

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Board Chairman

SUBJECT: Review and discuss an improved method of handling correspondence submitted to the Board of Trustees/District

**STRATEGIC Long Range Principle #6 - Communication
PLAN REFERENCE**

DATE: August 18, 2020

This item is a review and discuss item only. Provided, as background information, are the following documents:

1. April 13, 2018 memorandum – Subject: Review, discuss and possibly approve an improved method of handling correspondence submitted to the Board of Trustees/District.
2. April 25, 2018 excerpt of meeting minutes where 1. above was discussed by the Board.
3. July 3, 2018 memorandum – Review, discuss, receive Board direction and possibly approve a Board Correspondence Policy to be included in Policy 3.1.0
4. July 24, 2018 excerpt of meeting minutes where 3. above was discussed by the Board.
5. May 31, 2018 Open Meeting Law Complaint OAG File No. 13897-287.
6. June 15, 2018 Response to 5. above.
7. October 2, 2018 Open Meeting Law – Opinion – OAG File No. 13897-287.
8. November 13, 2018 excerpt of meeting minutes where 7. above came before the Board.

The goal of this discussion is to determine what the Board would like to do moving forward so that the Staff can then draft a Board Correspondence Policy that would be incorporated into Policy 3.1.0 which is also attached hereto. There are a few items to keep in mind:

- A. The District must be compliant with the Opinion from OAG File No. 13897-287.
- B. The Board of Trustees must be willing and able to follow whatever policy we prepare.
- C. The Board of Trustees should be willing to talk about what the purpose is for taking this action; the whys of doing this and the benefits, if any.
- D. Acknowledgement that we don't presently have correspondence in our packets, and haven't included it since November 13, 2018, and therefore discuss the unintentional consequences of taking this action, if any.

ATTACHMENT 1

MEMORANDUM

TO: Board of Trustees

FROM: Phil Horan
Vice Chairman, Board of Trustees

SUBJECT: Review, discuss and possibly approve an improved method of handling correspondence submitted to the Board of Trustees/District

STRATEGIC PLAN: Long Range Principle #6 – Communication

DATE: April 13, 2018

I. RECOMMENDATION

That the Board of Trustees makes a motion to adopt the process as outlined below as its process for handling correspondence to the Board of Trustees/District.

Given all the advances in technology, the proposal for correspondence, effective upon the adoption of this Board action is:

1. Members of the public will continue their practice of sending electronic mail to all members of the Board. Staff will update the District's website with a more defined process for their transmission.
2. The District Clerk will be required, under the agenda item "Correspondence Received by the District" to verbally state all the members of the public who have submitted correspondence to the District and/or Trustees as known but will not include the correspondence within the Board packet or successive ones.
3. When the District Clerk and/or District General Manager IS NOT included on Correspondence submitted to the Board of Trustees, it remains the responsibility of all Board members to forward that correspondence to Staff.
4. Handwritten letters received by the District will be scanned by the District Clerk and transmitted to the Board of Trustees and the District General Manager.
5. If a member of the public is unable to attend a Board meeting, to make public comments and submit their comments in writing, they are welcome to

transmit their comments and statements via e-mail to the Board of Trustees; these transmittals will be treated as Correspondence.

6. As always, regarding the Board of Trustees meeting minutes, under Nevada Revised Statutes 241.035 (1)(e), any Trustee has the right to include, as an attachment, any submittal they so desire. This must be done at a Board of Trustees meeting during the review of the meeting minutes.

II. DISTRICT STRATEGIC PLAN

Long Range Principle #6 – Communication - The District will engage, interact and educate to promote understanding of the programs, activities, services, and ongoing affairs.

III. BACKGROUND

Correspondence was added to the Board of Trustees agenda on April 14, 1999 under the Board leadership of Syd Brosten, Tim Callicrate, Kenny Kinsman, Gail Krolick and Joe Marson and continues to this day.

Prior to the introduction/use of electronic mail, having correspondence on the agenda was the tool to get handwritten letters to the Board within the Board packet. It was also used to have the transcriptions of 831-VOTE (a telephone number no longer in use and discontinued around 2007) included in the packet as well as transmit to the Board of Trustees.

Today, 2018, we have electronic mail and it makes this whole process more effective and efficient as the District has the Board of Trustees contact list out on its website as well as established an info@ivgid.org electronic mail address, which is again, out on the District's website.

ATTACHMENT 2

concern that Trustee Dent brought up as he too is concerned about that and while he knows we have time frame and that this is a clerical error, it can be resolved in a meeting so this is a situation where we are accepting it and then it can come back at a later date. That is his concern because of the discrepancy in tonight's action. Chairwoman Wong said it is a typographical error that Staff will adjust and then bring to the next meeting.

Trustee Dent said before the Board votes, in reading the statute, the statute is pretty clear and that the Board must act to enter into litigation and that didn't happen so this is taking an obscure policy, adding clarity, and thus he will be voting in favor of this action. Chairwoman Wong asked District General Counsel to comment. District General Counsel Guinasso said that he stands by the legal arguments and that the legal opinion stands. Trustee Dent can disagree but the District General Manager had the authority to take the action he did prior to the adoption of this new language.

Hearing no further comments, Chairwoman Wong called the question
– the motion passed unanimously.

G.3. Review, discuss and possibly approve an improved method of handling correspondence submitted to the Board of Trustees/District (Requesting Trustee: Vice Chairman Phil Horan)

Trustee Horan gave an overview of the submitted materials.

Chairwoman Wong asked if other agencies were looked at to see what they do and how does it get communicated back to the Board. Trustee Horan said it was only checked as being part of the Board packet not checked on how they handled it.

Trustee Callicrate said that the concern that was brought to his attention was about public records and that he knows there are a few individuals that could be cited for providing reams of paper for correspondence but that he didn't think that by not putting this in our packet or attaching them to our agendas the perception is everything and that is that we are trying to keep dissenting opinions out. He doesn't have an issue with how it is being handled now so he would like to keep this status quo and that he is against changing or revising this item. He likes it the way it is so he can look at it.

Trustee Dent said when you looked at this, you make this a potential important item but what is the problem we are solving and how are we improving what we currently have. Trustee Horan said this makes it a more streamlined approach and it doesn't impact the communities' ability to communicate with us. This is just his thoughts and he understands there are five of us so he does understand that there is going to be a difference of opinion.

Chairwoman Wong said she is indifferent on inclusion and that she does like items 1, 3, 4, 5, and 6 within the memorandum. We could consider aspects that we want to put into a policy so we all know we are on the same page.

Trustee Dent said that there is one other thing to improve and that is a plan on how to respond to comments. We hear no response quite often so does this need to be tracked in some way such that the Board is compliant. Chairwoman Wong said that she thinks that Staff has a tracking system. Trustee Horan said that the correspondence will still be acknowledged and that right now, if the District Clerk gets something, and assuming she is copied on it, she forwards it and it is part of correspondence which is acknowledged. District Clerk Susan Herron said she verbally acknowledges its receipt at the Board meeting. District General Manager Pinkerton added that Staff does follow up when there is a question however it gets tricky. The Open Meeting Law plays a role when copying other Board members so it is better to run it through Staff versus a meeting or responding to that e-mail. Staff does attempt to do what we can and try to take it off the Board but keep you informed.

Trustee Dent said he has a technical question – info@ivgid.org – how does it work. District General Manager Pinkerton said it comes to the District Clerk and is then routed, for response, accordingly.

Trustee Callicrate said that he appreciates the work done on this item however his feeling is that he doesn't see that there is a problem and that by trying to improve upon it, it is creating a bigger problem for themselves. While he appreciates this, he would like to leave things as they are.

Trustee Morris said he would certain like to clean up our correspondence and that he doesn't recall any correspondence that wasn't on an e-mail and that there is a reality and perception issue to deal with. Having seen the various comments that there is a move afoot to take away citizen's rights to communicate is that the first thing is that the correspondence is coming to

us, as a Board, and that our Board packet is not a publication mechanism. He often sees communications that border on libelous so to what extent are we confirming or agreeing with that in publishing that in the minutes of the meeting however everybody has a right say what they want. If people want to communicate with the Board of Trustees or to IVGID then those communications are available to anyone by just going to the District Clerk. This is not stopping anyone from communicating or having access to what was communicated to us if, as proposed, this went through. District General Manager Pinkerton agreed. Trustee Morris said that he doesn't want to stop anyone from communicating with them so he is open to hearing other points of how to do this.

Chairwoman Wong said that she would think that there is some sort of platform that correspondence could be logged or categorized along with the response. District General Manager Pinkerton said that the Board has given Staff feedback tonight and that they will take a look at this feedback and look at what others do and then bring it back when we can give you some more information. This was not an attempt to craft policy but rather about seeing what others have done.

Trustee Horan said he has no problem with doing that and that he simply brought forth his recommendation, based on the Board's request, and that he will take a deeper look.

Chairwoman Wong closed this item with no action taken.

H. DISTRICT STAFF UPDATE*

H.1. General Manager Steve Pinkerton

Chairwoman Wong said that if the Board pursued leasing on major pieces of equipment that could potentially negate the need for a bond in the future – is that correct. District General Manager Pinkerton said that under the current scenario, yes, that could mitigate the need for a bond however if we don't lease any one of those items then that could have an impact. Chairwoman Wong said she just wanted to ensure that she was interpreting the information correction; lease it now or bond it later down the road.

Trustee Morris said so if we elect to consider leases of items in the future and then one of them doesn't get a lease that puts us in some sort of jeopardy going forward and if at some point in the future, we decide to do a

ATTACHMENT 3

MEMORANDUM

TO: Board of Trustees

THROUGH: Steven J. Pinkerton
General Manager

FROM: Jason D. Guinasso, Esq.
District General Counsel

SUBJECT: Review, discuss, receive Board direction and possibly approve a Board Correspondence Policy to be included in Policy 3.1.0.

DATE: July 3, 2018

I. RECOMMENDATION

That the Board of Trustees makes a motion to amend Policy 3.1.0 to include proposed Board Correspondence Policy.

II. BACKGROUND

The Board of Trustees receive correspondence from residents and business owners both on a wide variety of issues and in multiple formats. These formats may include regular mail, email and phone calls. Correspondence received by the District has been included in IVGID Board of Trustees packets as a way to provide applicable information to the BOT regarding written communications to the Board from the public. However, there is no statute, regulation, case law, attorney general opinion or IVGID policy that requires the publication of correspondence received by the District. The practice of providing written correspondence to the Board has been an informal practice provided as a courtesy to Board members for several years. This topic was previously discussed at the Board meeting of April 25, 2018.

Notably, the Board of Trustees receives every correspondence regardless of whether it is published as a part of a Board packet or not.

III. PROPOSED POLICY

The Incline Village General Improvement District Board Trustees will receive correspondence in various formats. To ensure that all correspondence is dealt with expediently, and in an appropriate manner, the "Board Correspondence" Policy will

Review, discuss receive Board direction and possibly approve a Board Correspondence Policy to be included in Policy 3.1.0. -2-

July 3, 2018

provide a guide to ensure that the opinions of the people of the community of Incline Village and Crystal Bay are relayed to the Board, while ensuring that such correspondence is presented in a consistent and respectful manner. This policy shall be administered by the District Clerk.

To ensure that correspondence directed to the Board is provided in an appropriate, consistent, respectful and expedient manner, the following provisions shall apply:

1. Where the subject matter of a communication is properly within the jurisdiction of the Board of Trustees, and if it is the intent of the author to have correspondence included in a subsequent Board packet, the following provisions shall apply:
 - 1.1. Correspondence shall be addressed to the IVGID General Manager and Board of Trustees, to the attention of the District Clerk;
 - 1.2. Correspondence, including petitions, intended for inclusion in a Board packet, shall be typewritten or legibly printed, and shall include the name and signature of at least one person or agency, and shall include the address, telephone numbers, and email addresses, and shall specifically state that the correspondence is intended to be placed in a Board packet under "Correspondence Received by the District";
 - 1.3. Correspondence of this nature shall not contain any inappropriate, illegal or defamatory statements, allegations, inferences, impertinent, disrespectful or improper matter;
 - 1.4. Correspondence not in compliance with Item 1.3, as deemed by the District General Manager will be returned to the sender (if known) with an explanation as to why the material cannot be included in the Board packet, and the correspondence will be withheld from inclusion in the packet, with a copy maintained by the District Clerk;
 - 1.5. Names, addresses, telephone numbers, etc. contained within the correspondence will be included in the Board packet which is published to the District's website;
 - 1.6. Correspondence intended for inclusion in a Board packet must be received by the District Clerk seven (7) business days and before 12 noon (PST) prior to the regular Meeting of Board;
 - 1.7. Communications received seven (7) business days after 12 noon (PST) preceding the day of a Board meeting shall be held over for

Review, discuss receive Board direction and possibly approve a Board Correspondence Policy to be included in Policy 3.1.0.

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July 3, 2018

inclusion in the next Board packet prepared for the next regular meeting;

- 1.8. Board meeting agendas, minutes, and all information presented at an open meeting, including correspondence received, are public documents and are published on the IVGID website as part of a Board agenda package, as well as in paper form upon request.
2. Communications directed to the Board through the District Clerk, received by electronic mail, shall be forwarded to members of Board electronically and shall not be placed in Board packet, unless specifically requested to do so by the author or subsequently by a member of Board, and if the correspondence is in compliance with Item 1.3 of this Policy;
3. Communications received in response to a posted, public agenda of a Public Meeting, addressed to the General Manager and Board, or to the District Clerk, shall be placed in the pertinent Public Meeting packet to be considered as part of the submissions
4. Once correspondence is included in the Board packet, it will be reviewed at the Board meeting as an identified section on the meeting agenda. All direction by the Board, with respect to correspondence included in the packet, will be communicated by the Board Secretary, with a copy to the District Clerk, to the author, generally in the same manner in which it was received.
5. Correspondence submitted in the form of a letter, memorandum, report, notice, electronic mail, fax, petition, etc. submitted anonymously or containing profanity, defamatory statements, allegations, inferences, or disrespectful comments, as deemed by the General Manager, will be returned to the author (if known), with a copy filed, and will not be circulated.
6. Correspondence, including e-mail correspondence, intended for the Board and/or a Board committee is generally received as public information subject to the Nevada Public Records Act.
7. Questions relating to this policy should be directed to the General Manager.

Review, discuss receive Board -4-
direction and possibly approve a
Board Correspondence Policy to
be included in Policy 3.1.0.

July 3, 2018

IV. ALTERNATIVES

- A. Not approve above proposed policy.
- B. Direct Staff to prepare alternative policy based on feedback of Board.

V. WHAT DO OTHER AGENGIES DO?

Washoe County Commissioners, City of Reno, and the North Tahoe Public Utility District do not list correspondence on their agendas. Sun Valley General Improvement District has a brief statement on their meeting agenda that states that correspondence may be covered under Staff reports.

ATTACHMENT 4

Chairwoman Wong turned it over to District General Counsel Guinasso who gave a brief overview of the complaint, response, and the opinion.

Chairwoman Wong said that anyone can submit a complaint that doesn't result in a violation and that there have been only two items that the District has had to take corrective action and that there has been a number of complaints that have been filed that have resulted in no violations and if anyone wants a record of that, they can do a public records request.

Trustee Callicrate said that he has a point of clarification; he is unclear when we received those fifteen complaints regarding the minutes that he was under the impression, from the Attorney General, that yes, we were in violation of not accepting. Chairwoman Wong said that all fifteen of those were one complaint and there was one corrective action we took. District General Counsel Guinasso added that he would also note that the Attorney General gave us advice on a go forward basis on how we should handle the minutes. All were out of the Attorney General's timeframe and the Attorney General gave us direction going forward. There is a disagreement on how the law was interpreted and we have conformed our practices to that direction provided.

Trustee Morris said that he thinks it is important to somehow deal with the false statement of how many have occurred and how many have been filed as he doesn't know of any way to get it on the record those that have been filed versus those that have been upheld. Someone commented today that we had fifteen complaints and he wanted to clarify that. District General Counsel Guinasso said that under this agenda item we can talk about this one complaint and that if the Board would like, he can prepare a report, give a summary, and provide some analysis relative to the complaints, etc. and provide that at a future meeting. Chairwoman Wong asked that this proposed report be added to the long range calendar.

F.7. Review, discuss, receive Board direction and possibly approve a Board Correspondence Policy to be included in Policy 3.1.0. (Requesting Board Member: Trustee Tim Callicrate) – REMOVED FROM THE AGENDA IN ITS ENTIRETY

G. DISTRICT STAFF UPDATE (for possible action)

G.1. General Manager Steve Pinkerton

ATTACHMENT 5

ADAM PAUL LAXALT
Attorney General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 East Washington Avenue, Ste. 3900
Las Vegas, Nevada 89101

J. BRIN GIBSON
First Assistant Attorney General
NICHOLAS A. TRUTANICH
Chief of Staff
KETAN D. BHIRUD
General Counsel

May 31, 2018

via U.S. Mail

Incline Village General Improvement District – Board of Trustees
Kendra Wong, Chair
895 Southwood Boulevard
Incline Village, NV 89451

**Re: Incline Village General Improvement District –
Open Meeting Law Complaint, OAG File No. 13897-287**

Dear Chair Wong:

The Office of the Attorney General (OAG) has the authority to investigate and prosecute alleged violations of the Open Meeting Law (OML). NRS 241.039. The OAG is in receipt of a Complaint alleging OML violations by the Incline Village General Improvement District Board of Trustees (Board).

The OAG requests that the Board prepare a response and/or defense to the allegations contained in the attached Complaint. Please include any records or documentation that support the Board's response.

Due to the time limitations set forth in NRS 241, the OAG asks that you respond on or before June 15, 2018.

Should you have any questions, please contact Althea Zayas at (702) 486-3224 or via email at azayas@ag.nv.gov.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: /s/ Caroline Bateman
Chief Deputy Attorney General
Boards and Open Government Division

CB:arz
Enclosure

*rec'd 6/5/2018
gab*

SECTION 3.

BUSINESS OR INDIVIDUAL COMPLAINT IS AGAINST

Business/Provider Name: _____

Individual/Contact: _____
Last First Job Title (Example: CEO)

Individual/Business Address: _____
Address City State Zip

Individual/Business Phone: _____
Work Mobile Fax

Individual/Business Email: _____

Individual/Business Web Site: _____

Please detail the nature of your complaint against the individual, business, or provider listed in Section 3. Include the who, what, where, when, and why of your complaint, full explanation of the transaction involved and a chronology of the events. (Please include any nicknames or aliases, identifying information such as Social Security number(s), license plate(s), year/make of vehicle(s), etc.). You may use additional sheets if necessary.

My complaint is:

ALLEGED OPEN MEETING LAW VIOLATION IS AGAINST

Name of Public Body: Incline Village General Improvement District (IVGD)
(i.e., specific board, commission, agency, or person(s) etc.)

Date of meeting where alleged violation occurred (mm/dd/yyyy): 05/09/2018

Please detail the specific violations against the board, commission, or agency or person listed in Section 3. Include the who, what, where, when, and why of your complaint. You may use additional sheets if necessary. Remember the Open Meeting Law applies only to public bodies (see NRS 241.015 for definition) and only to members of public bodies.

My complaint is:

Conspiracy of Public Documents by Unelected Staff
(See Attached Pages and Exhibits)

PUBLIC OFFICIAL'S INFORMATION (Whom Your Complaint Is Against)

Official's Name: JASON GUINASSO / Steve Pinkerton / Susan Heron /
Title: _____
Official's Government: Kendra Wong
Agency or Body: FUSIO
Official's Work Address: 985 Southwood Blvd Incline Village NV 89451
(Street / PO Box) (City) (State) (ZIP Code)
Official's Telephone: 775-832-1100

SECTION 4.

PAYMENTS

Did you make any payments to this individual or business? Yes—Continue to Next Question No—Skip to Section 5

How much did the company/individual ask you to pay?

Date(s) of payments (mm/dd/yyyy):

How much did you actually pay? \$ _____ Payment Method: Cash Credit Card Debit Card Check

Financed Wire Transfer Money Order Cashier's Check Other: _____

Was a contract signed? Yes No If yes, date you signed the contract (mm/dd/yyyy): _____

Identify your attempts to resolve the issue(s) with the company, corporation, or organization.

OTHER AGENCIES

Have you contacted another agency for assistance? Yes No If so, which agency?

Have you contacted an attorney? Yes No
If so, what is the attorney's name, address, and phone number?

Last _____ First _____ Phone _____
Address _____ City _____ State _____ Zip _____

Is court action pending? Yes No

Have you lost a lawsuit in this matter? Yes No

SECTION 5.

EVIDENCE

List and attach photocopies of any relevant documents, agreements, correspondence, or receipts that support your complaint (examples include billing statements, correspondence, receipts, payment information, witnesses, and any other document which explains or supports the matters raised in the complaint). No originals. Copy both sides of any canceled checks that pertain to this complaint.

SECTION 6.

WITNESSES

List any other known witnesses or victims. Please provide names, addresses, phone numbers, email addresses, and/or websites.

One of hundreds of witnesses to admission of using public employees for campaign purposes -

Judy Miller Puffarm L & G mail.com 408-781-0130
Aaron Katz 545 & ix.netcom.com 408-741-1000

SECTION 7.

Sign and date this form. The Attorney General's Office cannot process any unsigned, incomplete, or illegible complaints. IF YOUR COMPLAINT IS SUBMITTED WITHOUT A SIGNATURE, IT WILL BE RETURNED TO YOU.

I understand that the Attorney General is not my private attorney, but rather represents the public by enforcing laws prohibiting fraudulent, deceptive or unfair business practices. I understand that the Attorney General does not represent private citizens seeking refunds or other legal remedies. I am filing this complaint to notify the Attorney General's Office of the activities of a particular business or individual. I understand that the information contained in this complaint may be used to establish violations of Nevada law in both private and public enforcement actions. In order to resolve your complaint, we may send a copy of this form to the person or firm about whom you are complaining. I authorize the Attorney General's Office to send my complaint and supporting documents to the individual or business identified in this complaint. I also understand that the Attorney General may need to refer my complaint to a more appropriate agency.

I certify under penalty of perjury that the information provided on this form is true and correct to the best of my knowledge.

Signature

Print Name

Frank Wright

Date (mm/dd/yyyy)

05-14-18

SECTION 8. (Optional)

The following section is optional and is intended to help our office better serve Nevada consumers. Please check the categories that apply to you.

Gender: Male Female

Have you previously filed a complaint with our office? Yes No

If yes, enter in the approximate filing date (mm/dd/yyyy) of your original complaint: _____

I am (mark all that apply):

- Income below federal poverty guideline
- Disaster victim
- Person with disability

Ethnic Identification:

- White/Caucasian
- Black/African American
- Hispanic/Latino

Primary Language:

- English
- Spanish
- Other:

- Medicaid recipient
- Military service member
- Veteran
- Immediate family of service member/veteran

- Native American/Alaskan Native
- Asian/Pacific Islander
- Other: Senior Citizen

May we provide your name and telephone number to the media in the event of an inquiry about this matter?

Yes No

How did you hear about our complaint form (please choose only one):

- Called/visited Las Vegas AG Office
- Called/visited Carson City AG Office
- Called/visited Reno AG Office
- Attended AG Presentation/Event
- Another Nevada State Agency/Elected Official
- Search Engine
- AG Website
- AG Social Media Sites
- Media: Newspaper/Radio/TV
- Other: _____

IF YOUR COMPLAINT IS SUBMITTED WITHOUT A SIGNATURE, IT WILL BE RETURNED TO YOU.

State of Nevada
Office of the Attorney General
100 N. Carson Street
Carson City, NV 8970

5/14/18

Subject: Incline Village General Improvement District ("IVGID")

Dear Attorney General,

I am filing an open meeting law complaint against the Incline Village General Improvement District. This is also worthy of the attention of the Public Integrity Unit and referral to the Nevada Bar as this matter involves IVGID General Counsel, a licensed Nevada attorney, violating the rules of professional conduct. Whatever the jurisdiction(s) may be, this complaint is being filed for behavior that scorns Nevada Open Meeting Law and the Nevada Public Records Act to harm the public interest. It is so egregious as to defy all standards of acceptable government conduct. This conduct obstructs the public's access to public documents and our rights as citizens to hold our public officers, legal counsel and elected officials accountable.

At the May 9th, 2018 Incline Village General Improvement District ("IVGID") Board meeting, two Trustees questioned General Manager Pinkerton about the absence of the actual correspondence received by the District under Agenda Item "J" of the current Board Packet. They also questioned the absence of correspondence from this Agenda Item in the last three Board Packets. General Manager Steve Pinkerton disclosed that he along with Legal Counsel Jason Guinasso and Board Clerk and Public Records Officer Susan Herron review all correspondence to determine what was appropriate for inclusion and what they were comfortable with that was not derogatory or exposing the District.

Counsel Guinasso provided additional clarification stating that correspondence from the public was omitted because it contained potential legal liability as the correspondence included defamatory statements against staff members and people who worked for the District. He did not believe the District should publish these defamatory statements in the Board Packets and if any Trustee wished to do so it would be against the advice of Counsel.

General Manager Pinkerton, Board Clerk and Public Records Officer Herron and Legal Counsel Guinasso are all aware that public correspondence to the Board are public records. For close to twenty years, this correspondence to the District has always been a Board Meeting agenda item with all these public records included in the Board packet. In many cases, citizens specifically request that their correspondence to the Board as well as their emails to the General Manager, Director of Finance and Public Records Officer be included in the Correspondence Section of the Board Packet. However, this cabal of two unelected public employees and legal counsel are exercising oversight of correspondence to the Board without Board authorization and conspired to violate Nevada Public Records Act 239 by concealing public records from the public.

At the April 25, 2018 Board Meeting, Vice Chair Horan had recommended that the Board approve a motion to remove all "Correspondence Received by the District" from the Board Packets. Trustee Horan's Agenda Item, after discussion by the Board, was removed from consideration. The Board's discussion affirmed the District's existing practices and validated that there would be no action taken to remove "Correspondence Received by the District" from the Board Packets. Despite this, General Manager Pinkerton and Board Chair Kendra Wong who are responsible for preparing the Agenda for each meeting, along with the Board Clerk and Legal Counsel, acted in concert to exclude the Correspondence from the May 9, 2018 Board Packet. The Minutes for the April 25, 2018 Board Meeting are not currently available. The Board discussion and dialogue with the General Manager and Legal Counsel at the April 25, 2018 Board Meeting can be viewed on Livestream at 2:24.40. Please note that the General Manager, Board Clerk and Legal Counsel failed to disclose at that time, or at any other previous Board Meeting, that they were exercising their "unauthorized" discretion on what to include or exclude from this Agenda Item Section of the Board Packets.

Of further concern was the revelation that all Trustees are not receiving all correspondence addressed to the Board through the IVGID email system. Trustee Callicrate reiterated that he had brought this to the attention of the IVGID IT Department and the Board Clerk and this problem still had not been resolved. The inclusion of Correspondence to the Board in the Board Packet further provided assurance that the full Board, as well as the public, saw all Correspondence.

It was also disclosed that although two Trustees had requested the unresolved Open Meeting Law Complaints filed against the District and Counsel's response to these Complaints, the requested records still had not been provided. Counsel claimed that this information was "resent" on May 1st, and perhaps the files were too large for the server. This was Trustee Callicrate's second request for this information.

I point this out as Counsel has a long track record of failing to provide requested records to Trustees as well as directing the Public Records Officer to conceal public records from the public. His active and unauthorized role in determining the correspondence that can be included in the Board Packets and his "legal" advice to Trustees not to override his judgment is a blatant attempt to violate the spirit of open meeting law and the public records act. As the Open Meeting Law does not permit the Board to disqualify public comments based upon viewpoint, it should be clear that public correspondence to the Board, many of which concern items on the Board's Agenda, should not be excluded from the Board Packet based upon the General Manager, Board Clerk/Public Records Officer and Legal Counsel's censorship.

Counsel Guinasso has received multiple admonitions from the Office of the Attorney General for violating the intent and spirit of the Open Meeting Law. This has ranged from his taking on the actions of the Chair or as a "sixth" Trustee at Board Meetings to authoring statements to the public on public comment to discourage the public from speaking. The District has most recently been cited for violating the Open Meeting Law 15 times. These violations were for not meeting the Statutory time requirement for approval of the Board Meeting Minutes. This was the outcome of Counsel Guinasso's absurd reinterpretation of the statute. His demonstrated lack of competence or due diligence in complying with Open Meeting Law gives one pause as he is now asserting that Trustees who override his "legal" advice and choose to include ALL Correspondence Received by the District are doing so at their peril as they would be creating a "legal liability." As Counsel Guinasso has a long history of making factually inaccurate statements at Board Meetings, on the District's website, in Board Packet Memorandums and written correspondence, we can only question the veracity of his latest pronouncement. Only a review

by the Office of the Attorney General of all correspondence received by the District in the last few months would determine whether this directive is substantive or an attempt to intimidate Trustees from making these public records available to the public in the Board packets.

The entire exchange among the Board, the General Manager and Counsel Guinasso at the May 9, 2018 Meeting can be viewed on Livestream at 3:29.30.

Public comments at Board Meetings and correspondence to the Board have been critical of Board Chair Wong, Vice Chair Horan (who is also Chair of the Audit Committee), General Manager Pinkerton, Director of Finance Eick, Public Records Officer Herron and Legal Counsel Guinasso. There have been citations of these individuals violating Nevada Revised Statutes and Board Policies and Practices. Public Comments addressing the above named individuals and their actions, conduct or decisions have been sanitized in the recorded Meeting Minutes. Trustees and citizens requesting corrections in the interest of accuracy have been for the most part ignored. The stock responses for refusing these requests are echoed by the Chair, Board Clerk and Legal Counsel stating that the Minutes do not need to be verbatim, only the substance is required. Although, Open Meeting Law does not require transcripts, it does not condone deleting the substance of participants remarks, adding new verbiage or deleting entire sections of Public Comments, Board, Staff and Legal Counsel discussions. Yet this is the case and can be proven by watching the Livestream and comparing it to the content of the Meeting Minutes. Now, Legal Counsel, the General Manager and the Board Clerk with the tacit approval of the Board Chair have expanded their filtering and censorship to written correspondence.

At the Incline Village/ Crystal Bay Republican Women Candidates Forum on the evening of Tuesday, May 8, 2018 Chair Wong, who is running for re-election for IVGID Trustee, addressed the large crowd. She announced that there was misinformation circulating about her and her decisions as an IVGID Trustee. She asserted that she had personally instructed "Staff "to put together a website to correct the misinformation. Chair Wong appears to be oblivious to the illegality of using public employees and government resources to work for her on campaign issues. The elimination of correspondence from the Board packets would also be an advantage to keeping the public in the dark as to the controversial issues created under her leadership.


Conclusion: The Office of the Nevada Attorney General, including the Open Meeting Law Division and Public Integrity Unit should be concerned about a local government's coordinated activities in repeatedly defying Open Meeting Law without consequences and concealing public records from Trustees and the Public in defiance of NRS 239. A full scale investigation is warranted as a licensed Nevada Attorney, retained as District General Counsel, is high jacking the authority of elected officials and intimidating a governing board. Rather than ensuring the District complies with Nevada Law and Board Policies and Practices he is conspiring with the General Manager and Public Records Officer/Board Clerk to circumvent the rules and is damning transparency by withholding important information from reaching the Board of Trustees and the public. If the Office of the Nevada Attorney General has a mandate to protect the public we have 9000 residents seeking your aid.

Until the concealed correspondence is reviewed, we can only speculate on what the District is hiding and the complete motivation for this unauthorized and unlawful censorship. I have initiated a public records request for all correspondence received by the District for the past 4 months. I will share this information with the Office of the Attorney General, "if" and that is a big "IF" the Public Records Officer Susan Herron actually complies with the Public Records Act and provides these public records to me.

I trust that you will understand the urgency of my concerns and will take immediate investigative action.

Thank you,

Frank Wright


alpinesportss@gmail.com

775-2534919



EXHIBIT (A)

NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at 6 p.m. on Wednesday, May 9, 2018 in the Chateau, 955 Fairway Boulevard, Incline Village, Nevada.

- A. PLEDGE OF ALLEGIANCE*
- B.1. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- B.2. ROLL CALL OF THE CANDIDATES FOR IVGID BOARD OF TRUSTEES*
Tim Callicrate....Benicia Price....Tony Robinson....Sara Schmitz.... Bruce Simonian....Kendra Wong
- 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 UPDATES*

- 1. Provide a verbal update on the status of the 2018 Memorandum of Understanding with Red, White and Tahoe Blue – Director of Parks and Recreation Indra Winquest

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

www.yourtahoeplace.com



NOTICE OF MEETING

Agenda for the Board Meeting of May 9, 2018 - Page 2

F. GENERAL BUSINESS (*for possible action*)

1. Review, Discuss, and Possibly Award a Construction Contract for the Water Resource Recovery Facility Crew Quarters Project – 2017/2018 Capital Improvement Project; Fund: Utility; Division: Public Works; Project # 2097SS1708; Vendor: Bruce Purves Construction, Inc. in the amount of \$178,994 (Requesting Staff Member: Director of Asset Management Brad Johnson)
2. Review, discuss and possibly approve an early opening item for the 2018/19 fiscal year allowing the District to enter into an agreement for media buying services for 2018/19; Venues: Diamond Peak, Championship Golf Course, Mountain Golf Course, Facilities, Recreation Center and Tennis Center; Vendor: EXL Media; Contract Amount: \$266,500 in paid media spending, \$88,000 in trade media spending and \$65,000 in agency fees – a grand total of \$419,500 (Requesting Staff Member: Marketing Manager Paul Raymore)
3. Review, discuss and possibly authorize 1) the execution of an Acknowledgement of Self-Insurance Loss Portfolio Transfer and Assumption from IVGID to Public Agency Compensation Trust for a one-time assessment of \$58,000, and 2) upon execution and acceptance of the Loss Portfolio Transfer and Assumption by the Nevada Department of Insurance Division, authorize the execution of permanent operating transfers of \$800,000 from the Worker Compensation Fund to the Utility Fund in the amount of \$120,000, Community Services Special Revenue Fund in the amount of \$645,000 and the Beach Special Revenue Fund in the amount of \$35,000 as budgeted for fiscal 2017-2018, and 3) in anticipation of execution and acceptance of the Loss Portfolio Transfer and Assumption by the Nevada Department of Insurance Division, the Board of Trustees authorizes the Director of Finance to incorporate a permanent operating transfer of \$300,000 from the Worker Compensation Fund to the Utility Fund in the amount of \$45,000, Community Services Special Revenue Fund in the amount of \$241,875 and the Beach Special Revenue Fund in the amount of \$13,125 to be added to the budget for fiscal 2018-2019 (Requesting Staff Member: Director of Finance Gerry Eick)
4. Review, discuss, and possibly approved the District's Strategic Plan for Fiscal Years 2018-2020 (Requesting Staff Member: District General Manager Steve Pinkerton)

G. DISTRICT STAFF UPDATE (*for possible action*)

1. General Manager Steve Pinkerton

H. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. District General Counsel Jason Guinasso

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*



NOTICE OF MEETING

Agenda for the Board Meeting of May 9, 2018 - Page 3

- 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 Friday, May 4, 2018 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of May 9, 2018) 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 Callcrate, 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.**

ATTACHMENT 6



500 DAMONTE RANCH PARKWAY, SUITE 980
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FAX 775.201.9611
HUTCHLEGAL.COM

JASON D. GUINASSO
PARTNER
JGUINASSO@HUTCHLEGAL.COM

June 15, 2018

*Via Electronic Mail- CBateman@ag.nv.gov
& Hand Delivery to:*

Ms. Caroline Bateman, Chief Deputy Attorney General
State of Nevada Office of The Attorney General
Boards and Open Government Division
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

Re: RESPONSE OF INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES- OPEN MEETING LAW COMPLAINT, WRIGHT, FRANK O.A.G. FILE NO. 13897-287

Dear Ms. Bateman:

We received your May 31, 2018 correspondence notifying the Incline Village General Improvement District (herein referenced as "IVGID" or "District") of the above referenced complaint by Frank Wright alleging that IVGID has violated the Nevada Open Meeting Law ("OML"). Please accept this correspondence and the referenced enclosures as IVGID's response.

Issue Presented

1. Whether IVGID staff violated Nevada Open Meeting Law by omitting correspondence containing defamatory statements against District staff from Board of Trustee Notice of Meeting packets.
2. Whether IVGID staff has violated Nevada Open Meeting Law by amending the content of public comments as reflected in the Meeting's minutes.

IVGID's Position

IVGID will not respond to each and every assertion submitted in Mr. Wright's narrative. IVGID's response will focus on whether there was a violation of the Nevada Open Meeting Law.

Issue 1:

Correspondence received by the District has been included in IVGID Board of Trustees ("BOT") packets as a way to provide applicable information to the BOT regarding written communications to the Board from the public. In this regard, it is important to note that there is no statute, regulation, case law, attorney general opinion or IVGID policy that requires the publication of correspondence received by the District. The practice of providing written correspondence to the Board has been an informal practice provided as a courtesy to Board members for several years.

The items Mr. Wright alleges have been “censored” for the purpose of “concealing public records from Trustees and the Public in defiance of NRS 239”, were not included in the Board packets because the correspondence contained defamatory comments about IVGID employees. If published by IVGID, the District could be exposed to liability for defamation and/or various employment and labor laws because publication of the correspondence could be viewed as an endorsement by IVGID of the statements made therein. The District has received complaints from employees about the practice of publishing correspondence that contain false and defamatory statements about them. Absent a Board policy addressing this issue, District Counsel has advised IVGID not to publish any correspondence with false or defamatory statements about IVGID employees.¹

Notably, the Board of Trustees received every correspondence at issue via email. However, these communications were not produced as a part of the Board Packet for a Board of Trustees meeting.

Mr. Wright appears to have confused the District’s “correspondence received”, which is a public record, with written statements included with “public comment”. While the Nevada Open Meeting Law Manual requires public comment, offered orally or by written statement, during a public meeting to be taken and recorded in the minutes, the District has no such obligation to publish correspondence received before or after public meetings. Although the District may elect not to publish any correspondence received, the District recognizes correspondence received is a public record. As such, any member of the public can request copies of correspondence received by the District if they make a public records request. If and when such records are requested, IVGID provides those records to the requester as required by NRS Chapter 239.

Issue 2:

Mr. Wright alleges the District has “sanitized” public comments critical of actions, conduct, or decisions made by IVGID. In this unsubstantiated claim, Mr. Wright fails to provide any example or evidence of such action, only maintaining the corrections have been ignored. The District maintains that, pursuant to Nevada OML, the substance of every public comment is accurately reflected in the minutes and if a member of the public is not satisfied with their comments as summarized, they may reach out to District Clerk Susan Herron to have them amended, as some members of the public already have. If Mr. Wright has a particular instance of public comment summary not being reflective of the message conveyed, he is more than welcome to contact the District Clerk and submit a request for modification.

Scope of Response

IVGID has not responded to each and every assertion submitted in Mr. Wright’s narrative. IVGID’s response has focused on whether there was a violation of the Nevada Open Meeting Law.

IVGID Did Not Violate the Open Meeting Law

In the event that this memorandum has failed to address an alleged violation of the Nevada Open Meeting Law due to the vagueness and ambiguity of Mr. Wright’s Complaint, IVGID denies that any such violation has

¹ The IVGID Board has directed staff to develop a policy for the Board to review and discuss at a future IVGID Board meeting.

Ms. Caroline Bateman, Chief Deputy Attorney General
State of Nevada Office of The Attorney General
June 15, 2018


occurred. IVGID has a record of abiding by the provisions of NRS Chapter 241 and has worked diligently over the years to make sure that District business is conducted with openness and transparency.

Concluding Remarks

In accordance with the foregoing, IVGID respectfully requests that the Attorney General conclude that there has been no violation of the Nevada Open Meeting Law.

Thank you for the opportunity to respond to the Open Meeting Law Complaint of Frank Wright, A.G. File No. 13897-287.

Sincere regards,



HUTCHISON & STEFFEN, LLC
Jason D. Guinasso, Esq.

cc: Chairwoman Kendra Wong
General Manager Steve Pinkerton
District Clerk Susan Herron

JDG:ts

ATTACHMENT 7

ADAM PAUL LAXALT
Attorney General



J. BRIN GIBSON
First Assistant Attorney General
NICHOLAS A. TRUTANICH
Chief of Staff

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

KETAN D. BHIRUD
General Counsel

October 2, 2018

Via U.S. Mail and Electronic Mail

Frank Wright
P.O. Box 186
Crystal Bay, NV 89402
alpinesportss@gmail.com

Re: Incline Village General Improvement District Board of Trustees (IVGID) – Open Meeting Law Complaint, OAG File No. 13897-287

Dear Mr. Wright:

The Office of the Attorney General (OAG) is in receipt of your Complaint (Complaint) alleging violations of the Open Meeting Law (OML) by IVGID. Your Complaint alleges first that IVGID violated the OML by failing to provide in its May 9, 2018 meeting (Meeting) "Board Packet¹," correspondence received by IVGID. Your Complaint's second allegation is that IVGID is unlawfully censoring from its meeting minutes remarks made in public comment.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. In response to the Complaint, the OAG reviewed the Complaint and attachments, the agenda and support materials for the Meeting, the video recording for the Meeting, the approved Meeting minutes, and the response to the Complaint from IVGID.

FACTUAL BACKGROUND

IVGID is a "public body" as defined in Nevada Revised Statute (NRS) 241.015(4), subject to the OML.

The Complaint's first allegation concerns Meeting agenda item "J" which IVGID listed as "CORRESPONDENCE RECEIVED BY THE DISTRICT." The support material for the Meeting did not include any documents identified as correspondence received by IVGID. It is stated in the

¹ A review of the "Board Packet" for the May 9, 2018 meeting shows that the "Board Packet" consists of the agenda and support materials for the meeting.

Meeting video recording that the absence of the correspondence from the board packet was because IVGID's practice² was to only include correspondence that was not previously communicated to the Board and which was not determined to be defamatory. This policy is not stated in the Meeting agenda. The approved Meeting minutes for agenda item "J" lists the authors of the correspondence received by IVGID but said correspondence is not attached to the approved Meeting minutes.

The Complaint's second alleged violation of the OML relates to improper censoring of IVGID meeting minutes. The Complaint specifically provides:

Public comments at Board Meetings and correspondence to the Board have been critical of Board Chair Wong, Vice Chair Horan (who is also Chair of the Audit committee), General Manager Pinkerton, Director of Finance Eick, Public Records Officer Herron and Legal Counsel Guinasso. There have been citations of these individuals violating Nevada Revised Statutes and Board Policies and Practices. Public Comments addressing the above named individuals and their actions, conduct or decisions have been sanitized in the recorded Meeting Minutes. Trustees and citizens requesting corrections in the interest of accuracy have been for the most part ignored.

The complaint does not provide any specificity as to what part of the Meeting minutes is being "sanitized." Furthermore, the Complaint does not make clear that the allegation is even referring to the IVGID May 9, 2018 meeting.

DISCUSSION AND LEGAL ANALYSIS

Allegation #1: IVGID violated the OML by failing to produce in its support material "correspondence received by the District."

The complaint alleges that IVGID violated the OML by failing to include in its board packet "correspondence received by the district." The OML is found in NRS chapter 241. There is no statutory provision in NRS chapter 241 requiring a public body to produce correspondence it has received. If the subject correspondence constitutes public records, the issue of whether they are subject to dissemination would be governed by NRS chapter 239³. Thus,

² This practice was explained in the Meeting by General Manager Steve Pinkerton, IVGID General Counsel Jason Guinasso, and Chairman Kendra Wong.

³ The Nevada Public Records Act (PRA), embodied in NRS 239.010, provides all public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person. NRS 239B.010.

the proper remedy for a public record violation would be provided in NRS chapter 239 and not an OML complaint.

However, NRS 241.020(2)(d)(1) requires a public body to post an agenda consisting of a "clear and complete statement of the topics scheduled to be considered during the meeting." In *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003), the Nevada Supreme Court interpreted the "clear and complete" requirement to mean that it must provide the public with "clear notice of the topics to be discussed at public meetings, so that the public can attend a meeting when an issue of interest will be discussed. *Id.* at 155. The Meeting's agenda item "J" simply stated "CORRESPONDENCE RECEIVED BY THE DISTRICT." There is nothing in this description explaining the limited scope of correspondence that would be made public under this agenda item. Agenda item "J" can be interpreted to say that all of IVGID's correspondence is a "topic scheduled to be considered during the meeting." NRS 241.020. While this did not constitute an OML violation, a more "clear and complete" description of what is contemplated under this agenda item may avoid further confusion for the public⁴.

Allegation #2: IVGID is improperly censuring remarks made in public comment from meeting minutes.

The Complaint alleges that IVGID is censoring from its meeting minutes remarks made in public comment that have been critical of certain members of the board. Nevada Revised Statute ("NRS") 241.035 governs public meeting minutes and it provides that each public body shall keep written minutes of each of its meetings, including the following:

1. Each public body shall keep written minutes of each of its meetings, including:
 - (a) The date, time and place of the meeting.
 - (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.

The PRA presumes that all records are to be open to the public unless deemed confidential by law. The purpose of the PRA is to ensure the accountability of the government to the public by facilitating public access to vital information about governmental activities. *City of Reno v. Reno Gazette-Journal*, 119 Nev. 55, 59, 63 P.3d 1147, 1149 (2003), citing *DR Partners v. Board of County Commissioners of Clark County*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000).

⁴ "There is no statutory provision requiring public bodies to discuss, or take action on, all agenda items." *Schmidt v. Washoe County*, 123 Nev. 128, 135, 159 P.3d 1099, 1104 (2007) (abrogated on other grounds by *Buzz Stew LLC v. City of Las Vegas*, 124 Nev. 224, 181.3d 670 (2008)). However, notice of the meeting must notify the public that the public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. NRS 241.020(2)(d)(6)(iii). The Meeting agenda had such a disclaimer and IVGID had the option to remove this item from the Meeting agenda.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

As provided above, NRS 241.035 does not require verbatim memorialization of public comment in meeting minutes. Rather, NRS 241.035 requires only the substance of the public comment in the minutes, or a copy of the remarks be included in the minutes, if the speaker requests it.

The allegation does not articulate that a speaker requested that his/her remarks be reflected in the meeting minutes. Furthermore, the allegation does not indicate which meeting minutes lack "the substance of remarks made by any member of the general public." *Id.* Instead, the allegation is merely a conclusory statement that fails to identify a specific instance in which an OML violation may have occurred. Thus, IVGID cannot be found in violation of the OML for failing to adhere to the mandates set forth in NRS 241.035.

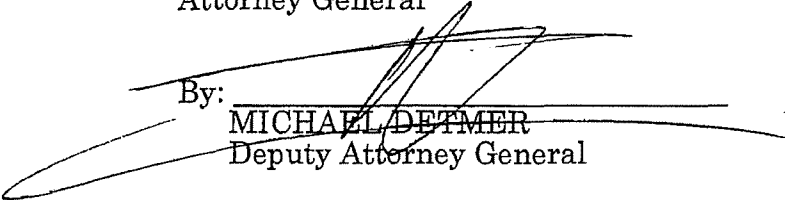
CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:


MICHAEL DETMER
Deputy Attorney General

MDD/dt

C: Jason D. Guinasso, Esq., Incline Village General
Improvement District

ATTACHMENT 8

- F.3. Open Meeting Law Results – Acknowledgement of the Findings of Fact and Conclusions of Law (No Open Meeting Law Violation) as the result of the State of Nevada Office of the Attorney General investigation in the matter of Attorney General File No. 13897-287, Open Meeting Law Complaint – Placed on this agenda in accordance with Nevada Revised Statutes 241.0395 and to inform our public; have a discussion and possibly provide direction to Staff on what the next step(s) should be regarding this opinion by the Nevada Attorney General (Chairwoman Kendra Wong)**

No comments received by the Board.

- F.4. Open Meeting Law Results – Acknowledgement of the Findings of Fact and Conclusions of Law (No Open Meeting Law Violation) as the result of the State of Nevada Office of the Attorney General investigation in the matter of Attorney General File No. 13897-294, Open Meeting Law Complaint – Placed on this agenda in accordance with Nevada Revised Statutes 241.0395 and to inform our public (Chairwoman Kendra Wong)**

No comments received by the Board.

- F.5. Review and discussion of the submitted Elected Official and Governing Board Self-Evaluation Tool (Requesting Trustee: Chairwoman Kendra Wong)**

Chairwoman Wong said thank you to all who submitted.

Trustee Callicrate apologized to all and stated that this was not an affront to anyone. In looking over everything, his rating would be work in progress and that he feels that there are much more opportunities for commonality so he is looking forward to working with his fellow Board members in a collegiate way. The Board hasn't had the chance to prioritize its work so he is looking forward to moving forward. Again, he apologizes and is hopeful that he will have something to add to the next Board packet.

Trustee Morris said that given the results of the election and that the Board membership will remain status quo, he would like to get ahead of our planning for next year. General Manager Pinkerton said that we can talk about that during the discussion on the long range calendar.