1. District Staff Updates *(written updates may have been provided; if there are any questions, from the Board of Trustees, they may be asked at this time)*
 - 2. District General Counsel Devon Reese/Geno Menchetti



NOTICE OF MEETING

Agenda for the Board Meeting of January 14, 2015 - Page 3

- N. BOARD OF TRUSTEES UPDATE (**NO DISCUSSION OR ACTION**) ON ANY MATTER REGARDING THE DISTRICT AND/OR COMMUNITIES OF CRYSTAL BAY AND INCLINE VILLAGE, NEVADA*
- O. CORRESPONDENCE RECEIVED BY THE DISTRICT* – **pages 296 - 338**
- P. PUBLIC COMMENTS*
- Q. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (*for possible action*) – **pages 339 - 341**
- R. ADJOURNMENT (*for possible action*)

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/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

Clerk to the Board of Trustees (e-mail: sah@ivgid.org/phone # 775-832-1207)

Board of Trustees: Kendra Wong, Tim Callicrate, Bill Devine, Jim Hammerel, and Jim Smith

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EXHIBIT "D"



NOTICE OF MEETING

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

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

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

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- C. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.

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

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NOTICE OF MEETING

Agenda for the Board Meeting of January 18, 2017 - Page 2

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

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

E. PRESENTATIONS*

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

F. GENERAL BUSINESS *(for possible action)*

- ★ 1. Election of Board of Trustees Officers for 2017 - Positions are Chair, Vice Chair, Treasurer and Secretary (Election process to be conducted by District Susan Herron)
2. Presentation of the First Annual Community Survey results; survey was conducted in October 2016 (Presented by Stephen Bohnet of Finn Consulting)
3. Review, discuss and possibly award a Procurement Contract for Sewer Pump Station #6 Replacement – 2016/2017 Capital Improvement Project: Fund: Utilities; Division: Sewer; Project # 2599DI1104; Vendor: Smith and Loveless, Inc. in the amount of \$63,345 (Requesting Staff Member: Director of Asset Management Brad Johnson)

G. DISTRICT STAFF UPDATE

1. General Manager Steve Pinkerton
 - ❖ Mid-Year 2016/2017 Budget
 - ❖ 2017/2018 Budget Preparation
 - ❖ Washoe County Community Area Plan
 - ❖ Information Technology
 - ❖ Report on Storm Event - January 2017 - Washoe County State of Emergency
2. Diamond Peak Ski Resort General Manager Mike Bandelin - Verbal update on the Diamond Peak Ski Resort ski season

H. REPORTS TO THE IVGID BOARD OF TRUSTEES*

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



NOTICE OF MEETING

Agenda for the Board Meeting of January 18, 2017 - Page 3

- I. BOARD OF TRUSTEES UPDATE (**NO DISCUSSION OR ACTION**) ON ANY MATTER REGARDING THE DISTRICT AND/OR COMMUNITIES OF CRYSTAL BAY AND INCLINE VILLAGE, NEVADA*
- J. CORRESPONDENCE RECEIVED BY THE DISTRICT*
- K. PUBLIC COMMENTS* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration; see **Public Comment Advisory Statement** above.
- L. REVIEW WITH BOARD OF TRUSTEES, BY THE DISTRICT GENERAL MANAGER, THE LONG RANGE CALENDAR (*for possible action*)
- M. ADJOURNMENT (*for possible action*)

CERTIFICATION OF POSTING OF THIS AGENDA

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

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

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

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



NOTICE OF MEETING

Agenda for the Board Meeting of January 18, 2017 - Page 4

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

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

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

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

WRITTEN STATEMENT REQUESTED TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JANUARY 22, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENT – WHAT KIND OF CANDIDATE SHOULD THE IVGID BOARD SELECT TO FILL THE VACANCY CREATED BY FORMER TRUSTEE HORAN’S RESIGNATION, AND WHO AUTHORIZED SUSAN HERRON TO NOTIFY CANDIDATES OF A SELECTION PROCESS NEVER APPROVED BY THE BOARD WHICH WAS INTENDED BY HER TO MAINTAIN THE STATUS QUO?

Introduction: On November 13, 2019, Mr. Horan announced he would be resigning from the IVGID Board effective December 16, 2019¹ as his Incline Village home was up for sale and scheduled to close escrow on/before December 15, 2019 as he would no longer be qualified to serve as an IVGID Trustee². On December 8, 2019 Trustee Phil Horan actually resigned from the IVGID Board inasmuch as he had moved his belongings from his Incline Village home, was living outside the District, and no longer intended his Incline Village home be his permanent residence.

At the Board’s November 13, 2019 meeting staff was requested to provide the Board with “a packet of information which include(d) questions to be asked of...candidates vying for th(e) position” of vacant trustee¹. At the Board’s December 11, 2019 meeting staff presented proposed questions for the Board’s approval, along with proposed instructions to candidates which stated that³:

“At the start of your interview you will be able to make an opening statement that can last up to two (2) minutes...Questions can be asked by any Trustee after any (of the proposed) question(s). At the end of your interview you will be able to make a closing statement (which)...will be limited to three (3) minutes.”

¹ See page 249 of the packet of materials prepared by staff in anticipation of the Board’s December 11, 2019 meeting [“the 12/11/2019 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_12-11-19.pdf)]. This page is attached as part of Exhibit “A” to this written statement.

² NRS 318.080(3) and 318.095(3)¹¹ instruct that IVGID Trustees must be qualified electors of the District. NRS 318.020(8) defines a qualified elector of the District to “mean...a person who has registered to vote in district elections.” Article 2 section 1 of the Constitution (see <https://www.leg.state.nv.us/Const/NvConst.html>) defines those who can vote for trustees as “citizens of the United States...of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any election.

³ See page 250 of the 12/11/2019 Board packet. This page is attached as part of Exhibit “A” to this written statement.

The *only* Board action which took place at the Board's December 11, 2018 meeting was to approve those questions⁴.

Notwithstanding, apparently IVGID staff had an entirely different agenda which it neglected to share with the Board and the public and obtain the Board's approval before communicating the same. On November 22, 2019 Susan Herron caused a notice to be published on page 9 of the Tahoe Daily Tribune Newspaper which informed interested persons of the Board vacancy, and if interested in being considered for appointment to "submit a letter of interest and resume...no later than December 2, 2019 (and be)...prepared and available to be interviewed by the Board of Trustees (on)...either December 17...or December 18, 2019 at 4:30 p.m."⁵

On December 6, 2019 Ms. Herron sent out a letter of confirmation to each person who had submitted the requisite letter of interest⁶. The letter included the proposed questions subsequently approved by the Board³, a Declaration re qualification⁷ to be executed and acknowledged "for appointment to the Office of Incline Village General Improvement District ('GID') Trustee," an "outline of the process for filling the vacancy" to the IVGID Board of Trustees⁸, a "Desired Attributes (DA) Grid,"⁹ and a candidate "ranking grid"¹⁰ presumably to be used by Board members in ranking candidates.

These enclosures informed candidates that:

1. A weighted (2-7) "desired attributes grid" would be used by Board members to select their favored candidates;
2. Based upon candidates' answers to the questions on the grid, Board members would rank candidates in a particular order;

⁴ IVGID livestreams its Board meetings (<https://livestream.com/accounts/3411104>), and the livestream of that portion of its December 11, 2019 meeting ("the 12/11/2019 livestream") which addresses approval of "the questions for Trustee candidates" appears at 3:32:36-3:36:18 of the 12/11/2019 livestream.

⁵ Go to <http://edition.pagesuite-professional.co.uk/html5/reader/production/default.aspx?pubname=&edid=6c676d1e-36c4-46ea-be6e-434459a912d4>. A copy of this notice is attached as Exhibit "B" to this written statement.

⁶ See upper right hand item C part of Exhibit "C."

⁷ See upper right hand item D part of Exhibit "C."

⁸ See upper right hand item E part of Exhibit "C."

⁹ See upper right hand item F part of Exhibit "C."

¹⁰ Copies of the confirmation letter, declaration re qualification, outline of the process for filling the vacancy to the IVGID Board of Trustees, desired attributes (DA) grid, and ranking grid are collectively attached as Exhibit "C" to this written statement.

3. Once ranked, “each Board member (would) identif(y his/her)...top three (3) candidates for discussion purposes;”

4. Thereafter, “open discussion amongst...Board members” would take place along with “public comment” limited to each Board member’s top three (3) candidates; and,

5. Finally, further discussion would take place amongst the Board “followed by a motion to appoint, (a) vote...taken and upon majority vote, (an) appointment...made.”

The problem with the foregoing is at least fourfold.

First, unlike proposed questions and instructions to candidates³, the Board *never* approved any of this;

Second, this process was intentionally structured to insure that the current status quo would continue. The livestream of the Board’s December 18, 2019 meeting 12/18/2019 [“the 12/18/2019 livestream (<https://livestream.com/IVGID/events/8934327/videos/200031273>)] clearly reveals with Trustees Callicrate and Dent were firmly committed to the selection of candidate Sara Schmitz, and Trustees Wong and Morris were equally committed to any candidate other than Ms Schmitz. By forcing trustees to select three candidates, the process was assured to result someone other than Ms. Schmitz being selected as long as that someone appeared on at least three trustees’ ballots. Which was exactly what IVGID staff hoped for, and Trustees Wong and Morris attempted to force upon the other two trustees;

Third, candidates were misled into relying upon a selection process that had never been approved by the Board; and,

Finally, certain candidates complained to the Board of Trustees, the County Board of Commissioners (“County Board”) and members of the public that IVGID Board members had wrongfully failed to adhere to the process disclosed to them by Ms. Herron¹³ thus inferring the process was flawed.

These facts are the purposes of this written statement.

There is no Process Mandated by the NRS When it Comes to a GID Board Filling Vacancies on its Board: All that NRS 318.090(5)¹¹ mandates is that:

“A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act until a successor in office as provided in NRS 318.080 on or after the first Monday in January next following the next biennial election.”

There is no Process Mandated by the IVGID Board’s Policies and Practices When it Comes to Filling Vacancies on the Board: The Board’s Policies are set forth at

¹¹ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html>.

<https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID-Board-Policies.pdf>, and its practices are set forth at https://www.yourtahoepace.com/uploads/pdf-ivgid/IVGID_Board_Practices_762016.pdf. A careful examination of both reveal that the subject of replacing vacancies on the IVGID Board is *nowhere* discussed.

The NRS Instructs That if There is a Vacancy on a GID Board, and it Remains Unfilled For Thirty (30) Days After the Vacancy Occurs, it Shall be Filled by the County Board: See NRS 318.090(5)¹¹.

On December 18, 2019 the IVGID Board Was Unable to Fill the Vacancy Created by Former Trustee Phil Horan's Resignation: Thus the next day Chairperson Wong sent a letter to the County Board turning the selection of a replacement IVGID trustee over to the County Board¹².

There is no Process Mandated by the NRS When it Comes to a County Board Filling Vacancies on GID Boards of Trustees: All that NRS 318.090(5)¹¹ mandates is that vacancies shall be filled by the County Board.

I Believe There is no Process Mandated by the County Code When it Comes to a County Board Filling Vacancies on GID Boards of Trustees:

Notwithstanding, at Least One Candidate For the Vacant Trustee Position is Wrongfully Promoting the Notion the Position Must be Filled Based Upon a Ranking of Ms. Herron's Desired Attributes⁹; what he characterizes as "merit." In support of this assertion of fact I have obtained a December 21, 2019 e-mail sent by Tony Lillios to the County Board¹³ in which he represents that:

"All of the...candidates (for)...IVGID Trustee were led to believe that the appointment process would (be based upon)...a ranking table with 9 qualities th(ey)...thought would be noted, ranked and discussed."

This statement is untrue for a number of reasons. On December 11, 2018 when the Board adopted those questions which would be asked of all candidates³ it made clear that in no way would any member be limited to those questions. So trustees were free to ask any questions and to rely upon any attributes of their choosing.

Moreover, many of Ms. Herron's alleged "merit" attributes deal with nothing more than a candidate's generic qualifications to hold *any* elected office. For this reason they are largely irrelevant when it comes to selecting a replacement IVGID trustee. Consider the following:

Length of residency in Incline Village/Crystal Bay (DA#1);

Time available to serve as IVGID trustee (DA#2);

¹² A copy of that letter is attached as Exhibit "D" to this written statement.

¹³ A copy of that e-mail is attached as Exhibit "E" to this written statement.

Willingness to listen to differing inputs and ability to resolve differences (DA#6);

Ability to communicate effectively (DA#5);

Integrity (DA#8); and,

Leadership skills (DA#8).

Doesn't everyone expect every candidate to exhibit these generic qualities? If so, why make any of them the subject of a grid of weighted responses?

And given IVGID is not a true municipality with general powers, several of Ms. Herron's alleged "merit" attributes are equally irrelevant when it comes to being an IVGID trustee. Consider:

History of community involvement (DA#3); and,

Skills to handle matters that *don't* pertain to IVGID (DA#7).

So why include these attributes in a list distributed to candidates?

Which then leaves only the three following "merit" attributes relevant when it comes to selecting an IVGID trustee:

Knowledge of public or private finance (DA#9);

Knowledge of local issues (DA#3); and,

Willingness to receive staff input¹⁴ (DA#4).

Trustees Callicrate and Dent Fully Understand There Are Only Two Candidates Who Have Real Knowledge of Our Unique Local Issues: and are committed to doing something now (rather than being nothing more than a "bridge" or "placeholder") to bring about the change our community requires; Frank Wright and Sara Schmitz. This explains why un-elected staff who are supported by Trustees Wong and Morris are petrified by the notion of either of these candidates being selected. And this explains why Ms. Herron has communicated a selection process guaranteed to result in a candidate other than Frank Wright or Sara Schmitz.

Because Candidate Mike Hess Has No Clue as to the Limited Form of Local Government IVGID Truly is, He is Not Qualified to Serve on its Board of Trustees: In his November 20, 2019 candidacy letter to the IVGID Board, Mr. Hess describes IVGID as being a "quasi-government body."¹⁵ The

¹⁴ This is a very troubling attribute because what staff are really saying is that if a candidate is not a team player who will simply rubber stamp whatever it is they promote (which is what we've had in Incline Village for many decades), he/she is not qualified to serve as a replacement trustee.

¹⁵ See page 46 of the packet of materials prepared by staff in anticipation of the Board's December 18, 2019 meeting ["the 12/18/2019 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Special__12-18-19.pdf)].

inference of this label is that IVGID need only act like government in a limited number of situations. Other than that, Mr. Hess believes IVGID is free to act like private persons. However, there is no such thing as a “quasi-governmental body” (it’s like being “quasi-pregnant”). You either are or are not; there’s no “quasi” about it. IVGID is a true “governmental subdivision of the State of Nevada” and only a “quasi-municipal corporation.”¹⁶ This means the only powers it may exercise are some¹⁷ but not all of those true municipalities may exercise.

Because Candidate Tony Illios Sees His Role as Being Nothing More Than a “Bridge” or “Place Holder” Trustee Until the Next Election a Year From Now, He is Not Qualified to Serve on IVGID’s Board of Trustees: Listen to his testimony to the IVGID Board on December 18, 2019:

“I really see myself as a bridge...I’m here to fill in...until the next election.”¹⁸

Because Candidates Michaela Tongling, Mike Hess and Tony Illios View IVGID Board Members Have No Power to Manage the Business and Affairs of the District Other Than Hiring a General Manager to Perform These Functions on Their Behaves, They Are Not Qualified to Serve on IVGID’s Board of Trustees: Listen to these three candidates’ responses to Trustee Dent’s December 18, 2019 questions whether they believe “trustees can hire and fire staff?”

Michaela Tongling: “The only staff they can hire and fire are the people that they contract to begin with. So this can be your auditors...the GM...lawyers. I do not think that they have the responsibility to be entering into (contracts for staff) with IVGID as a whole. That’s why you hire your GM;”¹⁹

Mike Hess: “No...(only) the general manager has that control;”²⁰

¹⁶ See NRS 318.075(1).

¹⁷ According to NRS 318.055(4)b) those “basic powers (expressly) stated in its initiating ordinance (which) must be one or more of those authorized in NRS 318.116, as supplemented by the sections of ...chapter (318) designated therein.”

¹⁸ See 2:43:32-2:43:49 of the 12/18/2019 livestream.

¹⁹ See 2:03:01-2:03:25 of the 12/18/2019 livestream.

²⁰ See 2:18:08-2:18:27 of the 12/18/2019 livestream.

Tony Lillios: "The role of the Board is to manage Indra (the GM)...Indra's job is to manage the finances and...the team...I believe the Board hires (the)...general manager and counsel. Beyond that I see the role of the board (being)...to direct the general manager...Your job as a board is to work with Indra and Indra works with the team...At the end of the day...the general manager's position" is to hire and fire²¹.

Now Consider the Broad Powers IVGID Board Members Possess Under NRS 175-185¹¹:

"The board shall have the power...to manage, control and supervise *all* the business and affairs of the district...acquire, improve, equip, operate and maintain *any* district project...hire and retain agents, employees, servants, engineers and attorneys, and *any other* persons necessary or desirable to effect the purposes of this chapter...(and to) prescribe the duties of (its) officers, agents, employees and servants, and fix their compensation."

Given the Above, Candidate Tony Lillios' Views the Board's Vacancy Should be Filled Based Upon "Merit" is Curious and Misplaced:

Conclusion: So what have we learned as a result of this examination? First, that the Board needs to take charge of the District and put a stop to un-elected staff making major policy decisions without Board approval. Second, all IVGID trustee candidates need to understand that according to un-elected staff, the Board's role is to act as nothing more than a rubber stamp for staff. And here we have another example inasmuch as the Board never approved the attributes relied upon by Mr. Lillios. Although Mr. Lillios was asked what he saw as IVGID's biggest problem, he neglected to mention this one. Had he known what IVGID really is, he should have. And third, the most important attribute to being a successful IVGID trustee is knowledge of the problems we have combined with the commitment to redress them now.

Finally, now that Mr. Lillios and other candidates for IVGID trustee understand the truth, perhaps they will address their angst at un-elected staff rather than the Board or the County Board.

And You Wonder Why So Many Members of Our Board Fail to Exercise the Leadership and Knowledge Skills They Were Supposedly Elected to Exercise? I've now provided more answers.

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

²¹ See 2:39:11-2:47:39 of the 12/18/2019 livestream.

EXHIBIT "A"

MEMORANDUM

TO: Board of Trustees

FROM: Kendra Wong
Chairwoman

SUBJECT: Review, discuss, revise and possibly approve the questions for Trustee Candidates

DATE: November 20, 2019

I. RECOMMENDATION

That the Board of Trustees makes a motion to approve the questions for the Trustee Candidates.

II. BACKGROUND

At the November 13, 2019 Board of Trustees meeting, Trustee Phil Horan announced his pending resignation from the Board of Trustees effective December 16, 2019. At this same meeting, the Board of Trustees authorized Staff to begin the recruitment for a replacement to complete Trustee Horan's remaining one year term. Part of this effort was to provide to us, which the Staff did, a packet of information which includes questions to be asked of the candidates vying for this position. This agenda item is our time to review and revise the questions as presented. The presented questions are the same questions that we asked when we last undertook this effort.

Candidate Name: _____

At the start of your interview, you will be able to make an opening statement that can last up to two (2) minutes. During your opening statement, please make sure that you disclose any potential and/or existing conflicts of interest. Follow up questions can be asked by any Trustee after any question. At the end of your interview, you will be able to make a closing statement which should emphasize why the Board of Trustees should appoint you to this vacancy. This closing statement will be limited to three (3) minutes.

1. How many months do you spend in Incline Village/Crystal Bay each year?
2. How have you been involved in the Incline Village/Crystal Bay communities during the last five years? Include in your response specific organizations and activities.
3. Please tell us the most important challenge facing the District during the next two years and what are your recommendations for resolution of each challenge.
4. What background and experience would you bring to the Board in the area of (a) finance, (b) leadership and (c) Board level experience?
5. Tell us how you would negotiate a resolution, assuming it is possible, when the Board is split on a matter and then tell us how you would deal with and/or communicate with your constituents when the vote did not go as you would have liked?
6. Describe a work situation in which you had to deal with a sensitive personnel related issue. What were your major considerations when deciding how to proceed?
7. What is your understanding of the role of a Trustee?

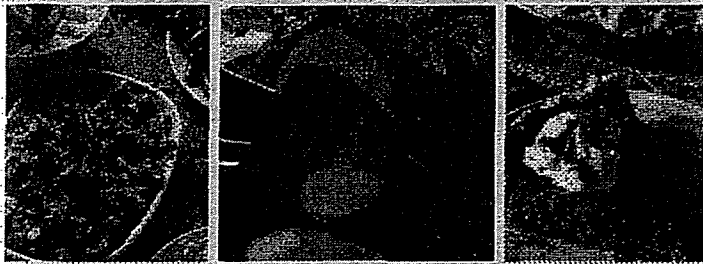
EXHIBIT "B"

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ENGEL & VÖLKERS
JAMES FAIN

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A vacancy may exist on the Incline Village General Improvement District Board of Trustees effective December 16, 2019. In accordance with Nevada Revised Statutes 318.090, paragraph 5, the Incline Village General Improvement District Board of Trustees is seeking interested candidates who wish to serve for a twelve-month term beginning no earlier than December 17, 2019 and no later than January 15, 2020. Any interested candidate should submit a letter of interest and a resume. These two documents can be submitted either via U.S. Mail addressed to District Clerk Susan Herron, IVGID, 893 Southwood Boulevard, Incline Village, Nevada 89451; or hand delivered to the aforementioned address; or submitted via e-mail (sah@ivgid.org). It is the interested candidate's responsibility to ensure that their documents have been received for consideration. All submittals must be received no later than December 2, 2019, 12 noon (PST).

Further, all interested candidates must be present and available at the Incline Village General Improvement District Board of Trustees meeting tentatively scheduled for either December 17, 2019 at 4:30 p.m. or December 18, 2019 at 4:30 p.m. and be prepared and available to be interviewed by the Board of Trustees. During this special meeting, the Board of Trustees may make their final decision and the selected interested candidate may be sworn in and begin serving their term immediately. If you have any questions regarding this matter, please contact Susan Herron, District Clerk, IVGID, at (775) 832-1207 or via e-mail at sah@ivgid.org.

EXHIBIT "C"



December 6, 2019

CANDIDATE NAME
CANDIDATE MAILING ADDRESS
CANDIDATE CITY, STATE AND ZIP

Dear CANDIDATE'S FIRST NAME:

This letter confirms the time and date of your interview with the IVGID Board of Trustees to fill the vacancy on that board.

Your interview is scheduled at _____ on December 17, 2019 in the IVGID Boardroom located at 893 Southwood Boulevard, Incline Village, Nevada.

Interviews are scheduled for up to twenty (20) minutes each. Individual interview times were established by blind draw. If you are unable to be at the interview, in person, at your appointed time, please let me know and I will arrange a telephonic interview for you at the appointed time.

As a candidate for the vacancy on the IVGID board, there is one statutory requirement that each candidate must satisfy – Nevada Revised Statutes 318.090, paragraph 5. states that “*A vacancy on the board must be filled by a qualified elector of the district...*”. A qualified elector means a person who has registered to vote in district elections. Thus, you should have completed a declaration, had it notarized, and returned it to me at the IVGID offices (893 Southwood Boulevard) prior to December 2, 2019. For your convenience, I am a Notary Public and can perform that duty for you, at no cost, if you so desire. Whomever you have notarize your declaration please DO NOT sign it until you are before the Notary Public. Any declarations that are not notarized will be considered non-responsive and thus not considered for appointment.

In fairness to all candidates, it would be appropriate that you do not appear in the interview area until your appointed time.

Regards,

Susan A. Herron
District Clerk



DECLARATION

For Appointment to the Office of
Incline Village General Improvement District Trustee

STATE OF NEVADA

COUNTY OF WASHOE

For the purpose of having my name considered as an appointee to the office of
Incline Village General Improvement District Trustee I, the undersigned,
do swear or affirm under penalty of perjury:

(a) that I actually, as opposed to constructively, reside at
within the
boundaries of Incline Village General Improvement District, County of Washoe,
State of Nevada; (b) that my actual, as opposed to constructive, residence in the
District to which the office pertains began on a date at least thirty (30) days
immediately preceding the date of the close of filing of declarations of candidacy
for this office, in addition to any other requirements required by law; (c) that my
home telephone number is, my personal e-mail
address is, and the address at which I receive mail,
if different than my residence, is; (d) that
I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the
State of Nevada; (e) that if I have ever been convicted of a treason or a felony, my
civil rights have been restored by a court of competent jurisdiction; and (f) that if I
am confirmed as a nonpartisan appointee to the Incline Village General
Improvement District Board of Trustees, I will accept the appointment and not
withdraw.

Signature of Applicant

State of Nevada
Washoe County

Subscribed and sworn to before me this day of the month of
of the year

Notary Public

DESIRED ATTRIBUTES (DA) GRID

F

Candidate's Name	DA #1 History of Living in Incline Village and/or Crystal Bay, Nevada (3 ?'s)	DA#2 Available time and commitment to attend two board meetings a month. The availability to participate in District business (2 ?'s)	DA#3 History of community involvement and knowledge of community/public issues (7 ?'s)	DA#4 Receive staff input (2 ?'s)	DA#5 Ability to communicate effectively including writing (10 ?'s)	DA#6 Willingness to obtain differing inputs, resolve differences and act constructively (7 ?'s)	DA#7 Strong interpersonal skills to handle concerns, challenges, frustrations, and/or issues that do/don't pertain to IVGID (7 ?'s)	DA#8 Leadership skills and demonstrated integrity (8 ?'s)	DA#9 Knowledge of public or private finance (5 ?'s)

**Outline of the Process for Filling the Vacancy on the Incline Village
General Improvement District Board of Trustees**

- I. Identify requirements and desired attributes for the appointee (see Desired Attributes – Exhibit F).
- II. Notify the candidates of the time of their interview and respectfully request, in the notification, that they do not come before their appointed time. Also notice them that they are welcome to stay after their interview is completed.
- III. Desired Attributes Grid

DESIRED ATTRIBUTES GRID

Candidate's Name	DA #1	DA#2	DA#3	DA#4	DA#5	DA#6	DA#7	DA#8	DA#9
	History of Living in Incline Village and/or Crystal Bay, Nevada (3)	Available time and commitment to attend two board meetings a month. The availability to participate in District business (2)	History of community involvement and knowledge of community/public issues (7)	Receive staff input (2)	Ability to communicate effectively including writing (10)	Willingness to obtain differing inputs, resolve differences and act constructively (7)	Strong interpersonal skills to handle concerns, challenges, frustrations, and/or issues that do/don't pertain to IVGID (7)	Leadership skills and demonstrated integrity (8)	Knowledge of public or private finance (5)

- IV. Question for Each Candidates – Presented to the Board on December 11, 2019, as an agenda item, for review and approval. (Exhibit H is the question used during the last vacancy occurrence.)
- V. Interview all candidates – tentatively scheduled for December 17, 2019 at 4:30 p.m.
- VI. Each Board member identifies the top three candidates for discussion purposes.
- VII. Open discussion amongst the Board members and obtain public comment.
- VIII. Comes back to the Board, further discussion followed by a motion to appoint, vote is taken and upon majority vote, appointment is made.
- IX. Chairwoman Wong issues thank you letters to all candidates not later than December 20, 2019. (Exhibit I is a draft letter.)

#1										
#2										
#3										
#4										
#5										
#6										
#7										
#8										
#9										
#10										
	1	2	3	4	5	6	7	8	9	10

Ranking Grid

Instructions: After each interview, rank each candidate in the order of your preference. Understand that your preference may change after each interview or it may not.

Example Grid

John Doe interviews first

Jane Plain interviews second

Pat Down interviews third

Lucy Faraway interviews fourth

#1	Doe									
#2	Doe	Plain								
#3	Down	Doe	Plain							
#4	Down	Plain	Doe	Faraway						
#5										
#6										
#7										
#8										
#9										
#10										
	1	2	3	4	5	6	7	8	9	10

EXHIBIT "D"



December 19, 2019

Washoe County Commissioners
1001 East 9th Street
Reno, Nevada 89512

Transmitted via e-mail
vhartung@washoecounty.us

Attention of Chairman Vaughn Hartung

Subject: Vacancy on the Board of Trustees, Incline Village General Improvement District

Dear Chairman Hartung,

The Incline Village General Improvement District, under Nevada Revised Statutes 318.090, subparagraph 5, has a vacancy on its Board of Trustees. The vacancy occurred on December 9 and according to the aforementioned statute, the Board of Trustees has thirty days to fill the vacancy which would be on January 8, 2020. We held our interviews of eight potential candidates, with one candidate withdrawing, on December 18 and we were deadlocked. As a result, we passed a motion to remand the decision over to the Washoe County Commissioners. We would appreciate the Washoe County Commissioners taking up this matter as soon as possible.

Please find enclosed a copy of the Board packet which included all eight candidates submitted materials (Mr. Flores removed himself at the meeting) and a copy of the audio of the meeting held on December 18. Should you need any additional information or materials, please contact our District Clerk Susan Herron at (775) 832-1207 or via e-mail at sah@ivgid.org.

Regards,

A handwritten signature in black ink, appearing to read "Kendra Wong", with a long, sweeping underline.

Kendra Wong
Chairwoman
IVGID Board of Trustees

cc: Washoe County Commissioner Marsha Berkbigler (sent via e-mail)

ADMINISTRATIVE OFFICES • 893 SOUTHWOOD BOULEVARD • INCLINE VILLAGE, NV 89451
PH: (775) 832-1100 FX: (775) 832-1122 • WWW.YOURTAHOEPLACE.COM



EXHIBIT "E"

From: Tony Lillios <tony.lillios@gmail.com>
Date: December 21, 2019 at 11:50:48 AM PST
To: vhartung@washoecounty.us, blucey@washoecounty.us, "Berkbigler, Marsha" <MBerkbigler@washoecounty.us>, jherman@washoecounty.us, kjung@washoecounty.us
Cc: dent_trustee@ivgid.org, callicrate_trustee@ivgid.org, morris_trustee@ivgid.org, wong_trustee@ivgid.org, "Indra S. Winquest" <isw@ivgid.org>, "Herron, Susan" <Susan_Herron@ivgid.org>, Michaela Tonking <tonkingmichaela@gmail.com>, Mike Hess <mike@morshess.com>, Sara Schmitz <schmitz61@gmail.com>
Subject: Appointment on Merit or Public Vote?

Dear Commissioners,

I am Tony Lillios and I am one of the candidates for the replacement seat of IVGID Trustee. I have copied the other 3 candidates that Trustees identified as top candidates.

I am writing to clarify for the candidates if the Board of Commissioners intends to have a **merit** based process in the appointment or will they value the "votes" from a previous election or email counts of support.

Merit

All of the IVGID Trustee candidates were led to believe that the appointment process would be **merit** based. We were all provided a ranking table with 9 qualities that we thought would be noted, ranked and discussed. The Desired Attributes Grid is quoted at the end here.

As you well know, this didn't happen. Despite running through the process, a merit based discussion was absent.

Voting

Voting numbers in the previous election where only one candidate was present was used as a strong arguing point.

Trustee Dent and Phil Horan we're both appointed in 2015 over another candidate that had been voted through the primary and lost in the general election. Deferring to votes in a previous election was not a process most recently used for our last two appointments.

Votes are private. Emails to public officials are not. Asking people to "vote by email" and counting them up in my view inappropriate. The email "count" was the other strong point used in the short discussion the Trustees had this week. There are material reasons why many people don't want to email publicly their support for a candidate. Voting is private. If you want a vote, call for a vote.

Merit or Votes

I respect the process that was laid out before us and hope we can have a clean **Merit**-based process for the appointment. If the Board of Commissioners is interested in popular support where the public stands with regards to candidates, I recommend you either run a special election or make an appointment based on the results of the Primary in June. While I reservations around it, if you choose to value "emailed in votes", please be explicit about that so candidates can act accordingly and can spend resources on campaigning.

I ask that the Board consider this and to be very clear and transparent pre-emptively if process will be based on **Merit** or on **Votes**.

Respectfully,

-Tony Lillios

For Reference

Desired Attributes Grid

1. History of Living in Incline Village and/or Crystal Bay, Nevada
2. Available time and commitment to attend two board meetings a month. The availability to participate in District business
3. History of community involvement and knowledge of community/public issues
4. Receive staff input
5. Ability to communicate effectively including writing
6. Willingness to obtain differing inputs, resolve differences and act constructively
7. Strong interpersonal skills to handle concerns, challenges, frustrations, and/or issues that do/don't pertain to IVGID
8. Leadership skills and demonstrated integrity
9. Knowledge of public or private finance

WRITTEN STATEMENT REQUESTED TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JANUARY 22, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEMS H(5) AND H(6) – POSSIBLE PAYMENT OF ATTORNEY BEKO'S ATTORNEY'S FEES INCURRED IN THE MARK SMITH LITIGATION

Introduction: Here staff seeks approval to pay attorney Beko \$20,500¹ of unbudgeted legal fees incurred/to be incurred in defending the District, attorney Guinasso and Trustee Wong in the Mark Smith litigation. Staff suggests at least \$7,500 of these fees should be paid because “it is vital ...the District do everything within its power to protect th(e attorney-client) privilege,” “Mr. Smith’s attorney has filed several motions that require a response from the District (yet)...there has been no money authorized by the Board,” and “it is paramount we be an active defendant.”² In other words, staff is suggesting that if the Board doesn’t authorize payment to Mr. Beko, he will stop defending the District and because of Mr. Smith’s attorney’s filings, the District will suffer prejudice. This is a totally inaccurate suggestion and the issues which pertain to Mr. Beko’s legal services in the Mark Smith litigation are the proposes of this written statement.

Let’s Not Forget, the Board Never Authorized Mr. Beko Defending the Mark Smith Litigation: So why should it authorize payment for something it never authorized?

Let’s Not Forget, Attorney Guinasso and Trustee Wong Have Agreed in Writing to Pay Mr. Beko’s Fees: So let them pay if Mr. Beko’s fees are so vital.

The Suggestion Mr. Beko Will Simply Stop Working on IVGID’s Defense Unless He is Paid is Untrue: As long as Mr. Beko is the attorney of record for the District in the Mark Smith litigation, he has ethical responsibility to respond to any of Mark Smith’s attorney’s motions, whether or not he is being paid. So let not the Board be swayed by staff’s suggestions to the contrary. This means there is no urgency in addressing the additional unauthorized fees he seeks through staff.

Because Mr. Beko’s Assertion He Didn’t Anticipate Action by Mark Smith’s Attorney in the Litigation is Disingenuous, it Should be Summarily Dismissed: We have many examples of excessive billing by Mr. Beko’s firm because he allegedly didn’t anticipate that the legislation would go a certain pre-conceived way. Any competent attorney will tell you that once you’re embroiled in litigation, there is no way to anticipate every twist and turn. So from Mr. Beko to claim “ignorance,” is not worth of belief. Instead he should have done something to settle the Mark Smith litigation right from the start.

¹ \$13,000 of this sum represents fees not authorized by the Board; i.e., “over current authorization” [see page 200 of the packet of materials prepared by staff in anticipation of this meeting [“the 1/22/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_1-22-2020.pdf)], and the other \$7,500 represents fees “not budgeted as of the last update” [see page 199 of the 1/22/2020 Board packet].

² See page 199 of the 1/22/2020 Board packet.

Since the Community Wants IVGID Out of the Mark Smith Litigation, Why Would the Board Want to Pay Mr. Beko More Money to Prolong it? The Board needs to send a message and the best way to do it is to shut off the flow of public moneys.

Conclusion: There's a new sheriff in town and it's the new Board. If it is committed to putting an end to the Mark Smith litigation then the last thing it should be doing is wasting more public moneys for Mr. Beko to prolong it. Therefore I suggest the Board just say no to this latest request.

And you wonder why your Rec Fees which pay for this and other incredibly wasteful messes are as high as they are? I've now provided more of the reasons why.

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

A story of financial and logistical failure

For 3 years we have been telling the Board of Trustees and management that the Utility Fund has serious financial deficiencies. Reserves which should be kept at \$1,800,000 just for operations is less than \$400,000 assuming IVGID will actually do the projects budgeted for fiscal year 2020. There is not a dime in reserves for emergencies. This for a \$600,000,000 infrastructure. Citizens deserve a proper reserve study on the Utility Infrastructure and a long range plan of possible rate increases.

Brad Johnson and Joe Pomeroy kept utility rates low so bragging rights to the “lowest rates in the Tahoe basin” could be maintained. Rate increases were kept to a minimum as reserves which should have been kept at between \$4,000,000 to \$5,000,000 were depleted.

In order to take care of other necessities, the set aside funds for 6 miles of Effluent Pipeline replacements was raided for approximately \$1,000,000 to install pressure relief valves in the pipeline and another \$1,000,000 was diverted for rehab of a sewer pumping station.

After a major pipeline spill in 2014, the EPA demanded the pipeline have a condition assessment. In 2015 only 42% of the pipeline was assessed and the accepted plan was to replace only 1,080 LF at 13 locations which took until 2017 to complete with the assumption that the pipeline would remain in satisfactory condition for at least 10 years.

JUST ONE year later a new conditions assessment was completed on the entire 31,000 LF. In May 2019, outside engineers reviewed the assessment and concluded 16 new locations needed replacement negating the idea in 2015 that the pipeline might last 10 years. Over \$1 million was spent on these assessments. Money that could have been used for replacement. With three new failures in the past 4 months, how much longer can we rely on an ancient steel pipe?

The emergency wastewater storage pond was closed by the EPA in 2014 and instead of relining the pond as required by the EPA, IVGID constructed temporary measures costing \$883,000 for short term storage without adequate capacity to store waste water for a prolonged shut down of the pipeline. So far nothing has been done on the pond. Did Johnson and Pomeroy keep our board properly updated on the situation. No.

And much ado about nothing came from the idea that if the pipeline could be co-located with the next phase of the SR28 bike path and that millions would be saved. IVGID's board threw another \$300,000 down the rathole on this initiative. Wong, Pinkerton and Pomeroy have hung their hat on the pie in the sky idea that the US Army Corp of Engineers will send IVGID and TTD a boatload of cash to fund the pipeline/pathway proposal. Meanwhile, costs have escalated, the Corps fund is empty, and the ratepayer **WILL** be left holding the bag.

Just to demonstrate the escalation of costs.....Two projects bid just in the last year 1) the sewer pump station #1 received a bid for \$875,000 which was rejected because the budget was only \$475,000 with no word on when the project might be rebid or constructed . 2) the Water Resource Recovery Facility with a budget of only \$1,350,000 will cost \$1,907,000 (with contingency) and a contract was issued.

Our Board cannot fix the financial tomfoolery and misrepresentations of the past, but moving forward we need to establish a solid plan to replace the leaking pipeline this year.

Michael Abel & Cliff Dobler – January 22, 2020

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON L. KATZ,
Appellant,
vs.
INCLINE VILLAGE GENERAL
IMPROVEMENT DISTRICT, A
GENERAL IMPROVEMENT DISTRICT,
Respondent.

No. 71493

FILED

JAN 23 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING REHEARING

Rehearing denied. NRAP. 40(c).

It is so ORDERED.

Pickering C.J.
Pickering
Parraguirre J.
Parraguirre
Cadish J.
Cadish

cc: Hon. Egan Walker, District Judge
Richard F. Cornell
Erickson Thorpe & Swainston, Ltd.
Washoe District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON L. KATZ,

Appellant,

vs.

INCLINE VILLAGE GENERAL
IMPROVEMENT DISTRICT,

Respondent.

Electronically Filed
Feb 03 2020 03:24 p.m.
No. 71493
Elizabeth A. Brown
Clerk of Supreme Court

PETITION FOR EN BANC RECONSIDERATION

COMES NOW, Appellant, AARON L. KATZ, pursuant to NRAP 40A(a), who petitions this Court en banc for reconsideration of the Order of Affirmance filed November 21, 2019 (“OOA”), followed by the Order Denying Rehearing of January 23, 2020.¹

Appellant contends that the holdings in the OOA on the below issues are contrary to prior published opinions of the United States Supreme Court and the US Court of Appeals for the Ninth Circuit. Further, the Panel’s handling of the issue on

¹ The Petition for Rehearing, filed December 30, 2019, raised issues that Petitioner believed the Court overlooked or misapprehended. Thus, it did not raise the main issues regarding the First Amendment and Anti-S.L.A.P.P. presented here. Appellant concedes that, unlike a number of his other issues, the Panel did not overlook the issues of whether First Amendment principles and Nevada’s Anti-S.L.A.P.P. statutes apply. Accordingly, those issues were not appropriate for a Rule 40 Petition. But they are appropriate for a Rule 40A Petition because they involve substantial precedential, constitutional and public policy issues.

whether Nevada's Anti-S.L.A.P.P. statutes apply here not only is contrary to the plain language of the statutes in question, but impacts anybody who wishes to petition a government in Nevada for redress of grievances with a complaint that is not a sham. The decision also deters citizens from making public records requests, in that it not only encourages governmental agencies to stonewall until the time of trial, but rewards them with an award of attorney's fees for doing so.

DATED this 3rd day of February, 2020.

Respectfully submitted,

RICHARD F. CORNELL, P.C.
150 Ridge Street, Second Floor
Reno, Nevada 89501

By: /s/RichardCornell
Richard F. Cornell

1. NRS 18.010(2)(b) cannot apply to a lawsuit serving the public interest, pursuant to the First Amendment of the United States Constitution [where none of the Appellant's claims is baseless]. (AOB at 28-38; RAB at 39-45; ARB at 2-10; OOA at 2-3)

The issue is straightforward: Do the First Amendment principles of Noerr-Pennington² apply to a citizen who sues a governmental entity on various theories of declaratory and injunctive relief to address grievances of public concern,

² United Mine Workers of America v. Pennington, 381 U.S. 657, 664-65 (1965); E.R.R. Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 144 (1961)

loses, then is hit with a motion for attorney's fees per NRS 18.010(2)(b)?

The Panel answered this question in the negative based upon two cases: Vargas v. City of Salinas (2011) 200 Cal.App. 4th 1331, 134 Cal.Rptr. 3d 244 and Premier Electric Construction Co. v. National Electric Contractors Association, Inc., 814 F.2d 358, 373 (7th Cir. 1987), holding that attorney fees shifting statutes do not unconstitutionally burden the constitutional right to petition³.

But those cases have been severely called into doubt by more modern Supreme Court and certainly Ninth Circuit principles. Noerr-Pennington applies, and thus immunizes Appellant from an award of attorney's fees, unless it is proven the citizen's declaratory and injunctive relief lawsuit was a "sham." In this case it was indisputably not a "sham," as defined by the United States Supreme Court. Therefore, Mr. Katz was absolutely immune from an award of any amount of attorney's fees.

We begin with a pithy, accurate summary of the governing law from White v.

³ The holding assumes NRS 18.010(2)(b) is a "fee shifting statute," like NRS 18.010(1), 18.010(2)(a), and 17.117(10)(c). Appellant does not agree. It is a codification of a malicious prosecution or abuse of process tort, relative to attorney fees incurred in defending a lawsuit, available to the very few victorious defendants who are "maliciously prosecuted" or suffer "an abuse of legal process" as more particularly defined. Applied to our scenario, it is a sanction for petitioning for redress of grievances in a manner that the government and the courts do not like. The "warning" that a true fee shifting statute would give surely cannot "warn" the prospective public interest litigant that, in Nevada, the First Amendment is dead!

Lee, 227 F.3d 1214, 1231-32 (9th Cir. 2000):

“The Supreme Court has described the right to petition as ‘among the most precious of the liberties safeguarded by the Bill of Rights’ and ‘intimately connected, both in origin and in purpose, with the other First Amendment rights to free speech and free press.’ [cite omitted] It is ‘cut from the same cloth as the other guarantees of [the First] Amendment, and is an assurance of a particular freedom of expression.’ [cite omitted]

The Court has further established that the right to petition extends to all departments of the government, including...**the courts.**” [cite omitted] While the Noerr-Pennington doctrine originally arose in the anti-trust context, it is based on and implements the First Amendment right to petition and therefore, with one exception we discuss infra (See: Section I.B.3.b.), **applies equally in all contexts** [cite omitted].

The Noerr-Pennington doctrine ensures that those who petition the government for redress of grievances remain immune from liability for statutory violations, **notwithstanding the fact that their activity might otherwise be proscribed by the statute involved.** [cite omitted] Noerr-Pennington is a label for a form of First Amendment protections; **to say that one does not enjoy Noerr-Pennington immunity is to conclude that one’s petitioning activity is unprotected by the First Amendment.** With respect to petitions brought in the courts, the Supreme Court has held that a lawsuit is unprotected only if it is a “sham” – i.e., ‘objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits,’ [cites omitted].

In Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc., 508 U.S. 49, 56, 113 S.Ct. 1920 (1993), the Supreme Court rejected the contention that regardless of a lawsuit’s objective merit an antitrust defendant can be found liable if the plaintiff showed that it brought the suit for a ‘predatory motive.’ See: 508 U.S. at 55-56. **Both requirements must be met to establish antitrust liability: ‘an objectively reasonable effort to**

litigate cannot be sham regardless of subject intent.’ Id. at 57. Furthermore, proof of a lawsuit’s objective baselessness is the ‘threshold prerequisite’: a court may not even consider the defendant’s allegedly illegal objective unless it first determines that his lawsuit was objectively baseless. Id. at 55, 60-61, 113 S.Ct. 1920,” (emphasis added).

Emphasizing the underscored points of White v. Lee, the Ninth Circuit restated another applicable principle: immunity from liability under Noerr-Pennington extends to conduct incidental to a lawsuit or ancillary to litigation. Theme Productions, Inc. v. News Am Marketing, 546 F.3d 991, 1006-07 (9th Cir. 2008). And at 546 F.3d at 1007, the Ninth Circuit declares: There is simply no reason that a common law tort doctrine can any more permissibly abridge or chill the constitutional right of petition than can a statutory claim such as antitrust. Noerr-Pennington applies to state law claims such as tortious interference with prospective economic advantage.

In fact, Noerr-Pennington immunity applies to common law torts such as malicious prosecution and abuse of process. Main Street at Woolich, LLC v. Ammons Supermarket, Inc., 165 A.3d 821 (N.J. Super 2017), citing Nader v. Democratic National Committee, 555 F. Supp. 2d 137, 157 (D.D.C. 2008) and Whelan v. Abell, 48 F.3d 1247, 1254 (D.C. Cir. 1995).

The Ninth Circuit in Theme Productions cited Sousa v. DirectTV, Inc., 437 F.3d 923, 936-38 (9th Cir. 2006), which extended immunity to private presuit

demand letters, and noted that BE&K Construction Co. v. NLRB, 536 U.S. 516, 524-26, 122 S.Ct. 2390, 2395-96, 153 L.Ed. 2d 499 (2002) is consistent with that view.

None of this can be harmonized with Vargas. There, the California Court of Appeals refused to apply Noerr-Pennington to the fee-shifting provision of Anti-S.L.A.P.P. because the Court considered itself bound by Equilon Enterprises, LLC v. Consumer Cause, Inc. (2002) 29 Cal. 4th 53, 62, which distinguished Professional Real Estate Investors and held that holding applied only to antitrust litigation.

In fact, Vargas cannot be reconciled with either People ex rel Harris v. Aguayo (2017) 11 Cal.App. 5th 1150, 1160-61, 218 Cal.Rptr. 3d 221, 231-32 or Tichinin v. City of Morgan Hill (2009) 177 Cal.App. 4th 1049, 1065, 99 Cal.Rptr. 3d 661, 674. Noerr-Pennington immunizes legitimate efforts to influence a branch of government from virtually all forms of civil liability. Noerr-Pennington is a broad rule of statutory construction under which laws are construed so as to avoid burdening the constitutional right to petition.

Based upon everything the Ninth Circuit has since said, the Equilon holding is incorrect. The Ninth Circuit is correct. Vargas (and Equilon Enterprises) should be disapproved as a constitutionally improper reading of the First Amendment. Accord:

Mercatus Group, LLC v. Lake Forest Hospital, 641 F.3d 834 (7th Cir. 2011) [Noerr-Pennington doctrine extended to misrepresentations to the public if negligently made or if immaterial to the issues in the proceeding].

Premier Electric is even easier to distinguish. Its holding is that the First Amendment does not afford immunity for an award of damages based on cost of litigation aimed at preventing an extrinsic violation of antitrust law. As noted in Premier, so long as the violation of the Sherman Act may be established without regard to the point of view embodied in the “petitioning” activity, the Constitution does not prevent the assignment as damages of the full injury inflicted.

Since neither Mr. Katz nor IVGID sued each other for money damages, Premier Electric simply has no applicability. If the Noerr-Pennington doctrine applies to common law tort causes of action occurring in the process of exercising First Amendment rights⁴, and if Noerr-Pennington immunity extends to conduct incidental to a lawsuit or ancillary to litigation, per Theme Promotions it certainly applies to a motion for attorney’s fees brought under NRS 18.010(2)(b).

As argued in the AOB at 46-50, the gravamen of IVGID’s NRS 18.010(2)(b) motion is the tort of malicious prosecution – an action which a governmental agency is barred from bringing against a private citizen. As noted therein, the elements of an

⁴ Jourdan River Estates, LLC v. Favre, 278 So.3d 1135, 1152 (Miss. 2019), and cases cited therein.

NRS 18.010(2)(b) motion are the same as for malicious prosecution or abuse of process. If Noerr-Pennington immunizes a citizen who petitions government for redress of grievances for common law tort actions, then it should immunize Mr. Katz from the consequences of an NRS 18.010(2)(b) motion – unless IVGID can establish that his lawsuit was a “sham.” However, IVGID did not nor cannot so establish. As noted at AOB at 31-37, every one of Mr. Katz’s asserted claims for relief was grounded upon some statutory or case law authority. And as established at AOB 52-53, 16-17, and 19-22, neither IVGID nor the court below ever argued, much less established, that any of Mr. Katz’s claims was frivolous – i.e., baseless. That being so, under Noerr-Pennington his motive was and is irrelevant.

Simply put, if NRS 18.010(2)(b) permits awards of attorney’s fees based only upon “motive,” Noerr-Pennington does not. Per Article VI, Clause II of the United States Constitution, Noerr-Pennington trumps NRS 18.010(2)(b) in this regard.⁵

2. Nevada’s Anti-S.L.A.P.P. statutes should apply to this situation. IVGID cannot circumvent their reach by filing a motion for attorney’s fees instead of a separate lawsuit or counterclaim for abuse of process, and thus deprive Appellant of his NRS 41.650-41.670 rights. (AOB at 38-45; RAB at 45-52; ARB at 10-16; OOA at 3-4)

Relative to Anti-S.L.A.P.P., this case raises two issues of first impression: 1)

⁵ To be clear, Mr. Katz has never contended that NRS 18.010(2)(b) is unconstitutional. Rather, he has contended that the statute simply does not apply in the context of a declaratory and injunctive relief lawsuit against a governmental agency that is not a sham lawsuit.

Does a post-judgment motion for attorney's fees [by a government, following a public interest lawsuit for declaratory and injunctive relief and a judgment for the government] constitute a "complaint" within the meaning of NRS 41.660(7)(a)? 2) Must a defendant file a special motion to dismiss in order to secure Anti-S.L.A.P.P. protections?

The Panel answered these questions "no" and "yes." Appellant submits, however, that a reading of the governing statutes in light of the public policy surrounding Anti-S.L.A.P.P. mandates the answers be the opposite.

Let us review the pertinent statutes:

NRS 41.650: A person who engages in a **good faith communication** in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from **any** civil action for claims based upon the communication.

...

NRS 41.660(1)(a): "If an action is brought upon a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern:

a) the person against whom the action is brought **may** file a special motion to dismiss...

...

NRS 41.660(7)(a): "As used in this section: 'Complaint' means any action brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern,

including, without limitation, a counterclaim or cross-claim.

...

NRS 41.665: "The Legislature finds and declares that:

1) NRS 41.660 provides certain protections to a person against whom an action is brought, if the action is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2) When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff 'has demonstrated with prima facie evidence a probability of prevailing on the claim' the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California's Anti-Strategic Lawsuits Against Public Participation law as of June 8, 2015."

As to the first question, the broad language in NRS 41.650 and 41.660(7) must lead to a judicial conclusion that a complaint, in the form of the initial pleading which is issued with a summons and upon which process is served, is not necessary to trigger Anti-S.L.A.P.P. Basically, any proceeding that – as here – can result an executable money judgment would be sufficient to trigger Anti-S.L.A.P.P. protections. Indeed, that is the import of Hawxurst v. Austin's Boat Tours, 550 S.W.3d 220, 226 (Tex. Civ. App. 2008). If the statute is to be interpreted so as to provide protections to a person against whom an "action is brought based upon a good faith communication in furtherance of the right to petition," then NRS 41.660(7) should be interpreted to mean within its scope is a post-judgment motion

that leads to an executable money judgment.

Next, does NRS 41.660 really mean that if an action is brought upon a person based upon a good faith communication in furtherance of his right to petition, and he does not specifically label his pleading as a “special motion to dismiss” and/or does not file his pleading within 60 days of service of process, he has forever waived his right to complain about retaliation against the exercise of his right to petition?

To so hold is to champion form over substance. But equity regards substance and not form in the interest of real justice, unhampered by too great adherence to technicality. Reno Club v. Young Investment Company, 64 Nev. 312, 336, 182 P.2d 1011, 1022 (1947).

To so construe the governing statutes as creating a waiver of First Amendment protection is to effectuate an unconstitutional result. When a statute is susceptible to both a constitutional and an unconstitutional interpretation, this Court is obliged to construe the statute so that it does not violate the Constitution. Whitehead v. Nevada Commission on Judicial Discipline, 110 Nev. 874, 883, 878 P.2d 913, 919 (1994) and cases cited therein.

And NRS 41.660(1) certainly is susceptible to a constitutional interpretation. The operative word in NRS 41.660(1)(a) is may. The person against whom the action is brought may file a special motion to dismiss. The statute does not say:

“must file a special motion to dismiss.” So, for example, if an action is brought against a person based upon his good faith communication in furtherance of his right to petition, but it is not obvious that is the case until time of trial, an interpretation that the person lost his Anti-S.L.A.P.P. rights simply because he filed his motion after trial effectuates a result that violates the First Amendment right to petition. Rather, the statute simply means that if a defendant is going to make a pre-trial Anti-S.L.A.P.P. attack, he must do so within 60 days after service of the complaint.

The use of the word “may” in a statute is generally permissive, while the use of the word “not” disallows discretion. State v. Second Judicial District Court, 134 Nev. 783, 789 n. 7, 432 P.3d 154, 160 n. 7 (2018), and cases cited therein.

And to champion form over substance in this instance runs contrary to NRS 41.665(1). After all, when a motion which would lead to a money judgment is labeled “motion,” wouldn’t the logical pleading in response thereto be labeled “opposition”⁶? And this Court, to effectuate justice, will do such things as re-label an appeal in reality an extraordinary petition where appropriate. See: Clark County Liquor and Gaming Licensing Board v. Clark, 102 Nev. 654, 657-58, 730 P.2d 443, 446 (1986), and cases cited therein. Why then can’t an opposition to a motion for attorney’s fees therefore be considered “re-labeled” as a “special motion to

⁶ See: District Court Rule 13(3); WDCR 12(2).

dismiss”?

Certainly, if we are not to champion “form over substance,” then that should be the equitably and constitutionally correct result.

Next, the Panel summarily held that Appellant’s actions for declaratory and injunctive relief was not “in good faith.” But that result cannot legally be correct. Clearly, Anti-S.L.A.P.P. immunity encompasses First Amendment immunity, although it is not confined thereto. See: Delucchi v. Songer, 133 Nev. Ad. Op. 42, 396 P.3d 826, 830 (2017). Thus, Noerr-Penington applies in this context. And per Noerr-Penington and per the cites to the record at page 8, below, a lack of good faith in this context cannot lawfully be proven by “harassment.” To the extent that the Panel held or even implied otherwise, that disposition must be revisited en banc.

Finally, the Panel refused to apply NRS 41.650’s plain language because of its view Nevada’s anti-SLAPP statutes provide nothing more than a “procedural mechanism for parties to seek dismissal of meritless lawsuits that chill free speech.” (OOA:3). In support the Panel points to Coker v. Sassone, 135 Nev. Adv. Op. 2, 432 P.3d 746, 748 (2019). Coker did not involve a suit between a citizen and his government, but simply involved the appeal of the denial of a NRS 41.660 special motion to dismiss. So to the extent the OOA suggests the purpose of NRS 41.650 “immunity” is the same as a NRS 41.660 special motion to dismiss (i.e., as a

“procedural mechanism...to seek dismissal of meritless lawsuits that chill free speech”), it is surplusage and should be disregarded. NRS 41.650 immunity has nothing directly to do with the filing a special motion to dismiss a meritless lawsuit. For even if a special motion to dismiss is denied, that does not negate NRS 41.650’s grant of absolute immunity (ARB:14-16).

Moreover, the OOA disregards longstanding rules for interpreting statutes. Given “the plain language of” NRS 41.650, it means what it says.” Stubbs v. Strickland, 129 Nev. 146, 297 P.3d 326, 329 (2013). Given conduct privileged under Anti-S.L.A.P.P. is defined by statute [Shapiro v. Welt, 133 Nev. Ad. Op. 6, 389 P.3d. 262, 267 (2017)], it must be given its statutory definition. Delucchi v. Songer, Id.

3. Respondent’s NRS 18.010(2)(b) motion, insofar as Appellant’s NPRA cause of action is concerned, conflicts with the policy behind NRS 239.011(2). For this reason the subject fee award should have been vacated. (AOB:65-66, 66-68; RAB:60-62; ARB:27-29, 29-32; OOA:5)

Unlike the first two issues, this one was not addressed in the OOA, but was at pp. 5-7 of the Petition for Rehearing. It also significantly impacts public interest.

When a Nevada citizen makes a public records request, and the governmental agency to which it is addressed “stonewalls” to the point where the citizen’s only remedy is to bring a lawsuit and go to trial on its request, with the requested documents not being produced until the time of trial - and in camera no less - that

agency violates the Public Records Act (NPRa). Without the citizen's lawsuit, the issues cannot be resolved.

Moreover, where as here the district court announces a rule of law for determining whether a governmental record is "public," which involves a balancing of policies on a case-by-case basis, how can any requestor know in advance whether s/he has requested examination of a disclosable public record short of a lawsuit?

Given here there were NPRa violations, per authorities such as Neighborhood Alliance of Spokane County v. County of Spokane, 261 P.3d 119, 126, 131 (Wash. 2011) and State ex. rel. Kesterson v. Kent State University, 126 N.E. 3d 895, 907-08 (Ohio 2018), the requestor (here, Appellant) is actually entitled to attorney's fees, regardless of whether s/he ultimately secures a concealment judgment.

But nothing in NRS Ch. 239 grants the court authority to award attorney's fees to the governmental agency – much less \$60,405.20, as here - which successfully defends a public records concealment action after initially refusing to produce anything. Nor should it. Such an award simply chills the public and encourages the governmental agency in the future to act in secrecy. As Kesterson notes, public records are the people's records. The officials in whose custody they happen to be are merely trustees for the people. Open government serves the public

interest and our democratic system. Id., 126 N.E. 3d at 901.

The chilling effect of making the right to attorney's fees mutual in NPRA litigation was considered and rejected by the Legislature. The legislative history for NRS 239.011(2) demonstrates the Legislature expressly refused to make the right to attorney's fees in NRS 239.011(1) litigation mutual because of its chilling effect⁷.

The Panel did not address these issues. It should and it should agree with Kesterson. Such a ruling would be consistent with the general principle of Semenza v. Caughlin Crafted Homes, 111 Nev. 1089, 1096, 901 P.2d 684, 688 (1995) and Bobby Berosini, Ltd. v. PETA, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998). Simply put, and putting aside the fact NRS 239.011(2) precludes an award of attorney's fees in favor of a governmental agency which prevails in NPRA litigation, a cause of action which survives multiple summary dismissal motions and ends up being adjudicated after a full trial on the merits can neither be frivolous nor harassing, regardless of what the trial court concludes in its ultimate decision.

For these reasons, then, the Court en banc should rehear this case on these issues.

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⁷ See Assembly Committee on Government Affairs' sub-committee meeting of May 7, 1993, page 44 of legislative history. (<https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1993/AB365,1993.pdf>)

DATED this 3rd day of February, 2020.

Respectfully submitted,

RICHARD F. CORNELL, P.C.
150 Ridge Street, Second Floor
Reno, Nevada 89501

By: */s/RichardCornell*

Richard F. Cornell

ATTORNEY'S CERTIFICATE OF COMPLIANCE

I, RICHARD F. CORNELL, hereby certify that this Petition for Rehearing complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6), because:

1. This petition is prepared in proportionally spaced typeface using Microsoft Word 8 in 14 point font in Times New Roman.

2. I further certify that this Petition complies with the page or type volume limitations of NRAP 40(b)(3) and is not in excess of the standard 4,667 words, to wit: 3,893 words.

3. Finally, I hereby certify that I have read this Petition en banc Reconsideration, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the petition regarding matters on record to be supported by a reference to the page and the volume number. I understand that I may be subject to sanctions in the event that the accompanying petition is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

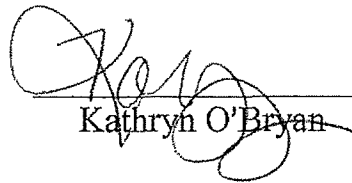
DATED this 3rd February, 2020.

/s/RichardCornell
Richard F. Cornell
Nevada Bar No. 1550

CERTIFICATE OF MAILING

The undersigned certifies that they are an employee of the Richard F. Cornell, P.C., and that on the 3rd day of February, 2020, they served a true and correct copy of the foregoing document upon opposing counsel, as set forth below, by way of the court's E-flex filing system:

Thomas P. Beko, Esq.
ERICKSON, THORPE & SWAINSTON, LTD.
P.O. Box 3559
Reno, Nevada 89505
Attorney for Respondent


Kathryn O'Bryan

DATE	DAY OF THE WEEK	TIME	LOCATION	TYPE OF MEETING - 2020	COMPLETED MEMORANDUMS WITH ALL BACK UP MATERIALS FOR AGENDA ITEMS FROM BOARD MEMBERS DUE DATES	ITEMS SLATED FOR CONSIDERATION
02/26	Wednesday	6 p.m.	Chateau	Regular Board Meeting	02/14/2020	Overall budget preview and strategy introduction Guest Access Ticket
03/11	Wednesday	6 p.m.	Chateau	Regular Board Meeting	02/28/2020	Overview of Operating Budget including Fixed & Scalability and Sources & Uses Approval of Resident Ski Passes (Consent Calendar) Designation of District's Auditor (see 12/11 memorandums) Accept Tennis Final Design Arc Flash Project – early open
03/18	Wednesday	TBD		CIP Tour		Need to move this – determine who wants it; if it is needed; can't happen on 3/18 due to vacation
03/25	Wednesday	6 p.m.	Boardroom	Regular Board Meeting	03/13/2020	Review of 2020/2021 Capital Improvement Proposed Budget and Funding
04/08	Wednesday	6 p.m.	Chateau	Regular Board Meeting	03/27/2020	Consider and approve "tentative" budget filing and preliminary Rec Roll Utility Rates (Ordinances 2 and 4) Public Hearing and Approval of Revised Ordinances Contract Award for Ski Rental Equipment (Consent Calendar)
04/29	Wednesday	6 p.m.	Chateau	Regular Board Meeting	04/17/2020	Water Reservoir Safety Construction Contract Award Trustee Morris and Trustee Wong have a conflict – unable to attend
05/13	Wednesday	6 p.m.	Chateau - CONFLICT	Regular Board Meeting	05/01/2020	5/6 or 5/20 are available at the Chateau
05/27	Wednesday	6 p.m.	Chateau	Regular Board Meeting	05/15/2020	Public Hearing on final proposed Rec Roll and 2020/2021 Fiscal Year Budget*
06/10	Wednesday	6 p.m.	Chateau	Regular Board Meeting	05/29/2020	
06/24	Wednesday	6 p.m.	Chateau	Regular Board Meeting	06/12/2020	
07/08	Wednesday	6 p.m.	Chateau – CONFLICT	Regular Board Meeting	06/26/2020	7/15 or 7/22 are available at the Chateau
07/29	Wednesday	6 p.m.	Chateau	Regular Board Meeting	07/17/2020	Review and approve District Indebtedness Report including the Five Year Capital Improvement Project Summary and State Forms
08/12	Wednesday	6 p.m.	Chateau	Regular Board Meeting	07/31/2020	
08/26	Wednesday	6 p.m.	Chateau	Regular Board Meeting	08/14/2020	
09/09	Wednesday	6 p.m.	Chateau - CONFLICT	Regular Board Meeting	08/28/2020	09/23 is available at the Chateau
09/30	Wednesday	6 p.m.	Chateau – CONFLICT	Regular Board Meeting	09/18/2020	09/23 is available at the Chateau
10/14	Wednesday	6 p.m.	Chateau	Regular Board Meeting	10/02/2020	
10/28	Wednesday	6 p.m.	Chateau	Regular Board Meeting	10/16/2020	
11/11	Wednesday	6 p.m.	Chateau	Regular Board Meeting	10/30/2020	
11/25	Wednesday	6 p.m.	Chateau	Regular Board Meeting	11/13/2020	Typically cancelled
12/09	Wednesday	6 p.m.	Chateau	Regular Board Meeting	11/27/2020	
12/30	Wednesday	6 p.m.	Chateau	Regular Board Meeting	12/18/2020	Typically cancelled

<i>Items sitting in the parking lot (to be discussed but (a) not yet scheduled for a specific Regular Board Meeting) or (b) a future Board not on this calendar</i>
RFID Picture Passes – Item for next Strategic Plan or three years from now – software not available nor is infrastructure/hardware
TRPA EIS Contract at Diamond Peak
WCSD Joint Agreement
Split Ordinance (allow 45 days ahead of action)

*Budget approval is required after the third Monday however whatever date is selected, a 10-day notice must be given. Must accomplished no later than June 1, 2020.