

MINUTES

REGULAR MEETING OF JUNE 23, 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 Chairman Tim Callicrate on Tuesday, June 23, 2020 at 3:00 p.m. This meeting was conducted virtually via Zoom.

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 Marketing Manager Paul Raymore, Director of Public Works Joe Pomroy, Director of Golf/Community Services Darren Howard, Director of Finance Paul Navazio, and Engineering Manager Nathan Chorey.

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

Chairman Callicrate said he had two things to announce – (1) he is taking off two items of the Consent Calendar, Consent Calendar Items G.2. and G.3., and placing them under General Business and (2) long time general counsel to IVGID and tremendous community member Geno Menchetti passed away and Chairman Callicrate then gave an overview of Mr. Menchetti's accomplishments and services to the community and closed with a minute of silence and extending condolences to all his family and friends.

C. PUBLIC COMMENTS*

Dick Warren said that he reviewed the candidates for the Audit Committee Members at Large, and he highly recommends that you consider Cliff Dobler and Judith Miller. He really does not know any of the other candidates. But Cliff and Judith, over several years, have expressed their concerns about the direction of IVGID. They are knowledgeable, and they have been forceful proponents of change at IVGID and we need Audit Committee members that will force change. This is an opportunity for the Trustees to demonstrate that they truly want change

at IVGID, that they want total transparency in the financials, in the Capital Improvements Projects, transfers of funds, etc. But why does he have this nagging feeling that they will not be appointed? Maybe it is because collectively the Trustees (except for one), and the interim GM, say one thing publicly like “we want total transparency in our financials” but privately say “we like things the way they are”. We all know the last Audit Committee of Wong/Morris and Horan was a sad joke, and so far the current Audit Committee has said a lot but done little. The Chairman, Matthew Dent, is frozen in place until the November elections, and his sidekick Tim Callicrate, has similar concerns (he can’t do his job as Trustee until after November). Why they think that way is beyond him. Sara Schmitz has tried to make changes, but she’s out there on a limb with little to no support from Matthew and Tim. But he suspects that strong personalities like Cliff and Judith would bring to the table facts and figures on various problems that would force the other members to pay attention. For at least the 6 or 7 years that he has followed IVGID, these two have been involved in one manner or another. They already have a very good understanding of the strengths and deficiencies of IVGID. They do not need a class on IVGID 101, they will hit the ground running. So surprise him, do the right thing and put Cliff and Judith on the Audit Committee. Show him that you really do want to change IVGID for the better.

Patrick, who lives on Tyner, said that he and his wife wanted to address several concerns about the current beach pass policy that is not being done this year. They have spoken to several members of the community and listened to social media regarding guest passes that can be purchased. They have noticed several secondary markets for these and so they wanted to make their concerns known so we can assemble, as a community, and change this policy. We are concerned about the selling of these passes next year. The IVGID office told him the passes are \$12 and that he can buy three passes and buy as many passes as he wants which he can give these or sell these or do whatever he wants which is very alarming. This is a big reason why our beaches are largely inaccessible and why he can’t even take their families down for 4th of July. He looked at the budget and it is not a budgetary concern but it does need to be looked at long and hard. He would like to learn about getting this on the agenda and find out about how we do that.

Aaron Katz said that he has five written statements to provide and that he is against EXL Media and then went out to explain why and closed by asking that the District refund \$5 on the Rec Fee for marketing. This also ties into Tri-Strategies and it too is creating excess fees. Where is the administrative procedures for asking for a refund of the Recreation and Beach fees? You need to have a due process as it is a violation of the law if you don’t provide a remedy.

Linda Newman said today, through your actions, each Trustee will demonstrate to the community where they actually stand on accountability, informed decision-making, transparency and commitment to restoring the public trust. The foundation for our future will rest upon the effectiveness of the newly constituted Audit Committee. Although we all appreciate everyone who has volunteered, there are four outstanding candidates who possess the desired skills, experience and integrity to serve on the Committee. Mr. Dobler, first and foremost, has led by example. His stellar performance in exercising oversight of the District's financial accounting and reporting, best management practices and capital improvement projects has benefited every citizen in our community. He has also proven to be a valuable resource for our Trustees, our General Manager and Senior Staff. His dedication and passion for doing what's right has yielded comprehensive investigative research and effective solutions. She strongly urges you to select Mr. Dobler and to consider Mr. Aaron, Ms. Miller and Mr. Tulloch to serve along with him. All of these individuals have acted as advocates for our citizens and contributed their vast knowledge and experience to improving our District's governance. To ensure the responsible use of our public money, she requests that you do not approve the expenditure of \$425,000 for EXL Media. While we are facing an uncertain economic future and cannot determine when the threat of the pandemic will be resolved, now is not the time to advertise the use of our tennis, golf and ski activities. While we are restricting the use of our venues to picture pass and punch card holders and according to our General Manager, we are also laying off staff, how can Trustees justify this expenditure? They can't and they shouldn't. \$425,000 can be put to better use to maintain, operate and improve our facilities for the benefit of our property owners and all our residents. As for Tri-Strategies, this is another unnecessary abuse of government spending. Their efforts over the past year have served no benefit for our District and there is no evidence that their services will render any benefit in the future. The Special Legislative Session will not convene on June 30th. It has been postponed. Discussions with other local governments and elected officials clearly reveal that there is no threat of the State emptying our coffers to plug the hole in the State's budget. For Tri-Strategies to engage in promoting false information on our vulnerability is an indication of their unworthiness to work another day on our behalf. Please terminate their lobbying services and end their communications and public relations services. There are many unemployed individuals in our community who can be hired to professionally and competently perform these functions.

Margaret Martini read from a written statement that is attached hereto.

Frank Wright said that he is a candidate for the Board and we have a choice today to make and that is to select members of the Audit Committee. Why go far when you have been watching and listening to some of the candidates who have uncovered wasteful spending, now want to do it for free and be engaged for free with nothing to gain except a better community. He is in favor of Mr. Dobler and Ms. Miller. Take a hard look at what we want and he is hopeful that you will put the right people on this committee. Our recreational venues, he wants to share something that is just atrocious as punch cards are a joke. You can go onto Craigslist and you will find people who are asking for punch cards. There was some lady wanting to pay \$250 for a punch card. Another thing that needs to be corrected is the public records that belong to the people in this community and that are not accessible. Our Interim District General Manager and Trustees know what he is talking about. We have got to change because these things are there for people to look at and he can't get public records. We have a problem that needs to be fixed so we can see everything. We need to move forward and ask questions of our Public Records Officer to see why as this is all for a better community.

Judith Miller said that she is just wondering if we can ask our Interim District General Manager about the Ordinance 7 Committee. She knows that we have a pandemic and that with the events of the recent weeks, this is now again at the forefront so maybe we can get an update. If it is not underway then reach out to the members of the public and select the members. COVID is not an excuse for not doing this work. Also, focus on better communications as we need to have a clear forum and platform on what is happening in the District as we have had a number of occurrences that show we need improvement. On pop-up tents, there has been no explanation as to why they are banned and she would like to hear from IVGID. Focus more on communication as she thinks the constituents would be grateful.

Cliff Dobler said that he wanted to talk about the Consent Calendar and the watermain replacement on agenda packet page 277. According to the summary, it is the Martis Peak Road vicinity which is about twenty miles away and there are no estimates for the hookups, etc. It also doesn't mention the steel watermain which is the one that has been out of service since 2001. What about the remaining 95%? Was the leak study given a separate project number? The replacement of over six miles of pipe has occurred over fifteen years and that works out to be \$407 per foot. This project shouldn't be on the Consent Calendar because it exceeded the estimate. There is a new game and that is inflated estimates and massive errors are always found. There has been nothing done since 2017.

Diane Becker said that she supports the appointment of Cliff Dobler to the Audit Committee and that some may fear appointing him because of past votes. The best way to correct that is to appoint the best person. If you appoint Mr. Dobler, you will be appointing the best. Think about the detailed reports he has provided as well as his oral reports. Only people who are retired will be able to do an excellent job and thank you for your consideration.

D. APPROVAL OF AGENDA (for possible action)

Chairman Callicrate asked for any changes and noted that Consent Calendar Items G.2. and G.3. were pulled off and moved to General Business. Chairman Callicrate, hearing no further changes, said that the agenda is approved as revised.

H. GENERAL BUSINESS – PART 1 (for possible action)

H.1. Conduct interviews of submitted candidates for the position of Audit Committee Member At-Large (Requesting Trustee: Chairman Tim Callicrate)

Chairman Callicrate said there is no conflict with Ms. Spelletich and thanked everyone for putting in your names. Each candidate will have two minutes to make an opening statement which will be followed by questions. At the end, the Board of Trustees will be choosing one candidate for a one-year term and two candidates for two-year terms. Chairman Callicrate said that those viewing can use the chat function or are welcome to text to the District Clerk and Interim District General Manager to review that information. District General Counsel Nelson said that he recommends that we do not e-mail or chat as the open meeting law restricts secret ballots so he recommends that the Board has that discussion. Trustee Schmitz said that this isn't a secret or straw poll and that this was how Washoe County did it. What Chairman Callicrate was suggesting was that the District Clerk would read the ballots. District General Counsel Nelson said that he would request that a formal motion be made followed by the official vote. Chairman Callicrate said that this is not backroom politics and that the votes will be read off for each candidate as he wants to make sure that everyone knows how we voted. Interim Director of Information Technology Mike Gove said that the Information Technology team has disabled the chat feature to facilitate this meeting.

H.1.a. Derrek Aaron

Mr. Derrek Aaron made a two-minute opening statement.

Trustee Schmitz asked given your extensive responsibility at this current time, how would you have the time to devote to this and second, what do you see as the biggest issue and what would be your solution? Mr. Aaron replied that he would need to know what the tasks are, who is going to be involved and then bandwidth. Right now, this has not been disclosed yet so he does not have the capacity to expend the number of hours. Please tell us what the expectation is and if you have put that together, that would be greatly appreciated. He can dedicate five to ten hours per week and that he is throwing that out there. He is sure that the other candidates would like to know what the expectations are and how much time is needed in the office, how much work could be done from home and how much work could be done as a team. The biggest thing – when he goes to meetings and he has been attending meetings since 2008 on and off, he sees the biggest struggle is how the projects are managed. How are those projects put together – scope, budget, management, and schedule management; that would be something that he would address. Also, how those dollars are being spent on those projects. He has heard a lot of things on the pool – how to do it and spend the money for now. Do we use internal resources to manage or do we bring in external resources?

Chairman Callicrate said that he will extend the time to fifteen minutes per candidate.

Trustee Morris said he had one more question – are you currently licensed as a certified public accountant in Nevada? Mr. Aaron said no, he doesn't have a current license. Trustee Morris asked what is your understanding of the difference between an Audit Committee member and a Trustee? Mr. Aaron said that the District has an external firm that is responsible for going around and making sure they check on things like internal controls. Taking a look and making sure that departments are adhering to internal controls. Versus a Board member, this is an advisory committee and make recommendations and share our findings with the Board and then it is up to the Board to act upon those items; advisory versus authoritative.

Trustee Wong asked how much time have you spent talking with our Staff about any issues? Mr. Aaron said that he has talked very lightly to Staff and there are some recordings of his input. He took advantage on golf operations and put together his concerns and comments and sent them off to Staff. He got great answers and did engage with peeling back the onion. Trustee Wong said was that Darren Howard, Director of Golf. Mr. Aaron said yes and that he knows that it wasn't project related. He has also asked about the rebuilding of the Mountain Clubhouse and/or the pool which was more of general operational comments and concerns about golf venues.

Trustee Morris asked if all of the candidates are on the call concurrently or will they be individually brought in. Interim Director of Information Technology Mike Gove said that all the candidates on the call and can hear each other.

H.1.b. Clifford Dobler

Mr. Clifford Dobler made an opening two-minute statement.

Trustee Schmitz asked how do you foresee your time away/when not in Incline Village impacting your role and how do you see yourself working with others on the committee? Mr. Dobler said it is a team effort and you are either on or not and he will be available for all meetings via Zoom, conferencing calling or actually here.

Chairman Callicrate asked how many years have you been working on the background? Mr. Dobler said since November 2014 when he started working on the Diamond Peak Master Plan and the SE Group report. In looking at those reports, he realized that he couldn't calculate an internal rate of return so he wrote a large memorandum on the lack of reserves and that he has written over one hundred memorandums. Chairman Callicrate said with your involvement, has the District moved in a positive direction? Mr. Dobler replied yes and that the biggest issue is the Comprehensive Annual Financial Report and determining materiality of past errors to see its impact. The District has a large requirement for bonds thus it can't have financial statements that are inconsistent. When they made the change, it was the fourth change and it raised a red flag due to lack of consistency and auditor concerns. We need to get those corrected and do the same to the past financial statements.

Trustee Morris said that Mr. Dobler mentioned the need for good audits and, he is paraphrasing, the District has had good audit reports for multiple years so what are you trying to say that all of auditors are wrong? Mr. Dobler said that the District is currently correcting things that have been wrong and that the auditor relies on management and has no liability at all. When auditors rely on management representations that becomes the crux of the matter instead of going into generally accepted accounting principles. Using management representations are not correct as there have been audit firms that were sanctioned. Trustee Morris said that one of the concerns that he has is team work as typically your comments have been insulting, aggressive, and demeaning so how does that comply with decency? Mr. Dobler said that is your opinion and that he is very sarcastic but he is not demeaning. Trustee Morris said that Mr. Dobler has said to him that he is stupid. Mr. Dobler said that he didn't think he had done that.

Trustee Wong said that your experience certainly is second to none of the other applications. Your communication with the Board and the Staff is less than professional and now you would be working with our Board and Staff? Mr. Dobler said that he disagreed and that he calls a spade a spade. He has done memorandums that speak the facts and he lets them know if they aren't doing their job as that is his responsibility.

Trustee Morris said in the more recent have you had any financial relationship with any of the Board of Trustees membership over the past three years? Mr. Dobler said he made a \$400,000 loan to Trustee Matthew Dent which was secured with property and that Trustee Dent paid him back with interest. At that time, he had no interest and if you want to make a conflict of interest, you would be wrong. Trustee Morris asked about campaign contributions as he knows about the loan. Mr. Dobler said that he has contributed to Trustees Wong, Dent, Callicrate and Schmitz' campaigns; everyone but Trustee Morris.

H.1.c. Glen Rossman – Withdrew due to medical issues.

H.1.d. Joan Spelletich

Ms. Joan Spelletich gave a two-minute opening statement.

Trustee Dent asked what do you believe is the most pressing issue in front of the Audit Committee? Ms. Spelletich said transparency and just being able to communicate all the issues and quandaries in a manner that is assuring to the public that it is being handled in the best way possible.

Trustee Schmitz asked how are you involved and in what way have you been involved with the Board? Ms. Spelletich said just with the Follies and that she has not taken a step to voice anything officially rather has just been a part of the general public and part of the conversation about a few issues; she has stayed out of the political arena.

Chairman Callicrate asked what type of work involvement have you had? Trustee Schmitz said no that she would like Ms. Spelletich to expand on those issues in talking with community members. Ms. Spelletich said when there are big issues that sometimes the public records are hard to obtain, answers aren't quickly forthcoming, and some of the issues seem so big and they aren't broken down and so you have to dig for information and then the information they get is unsatisfying. She hasn't jumped into any of the details of the issues and she would like to be able to do that at this point.

Trustee Morris said that your official resume is different to other folks and that he appreciates the diversity and depth of experience so what is it about you that you would like to bring to the Audit Committee? Ms. Spelletich said that she thinks outside the box and that all opinions can be brought to the forefront and then synchronize everyone's viewpoint. The Audit Committee has very hard numbers yet there is an intention that everyone will bring and she is going in bringing out everyone and making people feel comfortable so as to get to a good solution.

Trustee Wong said that with this being your first foray, why now and why the Audit Committee; what is appealing? Ms. Spelletich said it is a committee and it probably won't be the only one and that she is technically retired again and wants to get involved. This came up and she qualifies in some of those areas and thought she should at least reach out.

H.1.e. Raymond Tulloch (Mr. Tulloch was having technical difficulties so the Board moved on to interview Ms. Judith Miller and then came back to interview Mr. Tulloch)

Mr. Raymond Tulloch gave his two-minute statement.

Trustee Dent said that when it comes to the Audit Committee, what is the most pressing issue facing it? Mr. Tulloch said internal and external issues affecting the community. Trustee Dent asked Mr. Tulloch to elaborate a little further please. Mr. Tulloch said for external, and he doesn't think we should be shy about it, there have been quite a few disputes on the Board which has caused polarization in the community and we can help the community if things are being properly handled and appropriately handled. As for internal, capital investments such as the pipeline. There has been quite a bit of information provided on that and that the costs might knock everyone back. The overall capital investment plan is a critical item particularly in the utility area where the big dollars are.

Trustee Morris asked Mr. Tulloch to expand on working with the Audit Committee and his role. Mr. Tulloch said that he hopes that the candidates have a mix of skill sets, important to have a blend of knowledge, a deeper knowledge is critical, and it is also important to have a business background to make sure the numbers put forward pass the sanity test.

Trustee Schmitz asked how would you have time to take on this particular opportunity? Mr. Tulloch said he has been a total failure at retirement as he has done it six times and that he doesn't actively seek business for his company which is starting to wind down and it is time to use his skills in the community as he has a deep background that would be useful to the community and to give back.

H.1.f. Judith Miller (Mr. Tulloch was experiencing technical challenges so the Board interviewed Ms. Miller before Raymond Tulloch)

Ms. Judith Miller gave a two-minute opening statement.

Trustee Dent asked what was the most pressing issue facing the Audit Committee? Ms. Miller said that ever since the District converted over

to special revenue, she worked at an airport which was an enterprise fund of the City of San Jose, so she knew what it was to be an enterprise, it was the fees as there was very little from taxes if anything. There were concerns from the city and its residents but it continued to be operated that way which is similar to our venues. When the District changed to special revenue, she has some concerns about accountability but she wanted to give it a chance but it became more obscure. She is thrilled that the District is returning to enterprise funds. The other thing is internal controls. Those are the two things to be addressed.

Trustee Morris asked if you or anyone in your household have litigation against the District and how would you deal with that? Ms. Miller said that she is not a party to that litigation and not getting any special privilege. Public records are public records and so she is not sure what type of conflict you would envision. Trustee Morris said that a member of the Audit Committee potentially is privy to a lot of information. Ms. Miller said that you have to be more specific because everything she has been told is that we do not have records that are not public records. Trustee Morris said no, that he was just asking for your opinion.

Chairman Callicrate asked how long were you with the airport? Ms. Miller said seven years and that the first two years she reported to the Director of Aviation and the other five years to the Chief Financial Officer. She spent the other eight years at City Hall in planning, building and code enforcement running their information technology group where she worked on revenue systems for planning, building and code enforcement which was more like revenue but others were a general fund function. Chairman Callicrate said that he wanted to clarify. Ms. Miller said that she didn't want to repeat what was in her resume.

H.1.g. Denise Davis

Ms. Denise Davis gave her two-minute opening statement.

Trustee Schmitz asked what is the biggest need and what would your approach be to solve that situation? Ms. Davis said that one of the big issues is that we are not a young organization and that tends to leave some legacy procedures and understanding so it is good to ask why

are we doing this and how are doing this as it would clear up some confusion and have a framework to clarify mission and goals and how we get there.

Trustee Morris said obviously you will have the time so you may want to comment on that and also please comment on the ability to work with the committee and the flavors of view you would like to bring to that committee to help get consensus and bring the Board more together. Ms. Davis said that she likes to work on a committee where people like to express opinions, disagree, and discuss things but be a little less on a personal level so discuss, disagree and carry on. Ms. Davis then stated that she lives in the same neighborhood as Chairman Callicrate.

Chairman Callicrate said thank you for identifying that we live two houses away and our ability to disagree. As to the time to participate, do you feel that you would have the time to delve in and not impinge on your current schedule? Ms. Davis said that her schedule is pretty open as her husband fully retired at the end of last year and that they have been home because of COVID. They have been spending a lot of time at home catching up on things so she doesn't see a conflict on spending time on this committee.

H.1.h. Michaela Tonking

Ms. Tonking gave her two-minute opening statement.

Trustee Dent asked what do you feel is the biggest issue facing the Audit Committee? Ms. Tonking said that the perception of transparency and coming to an end result. You are constantly debating what type of funds we are using, internal controls, and our audits. We need to all come together and create a decision on these different areas.

Trustee Morris asked what is it that you bring best to the Audit Committee and how do you seen yourself operating with everybody? Ms. Tonking said building consensus as she works with a variety of people in creating funding and knows that there is always a way to gain middle ground and find it.

Trustee Schmitz said that she believes you are working full time so how do you feel you can find the time? Ms. Tonking said yes, she is working full time and that she works from home. She works with an amazing group that has ways to make sure she has the appropriate time to fulfill these responsibilities.

Chairman Callicrate asked when did she move back to town? Ms. Tonking said almost three years now.

Trustee Schmitz said that your resume says that you have put in all your credit hours for your CPA and passed it so why haven't you taken it? Ms. Tonking said that she is working on finalizing her hours in the State of Nevada as she has to finish the required hours.

Chairman Callicrate said that this concludes all the interviews and that he thanks everyone for putting in your resumes. The Board will now choose one individual to serve a one-year term and then two individuals to serve two-year terms. Each of us, for the one-year term, will send our candidates to the District Clerk, Interim District General Manager, and District General Counsel and then when that choice is made, it will be read off by the District Clerk on how each of us voted. District General Counsel Nelson said that the Board can do that process and read them out and that those choices are expressions of interest and that there would have to be a formal motion and then a vote to appoint that is consistent with the vote of the Board. Chairman Callicrate said let's do the one-year term individual first and then do the two-year term individuals and then should we do a motion or do them individually. District General Counsel Nelson said you have flexibility. Trustee Morris said it might be best to pick the top three and then the two and the one. Trustee Schmitz said that she is fine with the approach presented by the Chairman. Trustees Wong and Dent said they are fine with the Chairman's process. Trustee Morris said then he is good with it as well. Interim District General Manager Winquest said he would prefer if this was e-mailed to the both himself and the District Clerk.

H.2. Review, discuss and possibly appoint up to three (3) Audit Committee Members At-Large (Requesting Trustee: Chairman Tim Callicrate)

District Clerk Susan Herron read off the following:

For a one-year term appointment as an At-Large Audit Committee member, the Board of Trustees recommended as follows:

Chairman Callicrate: Cliff Dobler
Trustee Dent: Derrek Aaron
Trustee Morris: Derrek Aaron
Trustee Schmitz: Cliff Dobler
Trustee Wong: Derrek Aaron

Trustee Dent made a motion to appoint Derrek Aaron to a one-year term as an At-Large Audit Committee Member. Trustee Morris seconded the motion. Chairman Callicrate called the question and the motion was unanimously passed.

District Clerk Susan Herron read off the following:

For a two-year term appointment as an At-Large Audit Committee member, the Board of Trustees recommended two candidates as follows:

Chairman Callicrate: Cliff Dobler and Ray Tulloch
Trustee Dent: Cliff Dobler and Ray Tulloch
Trustee Morris: Denise Davis and Michaela Tonking
Trustee Schmitz: Cliff Dobler and Ray Tulloch
Trustee Wong: Denise Davis and Michaela Tonking

Trustee Schmitz made a motion to appoint Cliff Dobler and Ray Tulloch to a two-year term as At-Large Audit Committee Members. Trustee Dent seconded the motion. Chairman Callicrate called the question and the motion was passed with Trustees Callicrate, Dent and Schmitz voted in favor and Trustees Morris and Wong voting opposed.

Chairman Callicrate called a break at 5:10 p.m.; the Board reconvened at 5:27 p.m.

E. DISTRICT STAFF UPDATE* (*for discussion only*)

E.1. Interim District General Manager Indra Winqest

Interim District General Manager Winqest congratulated Mr. Aaron, Mr. Dobler and Mr. Tulloch and thanked all the candidates for their interest. Trustee Morris asked if the Burnt Cedar pool was open now and is it with limitations? Interim District General Manager Winqest said that it is open but there is no free swim yet and that he doesn't see a situation where we can enforce social distancing however it is open now in a fashion that is very similar to the Recreation Center pool. Staff is looking at ways for a private group setting that can be done safely and that he knows that it is difficult to hear but we can't operate it safely right now. Things have worsened a little bit and hopefully, as things are lifted, we can revise. Trustee Schmitz said, in public comment, the Ordinance 7 Committee was brought up and that this is something that she would like to see us move forward on. There have been questions and can we provide information about furloughed employees and how many employees are we bringing back? Also, on agenda packet page 52, the statement about Public Works, it is her understanding that any violations relative to trash have been suspended however there are issues in her community with trash not being handled properly and she called and she knows there are no fees on trash violations and that she wanted to make sure that was correct and understood. Lastly, she is wondering when we will have public correspondence included in the Board packet? Interim District General Manager Winqest said that most of the full time staff are back and we are bringing back part time and seasonal staff. Director of Public Works Joe Pomroy said that there are no trash violations but that some people are being upgraded to wildlife resistant containers and that Waste Management is working with customers. Interim District General Manager Winqest said on the correspondence that this is with the Chairman and there needs to be a lot of discussion. On Ordinance 7, he is happy to start a committee but that he thought he would bring that back in the Fall as it is about bandwidth and he is focusing on the summer season. His goal is to have a spectrum of people on this committee. Trustee Schmitz said that she fully understands and that she just wanted to ask the question and that it makes sense and she appreciates the information. Trustee Dent said, regarding internal control and the project contract, that both of these items came out of the Audit Committee and that at the very least we should have a Trustee associated with those meetings because we looked at it, saw some concerns, and should be keeping on with some oversight as we navigate through those items. He is not nominating himself to do both of these but he would consider doing

one of them as we do need to have oversight because it was a part of the Audit Committee so as you move forward with these, please start with the Audit Committee, then go to the Board and open it up to the whole Board because we do need oversight. Trustee Dent then said that he had a question about the rate/reserve study timeline as we have talked about it so where do you see that? Interim District General Manager Winquest said the goal is in July to reach out to a couple of firms and not go out to Request for Quotation as this is a professional services contract. He will be talking to members of the community, including Mr. Tulloch, as the goal is to have someone retained by the end of the summer. On Moss Adams, that has been delegated to Staff and that Staff has no issues with working with the Audit Committee or the Board of Trustees in establishing what each other's roles are and what it looks like. He will talk to the Director of Finance and the Board Chairman to determine the best way to get the Audit Committee as part of the conversations.

F. REPORTS TO THE IVGID BOARD OF TRUSTEES*

F.1. District General Counsel: Law Firm of Best, Best & Krieger

District General Counsel Nelson said he had no report at this time.

F.2. Board Treasurer Sara Schmitz

Treasurer Schmitz reported the following:

- ✓ Commends the Controller and the Director of Finance in working collaboratively and that come July 1, monthly financial reports will be all inclusive as Staff is building new financial reports that will have capital reports and debt service which will be great.
- ✓ Worked with the Controller on the procurement card report and that they are looking to see how it might be possible to make it public and that Staff needs to figure out the formatting and confidentiality issues which she thinks is great.
- ✓ Had discussions with Legal and Finance on how policies fit together with the Nevada Revised Statutes and Dillon's Rule. In the next Audit Committee meeting, we will have an update from Legal, as the goal is to have something written and to incorporate that into the Trustee Handbook as to what is acceptable and what isn't.

- ✓ Director of Finance and the Controller are both working to determine how opengov can produce all of our reports including bill pay reports as the way it is being done is human intensive and we are humans and we make mistakes. Staff is working with the provider to make use of that tool and have financial reports available in a timely fashion; something will be on the Audit Committee agenda on June 30, 2020.

F.3. Audit Committee Chairman Matthew Dent

Audit Committee Chairman Dent said he had nothing new to report and that he looked at the Audit Committee transition plan and we are running about twenty-two days ahead of schedule so we are meeting expectations on the timeline.

G. CONSENT CALENDAR (for possible action)

- G.1. Review, discuss, and possibly reduce the appropriation in this project by \$121,567 and possibly authorize a unit price contract for the Maintenance Building Drainage, Wash Pad, and Pavement Improvements [budgeted at \$700,000] - 2020/2021 Capital Improvement Project: Maintenance Building Drainage, Wash Pad, and Pavement Improvements; Fund: Community Services; Division: Golf; Project 3141GC1501. Vendor: Cruz Construction, Inc. in the amount of \$425,433 and award a contract change order in the amount of \$50,000 to Cruz Construction for paving at unit prices for a total base construction contract amount of \$475,433 (Requesting Staff Members: Director of Public Works Joe Pomroy and Engineering Manager Nathan Chorey)**

- G.2. Review, discuss, and possibly reduce the appropriation in this project by \$353,910 and authorize multiple contracts for the 2020 Watermain Replacement and Fire Flow Enhancement Project [budgeted at \$990,000] - 2020/2021 Capital Improvement Project: Watermain Replacement – Martis Peak Road Vicinity; Fund: Utilities; Division: Water; Project 2299WS1704. Vendor: RaPiD Construction in the amount of \$456,610 and Tri Sage Consulting in the amount of \$48,480. (Requesting Staff Members: Director of Public Works Joe Pomroy and Engineering Manager Nathan Chorey) *(moved to General Business Item 3.A.)***

- G.3. Review, discuss and possibly approve an item for the 2020/21 Fiscal Year allowing the District to enter into an agreement for media buying services for 2020/21; Venues: Diamond Peak, Championship Golf Course, Mountain Golf Course, Facilities, Recreation Center and Tennis Center; Vendor: EXL Media; Contract Amount: Up to \$265,700 in paid media spending, \$92,000 in trade media spending and \$68,000 in agency fees – a grand total of \$425,700 (Requesting Staff Members: Director of Community Services/Golf Darren Howard and Marketing Manager Paul Raymore) *(moved to General Business Item 3.B.)***

Trustee Morris made a motion to approve the amended Consent Calendar. Trustee Dent seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

H. GENERAL BUSINESS – PART 2 *(for possible action)*

PUBLIC COMMENT WILL BE TAKEN ON AGENDA ITEM H.3.
Limited to a maximum of three (3) minutes in duration

- H.3. Review, discuss, and possibly approve Resolution 1881 – An Emergency Resolution that temporarily limits access to the beaches, located in Incline Village, Nevada known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach, provides for possible occupancy limits, bans pop up tents, provides discretion to limit, restrict and/or cancel any and all group picnic reservations, and provides for a method to make necessary and immediate changes with a communication process to the Board of Trustees - effective date June 24, 2020; end date December 31, 2020 (Requesting Staff Member: Interim District General Manager Indra Winquest)**

Interim District General Manager Winquest gave an overview of the submitted materials. Chairman Callicrate said thank you for what's been a very trying time and that, along with golf, beaches are at the top of the emotional areas. There have always been questions and things have grown thus we do have a great opportunity to go through this tonight. He will be going out to public comment so people will get their voices heard as the Board is not discounting the public as we are all, as a team, involved. This is a one off summer and that is why things may be drastic. We can revisit this in the fall and then see how it goes next summer. Trustee Schmitz said that she appreciates everyone and that she has a clarifying question – she

is under the impression that group picnic reservations are not being allowed and that our Director of Public Works has said that by looking at water and sewer flows, we can see what is going on with occupancy so is it your impression that there are more second homeowners here than is typical? Interim District General Manager Winqest said absolutely yes and that we saw an influx when the virus hit and then again in April and May and that this contributes to the spike. On group picnic reservations, they have been halted until further notice, and that all we are doing is solidifying that in this resolution. We do have some reservations that are less than fifty and right now, he has no interest in creating an environment and yes, there will be some lost revenue, but we have made it clear that it is more about safety and not revenue and that if something changes, we will consider allowing group picnic reservations. Most of the folks that we have had to call understand and have supported our decision. It is our job to look out for public health and safety irrespective of personal feelings. This resolution also sets a precedent for the future by giving us a setting which sets us up for the future. Trustee Schmitz suggested adding b. to paragraph 2. stating that no credit card or cash payment are allowed. Trustee Morris asked if Staff was still using wrist bands? Interim District General Manager Winqest said that Staff is going to wrist band on peak weekends and they will hand them to the guest and require them to be put on before they leave the gate area because it is hard to know without the wrist band. Trustee Schmitz asked how many exchange passes do we have? Interim District General Manager Winqest said that he didn't have an exact answer but that it was somewhere in the neighborhood of two to three thousand which is very typical. The timeshares, when the punch cards roll over, Staff starts the process and about four percent of the total visits are via exchange passes and that they will figure out how to use a punch card. Chairman Callicrate said by not allowing the exchange passes it puts the onerous back on the owners and takes the burden off of Staff. Interim District General Manager Winqest said that Staff has no problem if this is the Board's desire as Staff has been issuing them for over twenty years and they are administratively intense. Chairman Callicrate said that he wanted to bring that out because some folks think it is easy and putting this back to the owners allows them to do what they want to do. Trustee Wong said that she has issues with (3) as the development of the exchange pass is nothing more than the use of a punch card versus a white form which they have to pay for at the gate thus we may need to get rid of the exchange pass or it is an all or nothing meaning the entire value of the punch card in which case the exchange pass is an elegant solution. Another thought would be to maybe limit it to timeshare parcels. Trustee Morris said that the overarching statement is that we clearly

have to come up with a way to give all legitimate owners and their guests access and all five Trustees probably all agree to that statement. In these unknown times, we don't want any unintended consequences and it is wise to limit interactions between different people. What Trustee Wong said can work for him and does anyone have any comments as to the interactions? Interim District General Manager Winqest said that it is very intense early in the summer and that once we have issued most of the exchanges passes to the timeshares, it is not as intense. Some take some as they approach their usage because when he started the no refund policy, it forced them to look at their usage. Staff is happy to do it as we have to treat every parcel equitably. Trustee Dent said of those 3,500, how many are timeshares and how many are residents? Interim District General Manager Winqest said that he didn't know and he would see if Staff could run a report but he would say that probably ninety percent are issued to timeshares. Chairman Callicrate said that is an important distinction because they too have legal rights so we must make sure that everyone who has legal rights, gets them. Trustee Schmitz said that she understands that it is implemented administratively but Ordinance 7 was never updated. If we are trying to be cognizant of Staff, are we being completely equitable with punch cards and if we are going to allow exchange passes, then we need to update Ordinance 7 and have clear written policies and procedures. For right now, let's keep Staff safe and keep expenses down. People have the ability to reload a punch card online and it uses technology which is effective for everyone. Interim District General Manager Winqest said by allowing the use of the punch card, we are being equitable to everyone. Trustee Wong said so that is the same as the punch card? Trustee Morris said he wanted to check that as we are going through this and that, is that we are going to end up with a resolution that is all good and that he wanted to return to Trustee Wong as he is sensing something about (3). Trustee Wong said that she can go either way and that it is clear that the exchange pass is the use of the punch card. Trustee Schmitz said it is not the punch card. Chairman Callicrate said it is the function of the punch card and for the ones that have already been issued, those will be honored. From this point forward, we will continue the suspension of the exchange passes and go strictly to all punch cards. Trustee Morris asked if there was potential to make a motion effective tomorrow or would it be a challenge if we gave everyone some time or does that create a problem? Interim District General Manager Winqest said that we are about to enter the busiest time of the season and it is not business as usual. It would be difficult to allow a period for exchange passes because Staff can't even answer the telephone so it would put a giant additional workload when we need to focus on issuing picture passes and punch cards.

We haven't been able to get back to full Staff because some Staff is not comfortable yet with coming back to work. It takes time to get up to speed and he is reluctant to bring on new Staff which would cause more issues. We have a great Recreation Center counter team which is not an easy job. Staff is ready to do whatever the Board desires and his professional recommendation is the resolution. Trustee Morris said that he doesn't want to put that extra workload onto Staff. Chairman Callicrate said until Ordinance 7 has been fleshed out, he is comfortable with the resolution as written. Interim District General Manager Winquest said that at least 3,000 of the 3,500 exchange passes are timeshares but he suspects it is a little more than that. Trustee Wong asked in any given year how many exchange passes get used? Interim District General Manager Winquest said last year it was just shy of 8,000 and we have 200,000 visits to the beaches. Interim District General Manager Winquest then went over (4) in the resolution. Trustee Dent asked if (4) or any others limit the number of punch cards that someone is able to purchase? Interim District General Manager Winquest said no. Trustee Dent asked if we have any limitations on renewals online? Interim District General Manager Winquest said currently there are no restrictions on the amount you can purchase. We do have an internal policy that once someone reaches three, Staff sends that information to him for approval. We can't restrict it but we do have a conversation with the resident to find out why they need to purchase that much access and it is mostly multiple families that own the property or they are having an event. Trustee Dent said that he didn't ask the question about limiting access but that all of the Trustees received an e-mail so he wanted to answer a question from a group or people in the community and wanted to make sure that there wasn't something he was missing and making sure that we are all on the page with not limiting. Trustee Schmitz said that she had a side bar comment which came from a public comment and that is do you have Staff monitoring things on Craigslist and to Trustee Dent's point, this year is going to give us great data and higher quality data on who is using the beaches. Interim District General Manager Winquest said that he doesn't know specifically about selling punch cards on Craigslist but that there have been two instances where he called them up and he will confirm that there was one posting looking to buy a punch card and that Staff does try to monitor and communicate with folks regarding those posting. Chairman Callicrate said that he received a few e-mails that something was going on about the unbuildable lots in Crystal Bay and access to multiple venues so are people under false impressions? Interim District General Manager Winquest said that he too has heard the same rumors. IVGID has no control over who purchased an unbuildable parcel and that each parcel comes with five

passes. Staff does know about it, deals with it and he will talk with Staff but we can't stop people from buying a parcel in town. Chairman Callicrate said he would like Staff to more closely monitor what is going on to see if we can ascertain if an inordinate amount of punch cards are being purchased. Trustee Morris said that he agrees with most of what has been said, that all of this is probably within their purview, and that he is okay with making this decision that is just restating what already exists and that when we have the Ordinance 7 item, we can have the discussion. Chairman Callicrate said that (4) is okay as it stands and it is clarifying. Trustee Schmitz said that if Staff is seeing something that looks abusive, they should bring it to the Board. Interim District General Manager Winqest went over (5). Trustee Schmitz asked that the sentence "In the event of this happening, the District's website will be updated so that the community will be aware". Interim District General Manager Winqest said at the boat ramp, we are allowing cash or credit card for the boat launch fee or season pass. Trustee Schmitz said that she uses her punch card to launch her boat so why is this any different? Chairman Callicrate said it is the season launch pass. Interim District General Manager Winqest said when you pay twenty dollars for a launch fee, we know that they are okay for getting on the beach and that it is not about access rather it is just about how one is paying for the boat launch fee. Trustee Schmitz asked why is it different because you can refill your punch card so she doesn't know why Staff is taking a different approach? Interim District General Manager Winqest said if that is what the Board wants Staff to do then he is fine with that. Trustee Morris said that he is okay with what is currently happening without any major risk involved. He knows that we have got members who pay to launch and we should be supporting that and while he doesn't know the numbers, he feels okay with the way we are. Interim District General Manager Winqest said that most have season boat passes and there are a lot that use their punch cards. Our Staff knows what is going on down there, they make the best decisions to accommodate and we understand consistency. Chairman Callicrate said if it is working as is, leave it alone. Trustee Schmitz said that her feeling is to be consistent so you don't end up in arguments that way. Trustee Morris said he feels that it is being consistent because we are talking about boat launches and not getting onto the beaches. Interim District General Manager Winqest said paying a boat launch fee has nothing to do with beach access so there is no potential for abuse there. Trustee Morris added that this is why we employ you because it is operational. Trustee Schmitz said it should be documented in Ordinance 7 and that she is trying to make it easier by being consistent. Interim District General Manager Winqest said he understands and that some really good points have been brought up but he doesn't want to argue

the point. Chairman Callicrate said he is comfortable as they are operating and it can be addressed in Ordinance 7. Trustee Dent asked if we knew how much cash or charges are being used versus punch cards? As to consistency, he does see where Trustee Schmitz is coming from and he is indifferent and will go with Staff's recommendation which does make it a bit more confusing but he gets it. Interim District General Manager Winquest said he will get with Staff and let you know Staff's recommendation. Interim District General Manager Winquest went over (6). Chairman Callicrate said that he has noticed, at Incline Beach specifically, random umbrellas to a lot of umbrellas and that he has rarely seen a pop-up. Now that you can pick up pop-up tents so inexpensively, that visually, they are a blight and it looks like a shanty town especially when there is a party of three with an eight-man tent. Real estate is prime down there and this is having a structure that has three sides, you can't see through and is right up at the water's edge so one can't see the lake which is why you are going to visit. If everybody was respectful of one another's space, there wouldn't be an issue. He has heard that folks are glad for the ban and saying that it is a more pleasant experience as umbrellas are different and not as obstructive. If people would like shade, we have natural shade with the pine trees or that they can have an umbrella that is appropriate for the size of one's family. Trustee Morris said that the concept of pop up tents is a worthy discussion and that he has a little problem with the emergency resolution, as someone who has used them, he doesn't see this as preventative and that it is more towards Ordinance 7 where we need to manage pop up tents. As to banning them from being a certain distance from the water, he agrees that the week of July 4 is ridiculous however he is concerned about wrapping this into a COVID-19 resolution. Trustee Dent said that he is indifferent on pop ups, that he doesn't see how it applies to COVID and that he would have a hard time explaining it. He did have a call about restricting pop ups with COVID and technically, he doesn't agree with it even though it went into place two months ago. He also doesn't know if our messaging is clear enough and telling our folks about pop ups. Maybe we could limit the area for pop ups and that a blanket no pop ups because of COVID is just a better discussion for Ordinance 7. He is not belittling what Chairman Callicrate brought up but rather how we take up this action. Trustee Wong said that she too is indifferent and would split the difference by identifying a size or height limit as larger pop up tents would increase the amount of social distancing and that she doesn't know if we are accomplishing what we are trying to do. Chairman Callicrate said that it is not a COVID related situation and we can address it in the fall. Trustee Schmitz said clearly understand the difference with the COVID resolution as pop up tents force people to social distance.

She recalls that something was put in place about pop ups and was there some sort of a rule or is her memory wrong? Interim District General Manager Winquest said that there was a discussion but we never landed with a restriction. The reason why we started out banning pop ups is because we didn't want people to camp out at the beach all day. He would agree that it has nothing to do with COVID but that it does because it causes anxiety with people. If the Board doesn't like and he totally understands what everyone is saying, then maybe there is a compromise. It will always be a challenge for our Staff to control it and it would be harder to put a limit on sizes and that we don't allow anyone to use the sides as we have to be able to see up and down the beaches. On the 4th of July, it is a constant problem. Trustee Schmitz asked if we need to have a rule about being further back from the water especially if there is a safety issue at the water's edge because we should do something if it is an important safety issue then we should try to address it? Interim District General Manager Winquest said he would want a formal policy and yes, it is a partial safety issue and an experience issue. Ordinance 7 is about recreational privileges so he doesn't know if you want to lump it in there. It is a lot easier to change policies versus changing the ordinances. Chairman Callicrate said that he didn't want to encounter any issues with Ordinance 7 and he is concerned about the aesthetics so perhaps we can allow them on the outskirts of the beaches and near the water line. Interim District General Manager Winquest said that residents would like to continue to pay cash or use credit cards for boat launches. Interim District General Manager Winquest then went over (7) and (8) and Trustee Schmitz requested a change as follows: "...efficiently in consultation with the Board of Trustees Chairman, should an emergency require a change to this resolution during its specified time frame, the Interim District General Manager shall work solely in consultation with the Board of Trustees Chairman to make any emergency required changes". Chairman Callicrate said that the Board can make further changes when we do Ordinance 7 and that these are good emergency proposals. Trustee Wong asked that the references to Interim District General Manager be removed. District Clerk Susan Herron drew attention to the footer on the resolution which states that the term Interim District General Manager and District General Manager shall be used interchangeably.

Chairman Callicrate opened the item for public comment.

Frank Wright passed on his opportunity to speak.

Judith Miller said that she has been listening to this and that a lot of what is in here is a reaffirmation of Mr. Winquest's stated abilities and if that is how you are going to handle it, so be it. Short term rentals – she has been trying to get information on this subject matter such as guest access passes, exchange passes and that she would like to know how many daily beach passes have been sold. The beach wrap ups have been very unclear about different categories and short term rentals were a rarity. The vacation rental websites were nonexistent and is a long term rental the same as a short term rental? It is clear that Washoe County isn't going to be doing any restrictions and that they haven't discussed some things so she would really like to know how many daily tickets have been sold. She is disappointed that there has been no discussion about Ordinance 7 and that the deadline keeps getting extended. It is the same story on Ordinance 7 and she hopes that you will get that moving and get it moving soon.

Aaron Katz said that he is opposed to this resolution as it is totally unnecessary, the title says nothing about COVID, has nothing to do with an emergency and why are we wasting our time? The Interim District General Manager has the authority to implement under the beach deed, Ordinance 7, etc. If you don't like what he is doing, then rescind it and if you do like it, don't complain. Take a look at agenda packet 51 as a policy has already been implemented so why do we need this resolution? Every time the Interim District General Manager comes up with a new plan or rule, we have to get a new resolution or a modification so the answer is obviously no, as we don't need it. No disrespect to the Interim District General Manager, but he doesn't believe that he isn't a good manager rather he wants to divert blame to the Board and the short term renters, etc. so that's the reason. If he were a strong manager, he would take the heat. If we are going to go through the effort, then what we need is a guest policy and the beach deed says adopt a guest policy. In the memorandum, under Section III. Alternative, why doesn't it say no. His suggestion is don't waste your time, don't do this, and just say no.

Cliff Dobler says that he has the resolution in front of him and what he finds interesting is that we talk about Resolution 1480, which is not in the packet, and some of this stuff in Ordinance 7, and Ordinance 7 is never mentioned. He wouldn't know where you get some of these terms as it says IVGID Picture Pass Holder and it is Recreational Pass that is in ordinance so you are making up definitions. In (4) it says that parcel owners are able to purchase additional punch cards on their parcels; they just have the ability. In (5) it talks about discretion has to be approved by the Interim District

General Manager, let's hope they talk to the manager. In (7), which is really interesting, limit and restrict, what is the difference and since he doesn't know you need to explain those difference. Resolution 1480 has all of the powers of the day to day operations of the District, as defined, so it would have been nice to have it in the packet and that it sounds dictatorially so it should be in the packet. He doesn't know why the Public Records Officer and the Interim District General Manager are drafting this at all and why is it being drafted by a Public Records Officer; the language is just bad.

Gail Krolick said that she is a twenty-nine year full time resident and the co-owner of Alpine Realty International and that she is speaking as the 2020 Chair of the Public Policy Committee for the Board of Realtors. Ms. Krolick said that she submitted a letter, which is attached hereto, and she then read from that letter.

Linda Canosu, Hyatt Timeshares, said that she would like to reiterate that the Hyatt has sixty units that they pay the Recreation Fee on and that they use the exchange passes. She noted that the Interim District General Manager spoke about having/giving out thousands of them. The Hyatt has asked for five hundred of them and that is all. She is not sure how many others in the community use them and that they are much easier and a more controlled way for them to limit to owners who have the right to go to the beaches. She would really like to use the daily exchange passes which they do not purchase. Ms. Canosu concluded by stating that she would like to continue that usage.

Polly McComby said, in regards to the policies about pop up tents, that the beaches become very overcrowded and that the pop up tents are a distraction to our views. People come down in the morning and set up and then there is nobody there. Perhaps limiting them to a section of the beach or allow them to come to the beaches, set up early in the morning, and then they must actually have someone in the tents rather than block the view of the water.

Chairman Callicrate thanked everyone for their comments and said that the Board has had the opportunity to discuss each of the eight items. Trustee Morris said that he wanted to ask if punch cards are available and that he wanted to clarify that for the Board of Realtors. Interim District General Manager Winquest said that there is no limit on the amount of punch cards that can be purchased. Staff has sold zero daily beach tickets this summer. He finds it very disingenuous and that folks need to understand that we are

managing through this time which is very difficult and that it is because of good governance that this is being brought forth to this Board. District General Counsel, from Hutchison & Steffan, did review this resolution and that he doesn't disagree with a couple of the comments so we can make some changes. Chairman Callicrate said, to another public comment made, this is the first step in Ordinance 7 and it is one of several steps that have been taken on Ordinance 7 for a unique year. Keep in mind where we started and where we are now. At the July meeting, he will be giving a recap of what has been accomplished. That is what this is all about and that he is getting a bit tired of those in our community who are carping and having to continually to recap that these are unprecedented times. Trustee Wong thanked the Interim District General Manager and his Staff for getting information on the fly. Chairman Callicrate said that he agreed and thanked Staff for doing that.

Trustee Morris made a motion to approve Resolution 1881 as amended during this Board meeting tonight. Trustee Wong seconded the motion. Chairman Callicrate asked for any further comments from the Board, hearing none, he called the question and the motion was passed unanimously.

Trustee Morris said that he applauds the Interim District General Manager and the team on doing an outstanding job and figuring out a way; he is doing a fantastic job and so is your team.

Chairman Callicrate, at 7:42 p.m. called for a break; the Board reconvened at 7:55 p.m.

H.4. Review, discuss, and possibly approve a month-to-month extension (not to exceed two months) to Tri-Strategies existing contract for Governmental Relations at a cost of \$3,000 per month; not to exceed \$6,000 (Requesting Staff Member: Interim District General Manager Indra Winquest)

Interim District General Manager Winquest gave an overview of the submitted materials. Chairman Callicrate said he wanted to clarify the status of the Nevada Legislature special session and asked if that has been cancelled? Interim District General Manager Winquest said it has been moved to July 5 we think but that the Governor of Nevada hasn't called it yet. Mr. Eddie Ableser, Tri-Strategies, said that they have been in constant communication with the Governor's team and leadership in the House and

Senate and that what they are hearing is a lot of concern about the property not being equipped when they return to Carson City so Staff is reformatting the open spaces in order to convene. The lobbyists and press will be permitted but only in the viewing areas in the House and Senate. There have been no rules released yet and that he is still hearing that a special session is going to happen on July 5 through the 11 and that it might be extended if they are not able to reach an agreement on the State's budget gap. This is the expected time frame and Tri-Strategies is fully aware of the constraints. Chairman Callicrate said that he wanted to make sure that we are all on the same page and the proviso is that if there is no special session, then these services were not be used. The Board had the opportunity look at the contract and it ends on June 30, 2020 and that he wanted to bring it forward before the eleventh hour. He does know that there are some concerns, Tri-Strategies has been in constant contact with the District and that this was brought forth tonight in the event that a special session of the Nevada Legislature is called. Trustee Schmitz said that the contract that we currently have for governmental relations is two thousand dollars per month and not three thousand dollars' per month so she is not sure why this is increasing? Given this COVID situation, what is it that a lobbyist has the ability to do? If the special session is from July 5 to July 11, then why do we need two months of services? Interim District General Manager Winqest said that the two thousand dollars has nothing to do with the Legislative Session as that is about governmental affairs with other agencies and that this is strictly for the Legislative Session. Mr. Ableser said that the scope of their services changed and as a result, they incur more costs and workload. The cost is a little bit increased so that we can devote our efforts to the District and fully take into account, what they do, is that we are hiring a team like Tri-Strategies because of their ability to transcend relationships with both sides of the aisle. Their job was to respond to the District's request. Mr. Ableser then went over the team that is coming up for the special session and said that this will go beyond face to face visits. They don't know what the Legislature will provide and that they are already meeting with Legislators on the District's behalf and that this will be much more intense in order to ensure that IVGID is protected in backfilling these cuts. They don't know what might happen. There will be a special session in July with follow up in August, then there will be clean up, and then they will come before the Board to see if there is anything that needs to be resolved. Trustee Schmitz said that this is such a monumental problem, the State has a one billion dollar deficit, that she doesn't see how our general improvement district is going to have any impact on the decisions made there. In light of the people she reached out to at the last Board meeting, she doesn't clearly see how

expending this six thousand dollars is going to have any impact on what they are going to decide on the State level. Trustee Morris said that he appreciates Trustee Schmitz' comments and that the Board of Trustees is to look after the assets of the District. We have to judiciously care for our payers of the Recreation Fee and it is important that we do all we can to protect those assets and those fund balances. Given what has been said, it might be six thousand dollars if the session is for an extended amount of time and that the Interim District General Manager would make that decision. This is a small insurance policy as he doesn't know if the State could scoop that up and that he thinks we should do this. Chairman Callicrate said while he was against the initial hire and that was more about how that took place, he feels that now, with the looming threats from the State, we are the ripest of the general improvement districts for any potential takings. Not to be flippant, but this is a serious issue and it would be an appropriate expense should it need to take place. This is a more prudent insurance payment against potential actions by the State. It doesn't put the best light on the State and we are repairing the bridges. He would like to have our team down there as lobbyists who will be able to approach legislators and talk fairly directly to them. While it has been brought up that we have elected officials, they are not always available to us and maybe we haven't reached out enough, but they have their own interests. This is an opportunity to work just for our District and he will be in support of moving forward with this item. Trustee Wong said, in thinking about the worst case scenario, we would be remiss in doing our job, as a Board. We need to be proactive at the Legislature. During the last legislative session, we made the decision too late to get representation which is another something to be cognizant of and that she appreciates us being proactive. Trustee Dent said that he understands the concern of needing representation when the Legislature is in session, understand the services and building the repertoire with the other agencies. If we aren't represented, it could come back to bite us because we won't have a voice to try and prevent an added tax that we might need to do and that potential liability. We need to have some representation and he looks forward to having the discussion. He would feel better with having someone answering to us and reporting back to us on any issues, etc. He is willing to support this while understanding Trustee Schmitz' concerns about spending and that this is more of an insurance policy because we don't know what we are getting into. Trustee Schmitz said that we have been paying two thousand dollars per month and that we haven't gotten any representation and that no one has had any contact with Tri-Strategies so she finds it hard to have them jump in. The biggest confer that is built up is from the Recreation Fee and that she can't support this and she would like

to be careful with every dollar because she is anticipating the COVID situation will continue. Trustee Wong said that the Interim District General Manager addressed the two thousand dollars and that we got a report about all the work that Tri-Strategies has been doing. Trustee Schmitz said that she followed up with people in that report and learned that it didn't seem to be the case, that she can only go by the information that she has gathered and she doesn't feel confident in moving forward. Interim District General Manager Winquest asked that Mr. Ableser be allowed to respond to be fair about the comment made about not meeting with local legislators. Trustee Schmitz said that it doesn't matter and has no bearing. Trustee Morris said that it does matter because Trustee Schmitz is making comments about the entity and they should be given an opportunity to speak. Chairman Callicrate said that Trustee Schmitz reached out to several of the individuals and organizations that Tri-Strategies had referenced to the Board and that she has information that is in conflict or not and that he will give Mr. Ableser an opportunity to speak to that and asked Mr. Ableser if he accepts or declines? Mr. Ableser said that he appreciates the conversation and that there was a scope of work that was given to them, and that was given to them by the former District General Manager, and that they have responded to the District's requests of tracking, monitoring and engaging and that they have submitted a multitude of names and that over a year of that engagement, there have been many elected individuals that they have documented meetings with and that their job was to ensure that they knew the good work that IVGID was doing, the awards that IVGID was winning, and to be a resource to those individuals and ensure that they value the accountability and the integrity of the District. We signed a scope of work and a contract that didn't go to the Board, apologize or not, but that they were a vendor that responded to a call and did so in an appropriate way. They proved that they are very effective, very diverse and that they were able to uniquely inject into both parties and the executive branch. They feel very confident in responding to the wishes that the Trustees might have. Some probably weren't privy to that conversation and every single person and meeting taken was following the scope of work that was outlined. Tri-Strategies is looking forward to doing this work and any new work that is presented by this Board. Chairman Callicrate said that he feels confident moving forward with the new scope of work and that he doesn't want to belabor this item. He respects Trustee Schmitz', her research, and the due diligence she pursues to get to the bottom of all issues and always doing the right thing.

Trustee Morris made a motion to approve a month-to-month extension (not to exceed two months) to Tri-Strategies existing contract for

Governmental Relations at a cost of \$3,000 per month; not to exceed \$6,000. Trustee Wong seconded the motion. Chairman Callicrate asked if there were any further comments.

Trustee Dent said that he wanted to reiterate what he heard and that was that we, as a Board, didn't approve the last contract – not the public relations piece or mingling with other elected officials' pieces and that we didn't support that at all and that it was all done by the last District General Manager. Moving forward, we need to have clear objectives when we bring items on a public relations firm and interacting with elected officials. Chairman Callicrate said that the Interim District General Manager would never do something like that. Trustee Dent asked if the scope of this is clearly defined and does the Board know what they are receiving such as reports, status, etc. because having clear definitions are important. Chairman Callicrate said they are critically important. Interim District General Manager Winquest said that he is happy to work with Tri-Strategies to work on a scope of work. He knows that there are some differences and that he has heard a lot. Mr. Ableser and his team will be able to put together a scope of work that he will then share for feedback. Chairman Callicrate said that is a good tack. Interim District General Manager Winquest asked Trustee Schmitz if that answered her concerns? Trustee Schmitz said that she appreciates it and that if she had seen a clearer scope, she might have been able to support it but that with their past track record and no definition here, she can't support it.

Chairman Callicrate, hearing no further comments from the Board, called the question – Trustees Callicrate, Dent, Morris and Wong voted in favor of the motion and Trustee Schmitz voted opposed. The motion passed.

- 3.A. Review, discuss, and possibly reduce the appropriation in this project by \$353,910 and authorize multiple contracts for the 2020 Watermain Replacement and Fire Flow Enhancement Project [budgeted at \$990,000] - 2020/2021 Capital Improvement Project: Watermain Replacement – Martis Peak Road Vicinity; Fund: Utilities; Division: Water; Project 2299WS1704. Vendor: RaPiD Construction in the amount of \$456,610 and Tri Sage Consulting in the amount of \$48,480. (Requesting Staff Members: Director of Public Works Joe Pomroy and Engineering Manager Nathan Chorey) (moved from the Consent Calendar Item G.2.)**

Engineering Manager Nathan Chorey gave an overview of the submitted materials. Chairman Callicrate said that the concern of some is that the transmission line, addressed in 2018 and abandoned in 2001, is being brought back in as a redundant feature and that it got lumped in so we need a strong overview of why this is being done now, it is a part of our five-year plan, and was it misnamed or not put in there? This gets back to the bigger question which is how we delineate projects in Public Works instead of lumping together projects. We, as a Board, have requested further drilling down so we can track them more easily and so it would help the entirety of the project. We need to make sure that each aspect of our projects are moving along and be able to track them more easily. Director of Public Works Joe Pomroy said that the transmission main that we are dealing with is the original and that it travels all the way to Lariat Circle and that it was also built in the 1960's near Ski Way. This was the original line when Boise Cascade developed the area and that they paralleled, with another watermain, all the way down to Burnt Cedar. Both remained in service until 1990. The steel watermain was subject to leaks and the 24-inch line could provide all the needs of the town. It has long been a desire to get this redundant line in place. When you get to Preston Field, and get water there, we can move it from there. A couple of years ago, there was a leak study done on that pipeline with Pure Technologies. They inserted acoustic technology and discovered a large leak under State Route 28 right at Preston Field. The line is very deep which means digging down through the State highway. Coming out of that design phase, it is then transitioned into the watermain project and there is a project every year which is identified, scoped and added into the watermain group and added to the data sheet. Chairman Callicrate said that is a good overview of what happened. Trustee Dent said that his concern with this project is the cost per square foot. On agenda packet page 277, the plan is to spend \$600,000 per year which is way higher and he understands that things could change but that this is a huge cost to the District over the next eleven years. As we look at this problem, there is a funding problem that is associated with the assets that have been neglected and we need to figure out a way to fund them. When are we going to do the reserve/rate study so we can get ahead of it? On the project summary, we don't know who did it, don't know when it was revised so what good is it to the Board? Staff has to start putting their names to it and we do need a name on this one because we don't know what you are working on and that this is taking a huge step backwards when it comes to project summaries. We need to see who owns it and where we can look up the previous revisions because it doesn't mean anything or show how valid this information is. Mr. Dobler's information seems to be valid therefore he

would appreciate efforts to get these project summaries updated and to what they should look like. He is frustrated that we keep going back to project summaries that are inaccurate. Trustee Schmitz said that she agrees with Trustee Dent. If this summary sheet says we have a fifteen-year plan, then what is the game plan and are you working closely with Washoe County? In looking at the data sheet, the budget is for \$600,000 per year and in looking at the five-year capital summary, she sees it out in 2025 so we need to know what the game plan is year after year and those are her concerns – what is the game plan and do we clearly understand it? Staff has taken a project and added another component to it and she is getting concerned as we are running low, we don't have the funds in the Utility Fund and we don't have a plan in our five-year plan. Director of Public Works Pomroy went over the data sheet and stated that the District has an annual watermain project in the next five years. Trustee Schmitz asked if it was part of this project plan. Director of Public Works Pomroy said yes and four years specifically and that year five is not identified based on leaks and rate of corrosion. This effort was started in 1980 with the replacement of forty-one miles of the watermain over forty years at a cost of twenty million dollars. The District has been very diligent in this replacement for potable water and fire flow. There are over one hundred watermains in the District and we have replaced over forty percent of the watermains over forty years. It has been a diligent effort with sixty miles remaining which are concrete pipe material. Martis Peak has been there for fifty-eight years and the District has gotten the life out of that asset. On the remaining five miles, there have been microphones put on these pipes to try and determine which are the worst sections and that constantly changes. We update the list and then figure out how we can group them. We mobilize and work on these three pipelines so as to not have traffic problems. We still have more pipes to replace and then we will move to Slott and Alder which have been very much targeted to replace as we have a much higher confidence in concrete. The twenty million dollars is in actual dollars and it is a robust program. We have been waiting for Washoe County to say they will repave Lakeshore so yes, we really coordinate with Washoe County but they aren't doing overlays in this town. Trustee Schmitz, referencing agenda packet page 481, said that it looks like this was supposed to be complete in 2017 so how many are outstanding and what is left? Director of Public Works Pomroy said that the steel watermains all need to be replaced and that through 2017, we didn't have major replacements. We have five miles left which are the biggest pieces and they are listed with most of them having a very small amount of leaks.

Trustee Morris made a motion to:

1. Reduce the appropriation in the project by \$353,910 which will result in a new lower project budget (amending our FY2020-21 budget and Five-Year CIP) and the \$353,910 returns to Utility Fund balance with no risk that it remains “available” for other projects later this year without Board action to re-appropriate.
2. Award unit price contract to RaPiD Construction in the amount of \$456,610 for the Watermain Replacement – Martis Peak Vicinity project.
3. Authorize Chair and Secretary to execute the contract with RaPiD Construction based on a review by General Counsel and Staff.
4. Authorize Staff to approve change orders to the construction contract for additional work not anticipated at this time of up to 10% of the project bid – \$46,000.
5. Authorize Staff to enter into an Additional Services Addendum with Tri Sage Consulting totaling \$48,480 for services during construction of the project.
6. Have a project recap agenda item at the first meeting in November of 2020 of the Board of Trustees.

Trustee Wong seconded the motion. Chairman Callicrate asked for any further comments.

Trustee Morris complemented the Director of Public Works and the Engineering Manager for the background that was provided as it really helped. Trustee Dent said thank you to the Director of Public Works for the detailed explanation and how these projects are in the five-year plan and asked that a better job be done with the project summaries.

Hearing no further comments from the Board, Chairman Callicrate called the question – the motion was passed unanimously.

Chairman Callicrate asked Staff to do a better job on the summary sheets and to do a better job of telling how everything fits in as well as the history.

- 3.B. Review, discuss and possibly approve an item for the 2020/21 Fiscal Year allowing the District to enter into an agreement for media buying services for 2020/21; Venues: Diamond Peak, Championship Golf Course, Mountain Golf Course, Facilities, Recreation Center and Tennis Center; Vendor: EXL Media; Contract Amount: Up to \$265,700 in paid media spending, \$92,000 in trade media spending and \$68,000 in agency fees – a grand total of \$425,700 (Requesting Staff Members: Director of Community Services/Golf Darren Howard and Marketing Manager Paul Raymore) (moved from the Consent Calendar Item G.3.)**

Marketing Manager Paul Raymore gave an overview of the submitted materials. Trustee Wong said that she appreciates the change in the mix between cash and trade from the 2019/2020 budget. The question is always asked about why are we spending money on marketing. When we have venues like a ski resort and golf courses that compete with other similar entities that have much larger marketing budgets, and while our primary audience are our residents and picture pass holders, it is our guests who come into our community who pay. It is the tourists who do come in and help support the rest of the recreation we have. She doesn't think that we are going to have the summer like in the past and it remains to be seen for ski. Trustee Wong concluded by saying that she appreciates the increase in trade, appreciate the cash and the work that everyone has put in. Trustee Morris said that he wanted to tag on to Trustee Wong's comments and that it was definitely always stated, as a Trustee and a resident of the District, that he likes that his pass is so much cheaper at the ski resort because of those who pay higher as it is at golf. We offer highly competitive rates to our local pass holders and that is a direct result of our ability to attract top dollar payers to come in and that it is money well spent. One of the challenges with marketing is that it may not be the next season if we weren't to spend these dollars. It is easier to keep a customer than recoup them and for Diamond Peak and golf, it is money we should be spending. Trustee Schmitz asked, as it relates to the agency fee, is it tied to the percentage of the spend or is it a flat fee? Marketing Manager Raymore said it is not tied to the amount we spend rather it is an intentional choice. We have opted not to do that rather it is based on our best guess of services to be provided and the reason we prefer that method is because it collates with the services they are providing rather than the spend. The relationship with EXL Media is a partnership that is working hard to make sure every dollar spent is as efficient as possible. This proved valuable during the pandemic with halting

all the golf advertising and all the tennis center advertising as it is a lot of work on their part. Additionally, they backed out of the golf billboards. Trustee Schmitz said, so the short version is, the agency fee is a flat fee and that it doesn't get changed if we scaled back? Marketing Manager Raymore said yes, that's right. Trustee Schmitz said that she is an avid skier and that she has been paying attention to what Vail has been doing. They have reduced the capacity of their ski resorts to fifty percent, can only ride a chair with family member, and asked to bring your lunch because of capacity limits. In trying to limit this, she does understand the value of marketing Diamond Peak but given the whole COVID situation and what she is seeing happening in Australia, we shouldn't be spending these types of dollars. She talked to Staff who is trying to put together some models for operational expenses as we are not out of the COVID woods and in trying to be very conservative, we really do need to question the dollars given this year with the situation the way it is and question even the recreation. If we are going to go forward with any marketing, we need to reduce the budget. Marketing Manager Raymore said that there is a lot of uncertainty especially in the ski industries and all are looking at what the southern hemisphere is doing. It is very, very hard to predict what will happen and positioning the resort to marketing. All of these dollar figures are the upper limits. It could be similar to what we are doing with the golf courses which is shut it off because we are at capacity. Staff does work with EXL to cut off advertising. Trustee Schmitz said that is why she is asking about the agency fee and do we pay that whether we scale back or not. She is very concerned about our financial situation going forward with COVID continuing and that she is not sure that this is the right type of monetary expenditure for our parcel owners. Marketing Manager Raymore said that with the agency fees, we are making changes on a weekly basis and EXL Media is working harder for their money in the spring and that as we go forward, that is going to be the case for the winter. Because they are a long term partner of ours, they use all our venues, are a business in Incline Village, it is just invaluable to have that service. Interim District General Manager Winquest said that this is a great discussion and that he does agree with Trustee Schmitz in that this coming season is going to be tricky because we don't know what is going to happen. We have made some changes in Marketing and they are now running with two members so we have less bandwidth. There are a lot of the dollars that are spent especially for golf that are slated to be spent in the second half of spring and he wants to make sure that we all understand that. A lot of this money is as we gear up and we could be in the COVID situation no one has a crystal ball. Trustee Morris said, with that in mind and with Trustee Schmitz' line of questioning, is this a fixed price contract and if we don't do

something are we still committed to spending that money? Interim District General Manager Winqest said as soon as COVID hit, we cancelled most of the spring marketing and that would be the case if Diamond Peak wasn't going to open and Staff has discussed that with EXL Media. Marketing Manager Raymore said that the only commitment is the agency fee portion and that the cash and trade value, if we decide we don't need any marketing, can be skipped if we want to. Given what we know about Diamond Peak midyear, there will be capacity so there will be some opportunities to use marketing funds to fill that need. What we are looking for is the flexibility with these as upper limits and to market as appropriate. We are relatively conservative against other ski resorts and golf courses, happy where we are at, fits with the tasks of what we are to do and that is bring in guests to fill in at the higher rate. Trustee Dent asked what would happen if we were just to cut our media buy by fourteen percent? Why not cut it by twenty-five percent because how do we know how valuable this is? While he doesn't know how correlated it is, we dropped it by fourteen percent a few months ago and people are playing golf and going to the beaches. He understands that Diamond Peak is a lot different and that it is more of a Wal-Mart because we are the cheapest so he is kind of torn. Please sell him on why not to have a twenty-five percent reduction in our marketing. Marketing Manager Raymore said that it depends on where we want to be. Take Diamond Peak – we could spend more and attract higher yielding customers and turn it around from the low price leader as there are other markets out there. We have found our niche and we do our best to do an ROI and can share the results. Diamond Peak is where we get the most data. We take our customer data and ask how they heard about Diamond Peak and what influenced them to come to the resort. We then list the options and then take those numbers and multiply that by the average yield and profit per skier visit. Then, by channel, we come up with a marketing analysis – all paid advertising programs were \$3.9 million and profit was \$1.3 million; billboards were \$76,794 cash trade value combined and the total revenue is \$638,000 for a total profit of \$206,000.; Staff works hard to get this information. Trustee Dent said thank you for that information and that he would like to see a reduction. It wouldn't be something that we could measure being it is a pandemic but he feels we should do something but that he doesn't know what the answer is. Trustee Schmitz asked if we reduced it by fifty percent will there be any reduction in the agency fee or does it stay? Marketing Manager Raymore said that is a drastic cut of the total budgeted paid and that Staff would look to renegotiate the scope of services that we contract for. At the current spending proposals, this is a fair and great deal for the agency fees. If we were to cut it by fifty percent, he would have to look at the

reduced scope to simplify and reduce the reporting followed by coming back with a revised contract. Chairman Callicrate said that we have just spent forty-five minutes discussing a very critical item and that this isn't personal as his decisions are based on our fundamental difference on marketing.

Trustee Morris made a motion to authorize Staff to enter into an agreement (prior to the start of the Fiscal Year 2020/21) with EXL Media for 2020/21 Fiscal Year media buying services for Diamond Peak Ski Resort, the Incline Village Golf Courses, Facilities and the Recreation and Tennis Centers for a total amount of up to \$425,700 consisting of \$265,700 in paid media spending, \$92,000 in trade media spending and \$68,000 in agency fees. Trustee Wong seconded the motion. Chairman Callicrate asked if there were any further comments.

Trustee Wong said that she would appreciate, regarding the dollar threshold of work with EXL Media, to have some savings on this approved contract and recognize that this is the upper threshold and that coming in lower would be great. Trustee Dent said that he would like to see something less than the \$425,700, he would like to see a reduction, and for Staff to find a way to cut back and get the same services as the data isn't going to be relevant because of the variables.

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

Chairman Callicrate asked that Staff come back around on this item. Interim District General Manager Winquest said that understands the disappointment and not to lose sight that the reason that Diamond Peak has been very successful is because of the marketing. Chairman Callicrate said he is not faulting anyone in the Marketing Department but that we have to look at a reduction so go back and renegotiate a contract. While we don't know, we do have to be more prudent and that it has to be less than what we spent in years past. Don't give up hope rather this is just a situation and a reset in this arena. Come up with something that is less and keeps us relevant because he is optimistic. We feel that this was the right thing to do and thank you for the hard work you put in even though we have a disagreement.

I. APPROVAL OF MINUTES (for possible action)

I.1. Meeting Minutes of Regular Meeting of May 19, 2020

Trustee Schmitz asked District Clerk Herron is she was able to get legible pages from Ms. Profant? District Clerk Herron said that she has requested them again and they have not yet been submitted.

Chairman Callicrate asked for changes, none were received, the minutes were approved as submitted.

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

There were no Board updates at this time.

K. PUBLIC COMMENTS*

Judith Miller said that she has some observations to share. Thank you to Trustees Schmitz and Dent for their careful review of the watermain replacement project. The discussion about Tri-Strategies shows that developing a scope of work afterwards is the proper way it should be done. There is an opportunity for better communication on the watermain project and that she agrees with the Interim District General Manager in that there is a lot of misinformation on social media. She did do a search for exchange pass and nothing relevant appears. She would like to make a couple of communication suggestions – update the website content and provide a better search engine, revise Ordinance 7, get rid of punch cards and complicated constructs, define guests, and form a committee while we have so many residents present. Hope one of you will make a recommendation to put it on the agenda.

Aaron Katz said he wasn't going to speak but he is going to talk about EXL Media. Staff has zero metrics – zero, zero, zero. Did you listen to him on the billboards – you have to be absolutely out of your mind to determine that. He should make a public records request but Staff will respond that we have no records because they don't exist. You don't listen to me. The only powers that a GID has are those that are in 318.116 as granted by the Washoe County Commissioners. Take a look at 116 and do you see anything that a GID has the power to legislate, etc., no, and that is because we are basically

a mosquito district. So what is a mosquito district doing hiring a lobbyist; you have to be out of your minds. What monies are you using? The Rec Fee and what did you tell us it is for – using the recreational venues. It is absolutely ridiculous to be telling the legislators what we are – you have got to be kidding.

Cliff Dobler said that it is getting close to seven hours and that he wants to mention something that really bothers him. The resolution was done by the Interim District General Manager, Public Records Officer and reviewed by the lawyer. The lawyer suggests the changes and then it is prepared by the Public Records Officer. If you get some changes, what are the duties of the lawyer that are terminated and this one that is present here? How can you make changes – he has never seen that. He would like to see a meeting and an agenda with a little more information as there is plenty of space. Add a little more information because you don't have to have that brevity so no one knows about it so he would like to see that improved. You have done a good job guys at seven hours and good luck to you all.

Frank Wright said he is a candidate for the Board. It has been a long night and he has listened to everything. He would like to make a few comments on the Tri-Strategies item. He did some homework and called about their connections. Three legislators didn't know of them, some of them have seen them walk through, but they have no clout therefore it is a waste of money. The former General Manager left us this albatross around our necks. He would like to be shown where they are bringing in the extra skiers because we exposed EXL Media with the billboards on the Bay Bridge and that was a waste. You have got to listen to those people who are coming forward and trying to sell things to us. They are bringing this sickness with them and making your residents sick. There is no need for this because of social distancing because you can't fill it up with people. We need to get over this virus and we are the Wal-Mart of ski areas as Trustees Callicrate and Dent said. You are doing really, really well and he would like to praise you on that part. It is interesting to see those things and you got it right on the Audit Committee so good job.

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

Interim District General Manager Winquest went over the long range calendar.

M. ADJOURNMENT (for possible action)

The meeting was adjourned at 10:06 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 (1 page) IVGID June 23, 2020 Board of Trustees Meeting, Public Comment by: Margaret Martini – To be included with the Meeting Minutes

Submitted by Carole Black (1 page) Public Comment for IVGID Board of Trustees Meeting June 23, 2020, Agenda Item H3

Submitted by Gail Krolick (2 pages) Incline Village Realtors letter dated June 23, 2020

Submitted by Paul E. Smith (2 pages) Comments at June 23, 2020 MTG

Submitted by Aaron Katz (5 pages): Written statement to be included in the written minutes of this June 23, 2020 regular IVGID Board meeting – Agenda item H(4) – Possible extension of Tri-Strategies' legislative lobbying contract at a cost of at least \$6,000 to protect the threat of loss of our excess fund balances caused by Staff's/The Board's misrepresentation(s)

Submitted by Aaron Katz (7 pages): Written statement to be included in the written minutes of this June 23, 2020 regular IVGID Board meeting – Agenda item C – Public Comments – Resolution 1492 – Evidence of an additional giveaway power the Board needs to repeal in addition to the repeal of Resolutions 1619 and 1701

Submitted by Aaron Katz (14 pages): Written statement to be included in the written minutes of this June 23, 2020 regular IVGID Board meeting – Agenda item G(3) – It's time to end our media buying contract with EXL Media!

Submitted by Aaron Katz (7 pages): Written statement to be included in the written minutes of this June 23, 2020 regular IVGID Board meeting – Agenda item H(3) – Emergency Resolution 1881 which temporarily limits access to and conduct at the beaches

Submitted by Aaron Katz (18 pages): Written statement to be included in the written minutes of this June 23, 2020 regular IVGID Board meeting – Agenda item C – Public Comments – Because the Board’s resolution(s) adopting the Recreation (“RFF”) and Beach (“BFF”) facility fees deprive assessed parcel/dwelling unit owners due process, the Board must adopt a policy which affords them an administrative remedy to seek refund

IVGID June 23, 2020 Board of Trustees Meeting

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

Independence Day is just 11 days away. Imagine if this Board began now to exercise independent judgement and started our new fiscal year with responsible management and oversight.

As a long term property owner and resident actively involved in improving our community, I can attest first hand to the remarkable individuals volunteering to serve on the Audit Committee. Mr. Dobler, Mr. Aaron and Ms. Miller collectively possess the required auditing, financial, accounting, business, project management, internal controls, and IT skills to positively impact our District and benefit everyone who lives, works, recreates and invests in our community. Please invite them to join this Committee and assist this Board in effectively fulfilling their statutory and fiduciary responsibilities.

Take the next step and vote against the extravagant spending for advertising our recreational venues. There shouldn't be a single dollar spent on bringing visitors here to use our facilities at a time when caution must prevail to protect our community's health and safety. As for the future, until Staff can prove the value of each dollar spent on advertising has resulted in a net profit at all of the recreational venues being advertised and there is a reduction in property owner subsidies for those venues, budgeting for advertising should come to an end.

Whether it is \$6,000 or \$72,000 of spending, we do not need to engage Tri-Strategies for lobbying or anything else. You are stewards of our public money and conservation of our capital for essential spending should be your first priority.

It is also time for you to take a hard look at Ordinance 7. There is absolutely nothing in this Ordinance that permits the issuance of daily beach access passes, guest passes, exchange passes or anything other than picture passes and punch cards. Yet these and other unapproved policies for undefined "guests" to use our beaches prevail. Until you approve and publish a written policy that specifies the use of all of our recreational venues and beaches by property owners, tenants, commercial properties and others, please follow the existing Ordinance.

Public Comment for IVGID Board of Trustees Meeting June 23, 2020 ,
Agenda Item H3

Submitted by Carole Black, Incline Village resident & retired physician

In the face of the current Coronavirus epidemic, IVGID's Emergency Resolution limiting access to the IVGID beaches is an important intervention to foster compliance with health officials' social distancing recommendations. As you know, our current lines of defense against infection with associated morbidity and mortality risk remain very limited, primarily including social distancing, hand-washing, appropriate sanitizing, face coverings, limitation of shared use items, etc. and public health interventions: testing, contact tracing, quarantines.

Thus, since this epidemic shows no signs of self-limiting, with current case #'s increasing, & given current longer-term predictions, the resolution's extension is truly the only prudent option & preferably through 2021.

In addition, I would strongly suggest that current restrictions be increased as follows: Limit busy season beach access to allow only picture pass holders & limited guests = maximum 2/picture pass holder via punch card & only when accompanied by the picture pass holder.

Rationale: Observing the recent huge influx of vehicles adjacent to beaches, the current restrictions are creating circumstances where reliable social distancing cannot be assured & either this type of restriction or overall occupancy limits will be required. This recommendation allows maintenance of access to these amenities by more residents for whose exclusive use they are dedicated per governing documents.

And, if not already in place, please also consider:

- Eliminate access to shared use beach/pool items/settings (lawn chairs, picnic tables/benches, playground, volleyball, etc.) unless sanitized or otherwise safe-guarded between users if indicated per public health recommendation
- Designate social distanced "use spaces" on the beach property as implemented in some beaches/parks elsewhere
- Require face coverings when not in or on water (particularly if upcoming CDC recommendations strengthen recommendations based on science/data)

Until effective treatment and/or immunization is available or the virus miraculously "self-moderates", restrictions will need to be appropriately modified over time based on public health recommendations & evolving viral situation – thus the regulation should allow for timely appropriate changes.

Thank you.



June 23, 2020

Chairman Callicrate and IVGID Trustees:

The Incline Village REALTORS® (IVR) support the health and safety of all residents and guests of Incline Village and Crystal Bay. IVR appreciates the efforts that IVGID has taken to follow the CDC recommended guidelines to address COVID-19 safety.

We have reviewed the draft provisions laid out in Resolution 1881 addressing temporary changes to beach access during the COVID-19 pandemic. We understand this Resolution will expire on December 31, 2020. IVR appreciates the opportunity to provide comments and suggestions on Resolution 1881 regarding beach facility operations under COVID-19.

Contactless Payment

As an effort to maintain social distancing and understanding the transfer of money increases the risk of contracting Covid-19, IVR suggests finding a solution to offer contactless payment via a credit card tap system or other electronic means.

Online Renewals

REALTORS® believe that limiting a property owner's use of their property in *any way* is taking away of private property rights. Resolution 1881 limits access to owners by limiting the number of punch card passes available to purchase to five (5). IVR suggests that IVGID allows owners to renew punch cards online in an effort to allow owners and guests to maintain distance and provide contactless payment to better protect recreation staff.

Pop-Up Structures

As Resolution 1881 addresses concerns relating to COVID-19, IVR requests further clarification on the attempt to ban pop-up structures as a sun protectant on the beach. The REALTORS® are unsure how this ban has a direct impact on preventing transmission of COVID-19 or how it directly relates to health, safety and social distancing concerns.

Herron, Susan

From: peseps@aol.com
Sent: Tuesday, June 23, 2020 9:47 AM
To: Info_at_IVGID
Subject: June 23 IVGID meeting testimony
Attachments: COMMENTS AT JUNE 23, 2020 MTG.docx

**Please submit the attached testimony for the record.
Please also register my objection to meeting times in the middle of the afternoon.
5 p.m. allows most people to listen in or attend while 3 p.m. breaks into work, appointments,
and normal business activity. Just because the meetings are virtual does mean they should
be held at times during normal business hours.**

Paul E Smith
930 Tahoe Blvd.
#802-557
Incline Village, NV. 89451
peseps@aol.com
775.833.2509

COMMENTS AT JUNE 23, 2020 MEETING OF IVGID BOARD OF TRUSTEE'S

My name is Paul Smith and I live in Tyrolian Village.

Three points that I would like to make on three agenda items.

1. Media Advertising

\$425,700 to promote Incline as a resort destination is money spent to degrade the enjoyment of IVGID assets by the owners of those assets; we the resident taxpayers. The recent report on high golf course use is a good example of why advertising is not needed; the golf course revenue is ahead of last year at this time.

Use the \$425,700 to improve the experience and service for Incline/Crystal Bay residents and, believe me, the word will get out via social media and travel reporters.

Note that the commission of \$68,000 represents 19% of the net advertising. A normal placement fee is more like 15%.

Please deny this contract. Instead try at least one year of zero advertising expense from public monies. Private parties can spend or the transient accommodation monies received from Washoe County should be used instead.

2. Resolution 1881

Keep this simple and local. No entry to the beach without the person having an IVGID picture pass and for guest who are accompanied by a picture pass holder. Punch cards should only be good if a picture pass holder is bringing in the guest. In an emergency situation (like the Covid 19 situation); keep IVGID venues limited to picture pass holders and their accompanied guests only.

3. Tri Strategies

Instead of paying \$3000/month to this firm; insist that our state Senator and State Representative keep us informed and lobby on behalf of GID's in general but IVGID in particular. The least we should be able to expect from our elected representatives is that they keep us informed and work on our behalf. My bet is that they would be pleased to attend the Trustee meetings and give full reports and opinions.

Thank you.

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 23, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(4) – POSSIBLE EXTENSION OF TRI-STRATEGIES’ LEGISLATIVE LOBBYING CONTRACT AT A COST OF AT LEAST \$6,000 TO PROTECT THE THREAT OF LOSS OF OUR EXCESS FUND BALANCES CAUSED BY STAFF’S/THE BOARD’S MISREPRESENTATION(S)

Introduction: For some time I and others have objected to the Board’s practice of increasing our Community Services and Beach Fund balances¹ funded in large part by excess Recreation (“RFF”) and Beach (“BFF”) Facility Fees to provide a “slush fund” for future unidentified, un-budgeted, and un-appropriated “pet” capital projects. Because staff now warn that the State may take our excess fund balances to solve its budget problems, they propose “the best insurance policy (we) c(an) purchase”² is to extend our public relations/Legislative lobbying contract with Tri-Strategies. I disagree, object, and that’s the purpose of this written statement.

Community Services and Beach Fund Balance Levels: At the IVGID Board’s May 19, 2020³ and May 27, 2020 meetings, I submitted written statements which documented the steady “creep” up/increase in our Community Services and Beach fund balances. For instance, I documented that on June 30, 2011 the unrestricted balance assigned by staff to the District’s Community Services Fund was \$4,226,167⁴. Yet as of June 30, 2020, staff had estimated this fund’s balance would total \$12,360,444⁵ [a \$8,134,277 increase (on average, \$903,808.56/year) in nine (9) short years]. Similarly, I documented that on June 30, 2011 the unrestricted balance assigned by staff to the District’s Beach Fund was \$1,177,762³. Yet as of June 30, 2020, staff had estimated this fund’s balance would total \$2,159,282⁶ [a \$981,520 increase (on average, \$109,057.78/year) in nine (9) short years]. Both of

¹ “Fund Balance” is defined in our budgets as “the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes” [see page 159 of the 2019-20 Budget (https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf)].

² See page 553 of the 6/23/2020 Board packet.

³ See page 586 of the packet of materials prepared by staff in anticipation of this June 23, 2020 meeting [“the 6/23/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf)].

⁴ See page 25 of the Comprehensive Annual Financial Report (“CAFR”) ending June 30, 2011 (“the 2011 CAFR”).

⁵ See page 24 of the packet of materials prepared by staff in anticipation of the Board’s May 7, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-7-2020_Workshop_Packet.pdf] (“the 5/7/2020 Board packet”).

⁶ See page 25 of the 5/7/2020 Board packet.

these June 30, 2020 fund balances were much greater than Board Policy 7.1.0⁷ recommends as appropriate fund balance levels.

What Staff and the Board Have Represented to Local Parcel/Dwelling Unit Owners Their RFFs/BFFs Allegedly Pay For That Have Nothing to Do With Accumulating a Greater Than Required Fund Balance: Again referring to the top of page 593 of the 6/23/2020 Board packet, each year when the Board adopts new RFFs/BFFs it approves a report for their collection on the county tax roll⁸ (see NRS 318.201, et seq). ¶III of that report declares the amounts the Board finds are allegedly “required...for the proper servicing of...identified bonds and...the administration, operation, maintenance and improvement of said real properties, equipment and facilities.” Here the operative word is “required.”⁹

How Staff and the Board Have Allowed the Balances in the District’s Community Services and Beach Funds Creep Upwards to Excessive Levels: At the Board’s May 19, 2020 meeting I explained how the fund balances in these two funds were allowed to increase to their excessive estimated June 30, 2020 levels¹⁰. In a nutshell, techniques which demonstrate these amounts are *NOT* required which is contrary to the Board’s representations. Namely,

1. Intentionally budgeting higher than necessary RFFs/BFFs to pay for the servicing of “virtual bonds” which only exist in cyberspace rather than in the real world (i.e., “smoothing”). In other words, retired recreation general obligation bonds;

2. Intentionally budgeting for capital improvement projects (“CIPs”) staff know they will never prosecute or perpetually carry-forward and in essence never prosecute (a good example being the Diamond Peak Master Plan). However since these CIPs are funded, these budgeted monies become part of the fund balance;

3. Intentionally estimating CIP costs at excessive amounts guarantying excess budgeted sums after project completion which get swept into their respective fund balances: and,

4. Intentionally budgeting for expenses staff anticipate will never be incurred. But since they too are funded and part of past years’ RFFs/BFFs, from assessed local property/dwelling unit owners’ perspective, they might as well have been incurred/spent because they’ve been paid.

⁷ See page 19 at https://www.yourtahoepalace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf.

⁸ See pages 48-57 of the packet of materials prepared by staff in anticipation of the Board’s April 14, 2020 meeting [https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular-4-14-20.pdf (“the 4/14/2020 Board packet”)].

⁹ Since staff and the Board have been intentionally accumulating sums in excess of those “required,” and the source of those excesses are the RFF/BFF, the RFF/BFF have been *more* than was required.

¹⁰ See pages 586-587 of the 6/23/2020 Board packet.

Now Listen to Staff's Dire Warning Insofar as the Possible Fate of These Excess Fund Balances:

At page 552 of the 6/23/2020 Board packet our interim General Manager warns as follows:

“On...June 16, 2020, State of Nevada Governor Steve Sisolak...announced that he was going to call a special Legislative Session to discuss the State’s budget deficit...One of the items brought to our attention is the possibility of a sweep of funds/fund balances...held...in their reserves...from local governments.”

In other words, because IVGID has intentionally accumulated excess fund balance reserves contrary to representations made to those who have been assessed, they are now at risk because of the State’s dire need, and an unintended consequence of staff’s wrongdoing.

Besides the Possible Loss of These Excess Fund Balances, Staff Propose We Pay Up to an Additional \$6,000 in “Protection” Monies With Tri-Strategies: Notwithstanding GIDs have no power to influence legislation or lobby the Legislature, our GM proposes we continue to unnecessarily pay Tri-Strategies \$3,000 per month [what staff refer to as “the best insurance policy...the District c(an) purchase during these uncertain times”²] to:

“Advocate/fight against any sweep of funds/fund balances of the District.”²

But IVGID Has No Power to Furnish Public Relations/Legislative Lobbying Services: We’ve had this discussion before¹¹. According to the Legislative Counsel Bureau, “the purpose of...general improvement districts (‘GIDs’) is to provide municipal-type services to an area which needs them, but which may not need or want the full range of services implied by incorporation. (Thus) GIDs are most effectively used where it will be necessary to carry out ongoing operation and maintenance of a (particular) facility or service.”¹² Given GIDs are creatures of County Boards of Commissioners [“County Boards” {see NRS 318.015(1) and 318.075(1)}], the *only* “basic powers” they may exercise¹³ are those *expressly included* in their initiating [NRS 318.055(4)(b)] or supplemental (NRS 318.077) ordinance(s) with the *proviso* those powers be “one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter (NRS 318) designated therein.”

¹¹ Go to pages 154-156 of the packet of materials prepared by staff in anticipation of the Board’s May 10, 2017 meeting [“the 5/10/2017 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-10-17.pdf)] as well as my written statement attached to be attached to the minutes of the Board’s June 10, 2020 meeting addressing Tri-Strategies costs.

¹² See ¶II at page 1, Background Paper 83-4, General Improvement Districts, at <https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP83-04.pdf>.

¹³ Since “*all of such statutes...constitute a grant of power to certain boards and governing bodies, and (they) are a deprivation of powers and privileges in respect to the individuals residing within the affected areas...(they)...must...be strictly construed, to include no more than (the) Legislature clearly intended*” [see A.G.O. No. 63-61, p. 103 (August 12, 1963)].

But NRS 318.116 Does Not Recognize the Basic Power to Lobby/Influence State Legislation as a Legitimate GID Basic Power: Take a look for yourself¹⁴! Moreover, even if such power were recognized in NRS 318.116, since there is no question IVGID has never been granted this power by the Washoe County Board as NRS 318.055(4)(b)¹⁵ mandates, insofar as IVGID is concerned, *the power does not exist!*

Dillon's Rule: Moreover still, since “Nevada is considered a state without home rule...(local) governments generally have *only* those powers that are (expressly) granted to them by the Legislature ...(because) without home rule, the general application of ‘Dillon's Rule’ *limits* the powers of counties, cities...towns”¹⁶ and here, IVGID. In other words,

“[A] municipal corporation¹⁷ possesses and can exercise the following powers *and no others*: First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; (and) third, those absolutely essential to the declared objects and purposes of the corporation—*not simply convenient, but indispensable.*”¹⁸

Since there has been no express grant in NRS 318 of the power to lobby the Legislature, insofar as IVGID is concerned, this power does *not* exist.

To Grant Staff's Request Would be “Improper Governmental Action” as a Gross Waste of Public Money: NRS 281.611(1)¹⁹ defines “improper governmental action (a)s any action taken by a... local governmental officer or employee in the performance of the officer's or employee's official duties, whether or not the action is within the scope of employment...which is:

- (a) In violation of any state law or regulation;
- (b) If the officer or employee is a local governmental officer or employee, in violation of an ordinance of the local government;
- (c) An abuse of authority;
- (d) Of substantial and specific danger to the public health or safety; or
- (e) A gross waste of public money.

¹⁴ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec116>.

¹⁵ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec055>.

¹⁶ See *Ronnow v. City of Las Vegas*, 57 Nev. 332, 343, 65 P.2d 133 (1937) [go to <https://www.courtlistener.com/opinion/3569018/ronnow-v-city-of-las-vegas/>].

¹⁷ GIDs are quasi-*municipal* corporations [NRS 318.015(1) and 318.075(1)].

¹⁸ See page 5 of that April 2014 Legislative Counsel Bureau Research Division Policy and Program Report on State and Local Government (<http://www.leg.state.nv.us/Division/Research/Publications/PandPReport/19-SLG.pdf>).

¹⁹ Go to <https://www.leg.state.nv.us/nrs/NRS-281.html#NRS281Sec611>.

Because of (a), (c) and (e) above, staff's request is improper.

Conclusion: *Dillion's Rule* instructs that if there be any doubt as to whether a local government may legitimately exercise a particular power, that doubt must be resolved *against the exercise of that power*¹⁶. Although I do not believe there to be any doubt, assuming *arguendo* there is, whether it is appropriate the District to lobby the Legislature on the Board's behalf for/against proposed legislation, that question must be resolved *against IVGID*. I urge the Board to stop staff from wasting local parcel owners' RFFs/BFFs on "pie-in-the-sky" endeavors such as this one, it has no power to pursue. The fact it is our staff and prior Boards which have gotten us into the pickle we face, makes no difference.

Finally, staff typically offers the Board alternative proposals, one of them being to do nothing at all. Yet here, conspicuously, that option is missing. Notwithstanding, that doesn't stop the Board from *not* extending Tri-Strategies' contract.

And to those asking why your RFF/BFF are as high as they are, never seem to be reduced, now you have another example of the reasons why.

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

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 23, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENTS – RESOLUTION 1492 – EVIDENCE OF AN ADDITIONAL GIVEAWAY POWER THE BOARD NEEDS TO REPEAL IN ADDITION TO THE REPEAL OF RESOLUTIONS 1619 AND 1701

Introduction: At the Board’s May 19, 2020 meeting I submitted a written statement which in part, urged the Board to repeal Resolutions 1619¹ (complimentary recreation privileges) and 1701² (free or severely discounted use of IVGID facilities by qualified non-profit, volunteer organizations or promoters of activities based in or benefitting the North Lake Tahoe region, government agencies, and local school districts)³ because: they sanction giveaways of public recreational facilities at local parcel owners’ expense; cost local parcel/dwelling unit owners hundreds of thousands if not millions of dollars annually; general improvement districts (“GIDs”) are not empowered to engage in such activities under NRS 318.116⁴; even if they were, IVGID has never been granted this power by the Washoe County Board of Commissioners⁵ (“County Board”); *Dillon’s Rule* instructs that since this power has not been expressly granted by the County Board, it cannot be assumed by implication⁶; and, these giveaways are examples of improper government waste⁷. Independently, local resident

¹ See pages 38-41 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf.

² See pages 52-58 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf.

³ See pages 591-592 of the packet of materials prepared by staff in anticipation of this June 23, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf (“the 6/23/2020 Board packet”)].

⁴ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec116>.

⁵ The only basic powers a GID may exercise are those in its initiating [NRS 318.055(4)(b) - <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec055>] and supplemental [NRS 318.077 (<https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec077>)] ordinance(s) as long as “one or more of those authorized in NRS 318.116 (<https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec116>), as supplemented by the sections of this chapter designated therein.”

⁶ Nevada is a *Dillon’s Rule* State [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43, 65 P.2d 133 (1937) – go to <https://www.courtlistener.com/opinion/3569018/ronnow-v-city-of-las-vegas/>]. This means IVGID exists to *only* exercise those enumerated powers in its initiating/supplemental ordinance(s), *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be “any fair, reasonable (or) substantial doubt concerning the existence of power (it) is (to be) resolved...*against* the (municipal) corporation...(and) all acts beyond the scope of...powers (expressly) granted are void” (*Ronnow, supra*, at 57 Nev. 343).

⁷ NRS 281.611(1) [see <https://www.leg.state.nv.us/NRS/NRS-281.html#NRS281Sec611>] defines “improper governmental action” as “any action taken by a...local governmental officer or employee in

and property owner Joy Gumz made the same request⁸. At the Board's May 27, 2020 meeting I reiterated the request in light of a pared down budget impacted by COVID-19.

Now I have discovered another resolutions which empowers the General Manager ("GM") to giveaway access to and use of public recreational facilities at local parcel/dwelling unit owners' expense; Resolution 1424. Repeal of all three resolutions is the purpose of this written statement.

IVGID Staff Have No Power to Give Away Access to and Use of Public Recreational Facilities For Free or at Less Than the District's Actual Cost: We've had this discussion before⁹. According to the Legislative Counsel Bureau, "the purpose of...general improvement districts ('GIDs') is to provide municipal-type services to an area which needs them, but which may not need or want the full range of services implied by incorporation. (Thus) GIDs are most effectively used where it will be necessary to carry out ongoing operation and maintenance of a (particular) facility or service."¹⁰ Given GIDs are creatures of County Boards [see NRS 318.015(1)¹¹ and 318.075(1)¹²], as previously stated⁵ the *only* "basic powers" GIDs may exercise¹³ are those *expressly included* in their initiating [NRS 318.055(4)(b)¹⁴] or supplemental (NRS 318.077¹⁵) ordinance(s) with the *proviso* those powers must be "one or more of those authorized in NRS 318.116⁴, as supplemented by the sections of this chapter (NRS 318) designated therein."

But NRS 318.116 Does Not Recognize the Basic Power of Philanthropy a Legitimate GID Basic Power: Take a look for yourself⁴! Moreover, even if such power were recognized, since there is no

the performance of the officer's or employee's official duties...which is: (a) in violation of any state law or regulation...(c) an abuse of authority...or (e) a gross waste of public money."

⁸ See page 627 of the 6/23/2020 Board packet.

⁹ Go to pages 154-156 of the packet of materials prepared by staff in anticipation of the Board's May 10, 2017 meeting ["the 5/10/2017 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-10-17.pdf)].

¹⁰ See ¶¶ at page 1, Background Paper 83-4, General Improvement Districts, at <https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP83-04.pdf>.

¹¹ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec015>.

¹² Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec075>.

¹³ Since "all of such statutes...constitute a grant of power to certain boards and governing bodies, and (they) are a deprivation of powers and privileges in respect to the individuals residing within the affected areas...(they)...must...be strictly construed, to include no more than (the) Legislature clearly intended" [see A.G.O. No. 63-61, p. 103 (August 12, 1963)].

¹⁴ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec055>.

¹⁵ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec077>.

question IVGID has never been granted this power by the Washoe County Board, insofar as IVGID is concerned, *the power does not exist.*

Dillon's Rule: Since “Nevada is considered a state without home rule...(local) governments generally have *only* those powers that are (expressly) granted to them by the Legislature...(because) without home rule, the general application of ‘*Dillon's Rule*’ *limits* the powers of counties, cities... towns” and here, IVGID⁵. In other words,

“[A] municipal corporation¹⁶ possesses and can exercise the following powers *and no others*: First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; (and) third, those absolutely essential to the declared objects and purposes of the corporation—*not simply convenient, but indispensable.*”¹⁷

IVGID's Creation: IVGID was created on May 20, 1961 as a “body corporate and politic and a quasi-municipal corporation” [NRS 318.075(1)¹⁸] pursuant to Washoe County Board Bill No. 57, Ordinance 97¹⁹. IVGID's initial basic powers were expressly *limited* to: 1) grading, re-grading, surfacing and resurfacing Incline Village streets, alleys and public highways; 2) constructing, reconstructing and improving Incline Village streets with curbs, gutters, drains, catch basins and sidewalks; 3) constructing, reconstructing, replacing or extending storm, sewer and other drainage; 4) constructing, reconstructing, improving, extending or bettering Incline Village's sanitary sewer system; and, 5) acquiring, constructing, reconstructing, improving, extending or bettering facilities for the supply, storage and distribution of water. In other words, *IVGID was created to be nothing more than a public utility district.* And it was expressly *not* created to give away access to an use of public facilities or the services offered thereat at less than the public's cost.

IVGID's Assumption of Additional Powers Based Upon Their Alleged Incidence, Necessity and/or Implication: IVGID staff will likely argue that IVGID has the power to furnish facilities and services for *all* questionable purposes, whether or not necessary to furnish public recreation or utility facilities, because of NRS 318.210²⁰ which gives the Board the power to: “exercise all rights and powers necessary or incidental to or implied from the specific powers granted in...chapter” NRS 318. I

¹⁶ GIDs are quasi-*municipal* corporations [NRS 318.015(1) and 318.075(1)].

¹⁷ See page 5 of that April 2014 Legislative Counsel Bureau Research Division Policy and Program Report on State and Local Government (<http://www.leg.state.nv.us/Division/Research/Publications/PandPReport/19-SLG.pdf>).

¹⁸ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec075>.

¹⁹ See <https://www.yourtahoeplace.com/ivgid/about-ivgid/history-of-ivgid>.

²⁰ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec210>.

disagree for at least two reasons. First, *Dillon's Rule* (discussed above). And second, because of the doctrine of *expressio unius est exclusio alterius* which in lay person's terms instructs that:

“To express one thing is to *exclude* another. This maxim reflects a form of reasoning that is widespread and important in interpretation...the *a contrario* argument...(i.e. the) negative implication (or)...implied exclusion. An implied exclusion argument lies whenever there is reason to believe that if the Legislature had meant to include a particular thing within the ambit of its legislation, it would have *referred to that thing expressly*. Because of this expectation, the Legislature's failure to mention ‘the thing’ becomes grounds for inferring that *it was deliberately excluded*. Although there is no express exclusion, *exclusion is implied*.”²¹

Thus “whenever there is reason to believe that if the Legislature had meant to include a particular thing within the ambit of its legislation it would have *referred to that thing expressly*...(its) failure to mention the thing becomes grounds for inferring that *it was deliberately excluded*.”¹⁵

NRS 244.1505(2)²²: instructs that “a board of county commissioners or its authorized representative may donate...by resolution [NRS 244.1505(3)²²]...(a) commodities, supplies, materials and equipment...the board determines...have reached the end of their useful lives; and (b) property for which the county treasurer has obtained an order authorizing the county treasurer to donate...property pursuant to paragraph (e) of subsection 1 of NRS 179.165²³, to a nonprofit organization created for religious, charitable or educational purposes or...another governmental entity, to be used for any purpose which will provide a substantial benefit to the inhabitants of the county.” “The resolution must specify: (a) the purpose of the...donation...and (c) any conditions or other limitations upon the...use of the donated property” [NRS 244.1505(3)²²].

NRS 268.028(2)²⁴: instructs that “the governing body of a city or its authorized representative may donate...by resolution [NRS 268.028(3)²⁴]...commodities, supplies, materials and equipment that the governing body determines have reached the end of their useful lives to a nonprofit organization created for religious, charitable or educational purposes or to another governmental entity, to be used for any purpose which will provide a substantial benefit to the inhabitants of the city.” “The resolution must specify: (a) the purpose of the grant or donation...and (c) any conditions or other limitations on the...use of the donated property” [NRS 268.028(3)²⁴].

Given Counties and Cities Have the Express Power to Donate Certain Kinds of Public Property to Certain Donees, and GIDs Do Not, *the District Has no Power to Give Away, Donate or Discount*

²¹ See <http://www.duhaime.org/LegalDictionary/E/ExpressioUniusEstExclusioAlterius.aspx>.

²² Go to <https://www.leg.state.nv.us/NRS/NRS-244.html#NRS244Sec1505>.

²³ Go to <https://www.leg.state.nv.us/nrs/NRS-179.html#NRS179Sec165>.

²⁴ Go to <https://www.leg.state.nv.us/NRS/NRS-268.html#NRS268Sec028>.

Anything, Let Alone Access to and Use of the Public's Recreational Facilities at a Price Which is Less Than the Public's Cost:

And Now We Have Resolution 1492: which gives "the General Manager...the administrative prerogative to waive fees for use of District-owned facilities under (the following) circumstances:"

"1. A fundraising benefit for an Incline resident, provided...all proceeds go toward a major medical expense for a specific person, and not a group or organization; or

2. A meeting of a governmental agency."²⁵

Conclusion: Here we have more examples of "feel good" resolutions IVGID has no power to adopt which come at the direct expense of the owners of local parcels/dwelling units given they are funded/subsidized by the Beach ("BFF") and/or Recreation ("RFF") Facility Fee(s). Moreover, rather than specific resolutions adopted by the Board, here the Board has again abdicated responsibility to an un-elected staff member (the General Manager). For all of these reasons, I ask the Board to agendize repeal of Resolutions 1492, 1619 and 1701, and then to repeal them.

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

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

²⁵ This resolution is attached as Exhibit "A" to this written statement.

EXHIBIT "A"

RESOLUTION NO. 1492

A RESOLUTION ESTABLISHING AN
ADMINISTRATIVE POLICY REGARDING
FEES FOR USE OF DISTRICT-OWNED FACILITIES

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

WHEREAS, on June 24, 1982, the Board of Trustees of the Incline Village General Improvement District adopted a policy allowing the General Manager to have the administrative prerogative to waive fees for use of District-owned facilities under certain circumstances; and

WHEREAS, the Board of Trustees wishes to clarify its position regarding use of District facilities for public service meetings;

NOW, THEREFORE, IT IS HEREBY RESOLVED, as follows:

The General Manager shall have the administrative prerogative to waive the fees for a one-time event at District-owned meeting facilities under either of the following circumstances:

1. A fundraising benefit for an Incline resident, provided that all proceeds go toward a major medical expense for a specific person, and not a group or organization; or
2. A meeting of a governmental agency, approved by the General Manager.

* * * * *


I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 9th day of May, 1985, by the following vote:

AYES, and in favor thereof, Trustees:

Jane Maxfield, Greg McKay, Bobbie Gang, Pam Wight

NOES, Trustees: Bob Wolf

ABSENT, Trustees: None


Secretary

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 23, 2020 REGULAR IVGID BOARD (“BOARD”) MEETING – AGENDA ITEM G(3) – IT’S TIME TO END OUR MEDIA BUYING CONTRACT WITH EXL MEDIA!

Introduction: Here our marketing staff again urge entrance into a wasteful media buying service contract with EXL Media; and on the Consent Calendar no less. My various objections are the purpose of this written statement.

The EXL Media Contract: For at least the last twenty-two (22) years¹ (but for 2012-13²), District staff have had a far too cozy contractual relationship with local firm EXL Media and its principal, Wendy Hummer. EXL Media has been used for the District’s purchase of print, digital, billboard, television, radio, internet, social media buys, the contract amounts have totaled in the hundreds of thousands of dollars annually³, and in the overwhelming majority of cases⁴ those contracts, like the current one⁵, have been awarded without going out to public bid as NRS 332 mandates.

Why Is This Agenda Item on the Consent Calendar? As the Board should know, the Consent Calendar is *only* appropriate to be used to approve routine items, and certainly not those requiring public advertising, nor the expenditure of hundreds of thousands of dollars of our Rec Fee. And no discussion by trustees whatsoever is permitted on the Consent Calendar.

Moreover, Board Policy 3.1.0.15⁶ instructs that “the (staff) memorandum (in support) should include the justification as a consent item in the Background Section.” The “Background Section” of staff’s memorandum in support⁷ appears at pages 498-500 of the Board packet. Yet *NOWHERE* has Mr. Raymore included staff’s justification for placement of this item on the Board’s Consent Calendar. *Why not?* Whatever the reason, for this procedural reason alone, the item should be removed from the Consent Calendar and transferred to the Board’s General Business Calendar.

¹ See page 268 of the packet of materials prepared by staff in anticipation of the Board’s May 22, 2019 meeting [“the 5/22/2019 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-22-19.pdf)].

² See page 498 of the packet of materials prepared by staff in anticipation of this June 23, 2020 meeting [“the 6/23/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf)].

³ The current proposed contract totals an expenditure of \$425,700 (see page 497 of the 6/23/2020 Board packet).

⁴ All those except 2012-13 and 2019-20.

⁵ See ¶IV, “Bid Results,” at page 500 of the 6/23/2020 Board packet.

⁶ See page 12 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf.

⁷ See pages 497-509 of the 6/23/2020 Board packet.

Moreover, the same Policy instructs that “ANY member of the Board may request the removal of a particular item from the consent calendar and...the matter *shall be removed* and addressed in the general business section of the meeting.” For this reason, on June 20, 2020 I sent the Board an e-mail asking that at least one trustee request transfer⁸. Let’s see how Board members respond.

The 2018-19 EXL Media Contract: is emblematic of what has been going on for the last two (2) decades¹ insofar as the District’s purchase of print, digital, billboard, television, radio, internet, and social media buys utilizing the buying services of EXL Media. This contract was approved at the Board’s May 18, 2018 meeting⁹. And here the cost to the District was a whopping, maximum¹⁰ of \$419,500¹¹ broken down as follows: \$266,500 in cash media buys from third parties¹²; \$88,000 in additional media buys allegedly purchased in trade¹³ from third parties¹²; and, a cash fixed agency fee to EXL Media of \$65,000¹⁴.

The 2019-20 EXL Media Contract: The last Board approved contract between the District and EXL Media for the former’s purchase of print, digital, billboard, television, radio, internet, and social media buys utilizing the buying services of EXL Media was approved at the Board’s May 22, 2019 meeting¹⁵. The cost to the District *increased* to a maximum¹⁶ of \$424,600¹¹ broken down as follows: \$272,500 in cash media buys from third parties¹²; \$87,100 in additional media buys allegedly purchased in trade¹³ from third parties¹⁰; and, another cash agency fee to EXL Media of \$65,000¹⁴.

The Proposed 2020-21 EXL Media Contract: The costs under the current proposed contract between the District and EXL Media for the former’s purchase of print, digital, billboard, television, radio, internet, and social media buys utilizing the buying services of EXL Media, are now pegged at a maximum of \$425,700¹⁷ broken down as follows: \$265,700 in cash media buys from third parties¹²;

⁸ My e-mail is attached as Exhibit “A” to this written statement.

⁹ See pages 11-15 of the packet of materials prepared by staff in anticipation of the Board’s May 9, 2018 meeting [“the 5/9/2018 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Agenda_Regular_5-9-18.pdf)].

¹⁰ The “District will pay EXL an additional fee...of \$100 per hour for the development of each media plan” (see page 287 of the 5/22/2019 Board packet).

¹¹ See page 498 of the 6/23/2020 Board packet.

¹² See page 286 of the 5/22/2019 Board packet.

¹³ Such as Diamond Peak lift ticket or golf course rounds of golf vouchers.

¹⁴ See page 269 of the 5/22/2019 Board packet.

¹⁵ See pages 263-295 of the 5/22/2019 Board packet.

¹⁶ The “District will pay EXL an additional fee...of \$125 per hour for the development of each media plan” (see page 292 of the 5/22/2019 Board packet).

¹⁷ See page 501 of the 6/23/2020 Board packet.

\$92,000 in additional media buys allegedly purchased in trade¹³ from third parties¹⁸; and, another cash agency fee to EXL Media of \$68,000¹⁷.

District Marketing Department Costs *in Addition to its Proposed Contract Costs With EXL Media:* Up until 2015-16 IVGID reported its marketing department¹⁹ costs in its yearly budgets. For 2013-14 those actual expenditures totaled a minimum²⁰ of \$619,810; for 2014-15 they totaled \$706,166; and, for 2015-16 they totaled \$752,217²¹. Now for the first time we see that: for 2017-18 they totaled \$970,598, for 2018-19 they totaled \$1,000,381, for 2019-20 they're estimated to total \$1,039,000, and for 2020-21 they're estimated to total nearly \$1.2 million²²! And this nearly \$1.2 million of our Recreation ("RFF") and Beach ("BFF") Facility Fees are being spent on marketing our recreational facilities *to the world's tourists!*

When the County Board of Commissioners ("County Board") Granted IVGID the Basic Power to Furnish Facilities For Public Recreation, Does Anyone Really Think it Contemplated Staff Would Use This Grant to Spend \$1.2 Million or More Marketing Those Facilities to the World's Tourists at Local Property Owners' Expense? As I have explained so many times before, when IVGID was created by the County Board on May 20, 1961, no general improvement district ("GID") could assume the basic power to furnish facilities for recreation. The only reason IVGID's founders lobbied the Legislature to create this new basic power, was because without it, IVGID could not lawfully acquire the beaches and bail out Incline Village's real estate developer, Crystal Bay Development Co. But once the beaches were acquired, no one contemplated this basic power would be used to market the beaches, or any other recreational facility for that matter, to the world's tourists. *So why are parcel/dwelling unit owners shackled with paying for staff's marketing costs?*

For Whose Primary Benefit and Use Are IVGID's Recreational Facilities Supposed to Be? I submit that NRS 318.015(1) provides the answer:

¹⁸ The "District will pay EXL an additional fee...of \$125 per hour for the development of each media plan" (see page 505 of the 6/23/2020 Board packet).

¹⁹ A department consisting of three employees; a marketing manager, sales manager, and marketing coordinator [see page 146 of the 2015-16 Budget {https://www.yourtahoeplace.com/uploads/pdf-ivgid/2015-2016_Budget_Book.pdf ("the 2015-16 Budget")}].

²⁰ I say "a minimum" because this reporting does not allocate all marketing department costs. For instance, conspicuously absent are central services and physical office costs.

²¹ Go to page 111 of the 2015-16 Budget.

²² See page 107 of the packet of materials prepared by staff in anticipation of the Board's March 11, 2020 meeting ["the 3/11/2020 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf)].

“The organization of districts having the purposes, powers, rights, privileges and immunities provided in this chapter will...promote the health, safety, prosperity, security and general welfare of *the inhabitants thereof and of the State of Nevada.*”

So why are parcel/dwelling unit owners shackled with paying for staff’s marketing costs?

Now Listen to IVGID Staff’s Belief For Whose Primary Use and Benefit IVGID’s Recreational Facilities Are Supposed to Be:

The world’s tourists “while in the basin or planning their trip to Lake Tahoe; season pass holders from other resorts; Bay Area...Sacramento... Reno...Carson City...South Lake Tahoe skiers/snowboarders...(and) golfers²³...visitors in Kings Beach-Tahoe Vista (and those)...staying at the Hyatt and other vacation properties²⁴,” and those interested in the District’s Recreation and Tennis Centers and wedding facilities “while in the basin or planning their trip to Lake Tahoe.”²³

Does Staff’s Version For Whose Primary Use and Benefit IVGID’s Recreational Facilities Are Supposed to Be Sound Like Your Version? *Of course not! So why are parcel/dwelling unit owners shackled with paying for staff’s marketing costs?*

Now Listen to Staff’s Assertion of the Purpose For This Expenditure With EXL Media:

“To drive revenue and yield...and...produce a positive ROI (return on investment) that is measurable.”²⁵

What Specific Measurable Metrics Are Utilized by Staff to Evaluate the Effectiveness of the District’s Media Paid Advertising? **Notwithstanding,** A close examination of Paul Raymore’s staff memorandum in support of this agenda item reveals the answer to be nothing more than “the percentage of ‘impressions’²⁶ our ads receive compared to the total number of ‘impressions’ our ads are eligible to receive.”²⁷ Or as Mr. Raymore explained on May 22, 2019:

²³ See pages 273-274 of the 5/22/2019 Board packet.

²⁴ See pages 280-281 of the 5/22/2019 Board packet.

²⁵ See page 274 of the 5/22/2019 Board packet.

²⁶ “In the world of social media marketing, online advertising and search engine marketing, (the term) ‘impression’ is a measure of how many times your paid or organic (meaning not paid) content has been displayed in front of an online audience...‘Reach’ (on the other hand) is the total number of unique users who see your content...(Thus one should) expect (the) number of ‘impressions’ to be greater than (the) number of unique users (‘reach’)...because one person can see the same (display) more than one time” (go to <https://www.brafton.com/blog/social-media/what-does-impression-mean-in-terms-of-marketing-metrics/>).

“Total online revenue(s and)...leads generated...clicks(, the)...cost per click(, and the) ROI of digital spend.”²⁵

How Do the Board and the Public Know That Staff’s Expenditure With EXL Media is Worth the Cost? At the Board’s February 12, 2020 meet Trustee Wong raised the issue of conducting an investigation into the alleged cost/benefit of spending tens of thousands of dollars on a consultant to conduct a water/sewer rate study²⁸. This question got me asking what cost/benefit study did Ms. Wong/staff conduct prior to approving the 2019/20 EXL Media contract? So I made a public records request to examine records evidencing that study. And guess what? According to Susan Herron, **THERE WAS NO STUDY**²⁹!

Yet in Contrast, Apparently There Was a Study to Determine How IVGID Staff Evaluate the Success (i.e., ‘Positive ROI’) of the District’s Paid Advertising Campaigns: Listen to Mr. Raymore’s testimony on this subject at this June 23, 2020 meeting:

²⁷ See pages 499-500 of the 6/23/2020 Board packet.

²⁸ The same logic applies here.

²⁹ My February 17, 2020 records request and Susan Herron’s response that there were no records evidencing such a study are attached as Exhibit “A” (page 357) to the 3/11/2020 Board packet.

“We take...customer survey(s)...(which) ask (responders)...how they heard about Diamond Peak and what influenced them to...come to the resort... They have all sorts of (answering) options. Everything from word of mouth, to billboard ads, to internet ads, to e-mails...social media...online review sites...print ads, television, radio (and)...things like recommendations from the Hyatt...(We) take those number...and percentage...(answers and) multiply them by the average yield for skier visit...the profit per skier visit and (then) try to...come up with a ROI analysis...by...marketing channel...So for example...for this past ski season...the total revenue attributable to (all) paid advertising programs was \$3.9 million...And the total profit attributable to all those programs was \$1.3 million...Billboards for example spent \$76,795 cash (and) trade value combined...The total revenue attributable to those billboards was about \$638,000 (and)...profit (was) approximately \$206,000.”³⁰

Notwithstanding, This Analysis is Flawed Because it Cannot and Does Not Point to One Dollar of Added Revenue Generated as a Result of Expenditures Made With EXL Media That Would Not Have Been Generated Otherwise if There Were No EXL Media Contract:

Moreover, Even if Staff Could Point to Added Revenue Generated Directly as a Result of Expenditures Made With EXL Media, it Would Have to Point to Be Able to Point to \$1.2 Million of Such Revenue Before it Could Assert Positive ROI: Because this is an impossibility³¹, marketing becomes just another money losing enterprise benefitting no one other than IVGID’s employees hired in that department.

Notwithstanding All of the Above, When You Are Government, Which is Exactly That IVGID is³², Your Reason d’Être is NOT “to Drive Revenue...Yield...and...Produc(ing) a Positive ROI:” Rather, it is to *responsibly* “operate, maintain and repair the improvements acquired by the district” (see NRS 318.145). *But IVGID staff apparently don’t understand this!*

³⁰ The IVGID Board livestreams its public meetings (<https://livestream.com/accounts/3411104>). The portion of the livestream of this June 23, 2020 meeting [“the 6/23/2020 livestream” (<https://livestream.com/ivgid/events/9186678/videos/207841724>)] where the quote language appears is 6:31:39-6:34:16 of the 6/23/2020 livestream.

³¹ Does anyone honestly believe that “the total revenue attributable to (all EXL Media) paid advertising programs (for the last fiscal year) was \$3.9 million...and the total profit attributable to all those programs was \$1.3 million?” If so, please see me; I have a number of publicly owned bridges I’d like to sell you.

³² See NRS 318.075(1) which instructs IVGID is “a governmental subdivision of the State of Nevada, a body corporate and politic and a quasi-municipal corporation.”

Moreover, EXL Media's Agency Fee is Disturbingly Excessive: Similar to a real estate commissions, "the most common way media buying agencies get compensated is by earning a commission on your total advertising spend. A common rate is 15 percent (15%) of your total advertising spend...The fifteen percent commission is used as the method to compensate for the buyer's time for selection of the media and even creative design services."³³ Given the maximum amount of projected media buys under the proposed contract is \$357,700¹⁷ (\$265,700 of "cash" and \$92,000 of "trade" buys), fifteen percent (15%) of that combined total equals \$53,655. And if the agency fee only applies to "cash" buys, which is what it should be in this instance, the total equals \$39,855.

But the agency fee under the proposed contract is a flat \$68,000¹⁷ regardless of the dollar amount of media buys, and whether those buys are in "cash" or "trade." Thus this fee equals nineteen percent (19%) of all media buys, and over twenty-five percent (25%) of cash buys. And if the maximum proposed amount of media buys is not met, like it wasn't met for 2019-20³⁴, the agency fee percentage is even greater!

At the Board's June 23, 2020 meeting Mr. Raymore attempted to justify this excessive agency fee as follows:

"Traditionally some agencies work on that model where they take a percentage of spend. (But) we've opted not to do that rather basing (the fee) on our best guess of the amount of hours and services (EXL Media) will provide throughout the...fiscal year...The reason that we prefer that method is it much better correlates with the services (EXL Media is) providing versus just (our) spending levels...If (EXL Media were) incentivized by the amount of spending...I feel it would be very easy...(for them to)...do as little work as possible (and charge us)...big dollars."³⁵

I find this explanation disingenuous for at least two reasons. First, where as here the client has contractually limited the amount media buys ["EXL (Media) shall not exceed the total amount budgeted for media...services...and will not incur any costs above and beyond (the) set budget"³⁶], how does Mr. Raymore propose EXL Media is incentivized to spend *more* so it can generate higher

³³ See <https://bizfluent.com/info-8600134-do-buying-companies-charge-services.html>.

³⁴ At page 499 of the 6/23/2020 Board packet Mr. Raymore tells us that for 2019-20 staff withheld "\$39,222...of budgeted (cash) spending...of \$272,500...due to the COVID-19 pandemic." Yet there was no reduction in EXL Media's \$65,000 agency fee. That made the agency fee a whopping 27.86%. Even if there was no reduction in budgeted trade spending (\$87,100) and a typical agency fee applies to both cash and trade purchases, here the agency fee totaled in excess of \$20,000.

³⁵ See 6:15:15-6:16:39 of the 6/23/2020 livestream.

³⁶ See section 2(c) at page 506 of the 6/23/2020 Board packet.

commissions? Moreover, the proposed contract specifies that it will be the District which shall “have final approval on all media buying and placement ...before any placements are made.”³⁷

And second, the agency fee doesn’t pay for the other creative services Mr. Raymore suggests EXL Media will provide during the fiscal year. Where “additional needs arise, the District (has agreed to)...pay EXL Media an *additional* fee...of \$125 per hour for...development of each media plan.”³⁸

Bottom line, here we have another example of overpaying for a good or service which benefits another favored collaborator rather than the public Mr. Raymore was presumably hired to serve. *Thank you Mr. Raymore!*

Moreover Still, Mr. Raymore’s Touts re: Responsible 2019-20 Media Spending Are Disturbing: At pages 498-499 of the 6/23/2020 Board packet Mr. Raymore reveals that,

“In light of the impacts that the COVID-19 pandemic continue to have on District venues...during Q3 and Q4 of the 2019/20 fiscal year...in mid-March ...staff directed EXL Media to pause general advertising campaigns... resulting in a savings of \$39,222 (14% of budgeted spending).”

So what happened to the nearly \$40,000 of savings Mr. Raymore? Since assessed parcel/dwelling unit owners *already paid the \$40,000* based upon the representation it was “required” when we now see it wasn’t, *why wasn’t it refunded*³⁹. Or why wasn’t the 2020-21 RFF *REDUCED* by a like amount? Wasn’t this \$40,000 simply added to the Community Service Fund’s already excess balance so it can be spent on future unidentified, un-budgeted and un-appropriated staff pet projects?

So Why Exactly Should Parcel/Dwelling Unit Owners Care About Staff’s Alleged Cost Savings?

So How About Refunding Each Parcel/Dwelling Unit Owner Who Was Assessed the 2019-20 RFF His/Her/its \$5 Pro-Rata Share? In fact on June 20, 2020 I sent the Board an e-mail making this very request⁴⁰. What do you think the odds are that three (3) Board members will vote affirmatively to do the right thing? I’m guessing ZERO.

Finally, the Consequences of Staff’s Failure to Advertise the Proposed Contract: NRS 332.065(1)(a)⁴¹ instructs that “except as otherwise provided by specific statute, if the estimated annual amount required to perform a contract is more than \$100,000, the governing body or its authorized representative...*shall* advertise the contract in the manner prescribed in NRS 332.045.”⁴²

³⁷ See section 2(b) at page 506 of the 6/23/2020 Board packet.

³⁸ See page 505 of the 6/23/2020 Board packet.

³⁹ Nearly \$5 per assessed parcel/dwelling unit owner.

⁴⁰ This e-mail is attached as Exhibit “B” to this written statement.

⁴¹ See <https://www.leg.state.nv.us/NRS/NRS-332.html#NRS332Sec065>.

⁴² See <https://www.leg.state.nv.us/NRS/NRS-332.html#NRS332Sec045>.

Given the proposed EXL contract involves more than \$100,000, it had to be advertised in the manner prescribed in NRS 332.045⁴² unless excepted. So why would the proposed contract be excepted? If it were “not adapted to award by a competitive solicitation.”⁴³ And the exception staff consistently point to is “professional services.”⁴⁴ But the definition of “professional services” [NRS 89.320(10)]⁴⁵ is:

“any type of personal service which may legally be performed only pursuant to a license, certificate of registration or other legal authorization.”

Since the media buying services EXL Media furnishes do *not* require a professional license, certificate of registration or other legal authorization, they’re *not* “professional services.” Which means the subject contract is *not* excepted from the advertising requirements of NRS 332.065. But let not this pesky detail get in the way of staff’s “ends justifying the means mentality.”

Conclusion: I and others I know believe a public agency like IVGID should not be spending public monies promoting the world’s tourists’ use of the public’s recreation facilities. Moreover, our staff are unable to present any measurable means of confirming that any additional paid use of the public’s recreational facilities is as a result of our marketing expenditures. And moreover still, EXL Media buys are not an appropriate expenditure for a public agency, let alone one like IVGID; especially given IVGID is not capable of permissibly generating the revenues necessary to pay the costs associated with a marketing department. Even if gross revenues realized from all of the public’s recreational facilities decreased by nearly \$1.2 million/annually because we ended our public marketing of these facilities, the public would suffer no bottom line loss given the \$1.2 million savings in marketing expenditures. For all these reasons, in addition to the disconnect between any cost/benefit of continuing our relationship with EXL Media, I submit these expenditures are wasteful and should *end now*.

Finally, at ¶IV, Alternative, at page 502 of the 6/23/2020 Board packet, staff propose as an option that the Board,

“Not authorize the proposed media buying agreement and (instead) direct staff not to enter into a media buying agreement (for)...2020/21.”

This is exactly what the Board should do!

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of some of the reasons why. Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

⁴³ See NRS 332.115 (<https://www.leg.state.nv.us/NRS/NRS-332.html#NRS332Sec115>).

⁴⁴ NRS 332.115(1)(b)⁴³.

⁴⁵ See <https://www.leg.state.nv.us/NRS/NRS-089.html#NRS089Sec020>.

EXHIBIT "A"

June 23,2020 Agenda Item G(3) - Request to Remove Approval a New \$425,700 Media Purchase Agreement w/EXL Media From the Consent Calendar - Transfer to the General Business Calendar

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Wong Kendra Trustee <wong_trustee@ivgid.org>, Dent Matthew <dent_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan_Herron@ivgid.org" <Susan_Herron@ivgid.org>
Subject: June 23,2020 Agenda Item G(3) - Request to Remove Approval a New \$425,700 Media Purchase Agreement w/EXL Media From the Consent Calendar - Transfer to the General Business Calendar
Date: Jun 20, 2020 5:31 AM

To Chairperson Callicrate and the other Honorable members of the IVGID Board.

How did you allow this matter to get agendized, let alone on the Consent Calendar? I am really disappointed with you Tim. You have totally let down the residents who have been vocally supporting you for the last 5 years.

Those who provided public comment insofar as the 2020-21 Budget was concerned made it quite clear they were opposed to the expenditure of a budgeted \$1.2M or more on "marketing," of which this EXL Media expenditure is a part.

Now staff propose compounding the waste by approving this proposed \$425,700 expenditure w/EXL Media, and on the consent calendar no less (i.e., without discussion or argument). As you all should know, the Consent Calendar is only used to approve routine items, and certainly not those proposing hundreds of thousands of dollars of our Rec Fee. Moreover, Policy 3.1.0.15 instructs that "the (staff) memorandum (in support) should include the justification as a consent item in the Background Section." The "Background Section" appears at pages 498-500 of the Board packet. Yet NOWHERE has Mr. Raymore included justification for the placement of this item on the Consent Calendar. For this procedural reason alone, the item should be removed from the Consent Calendar and transferred to the General Business Calendar.

Moreover, the same Policy instructs that "ANY member of the Board may request the removal of a particular item from the consent calendar and that the matter **shall be removed** and addressed in the general business section of the meeting." I ask that at least one of you trustees to do so.

The staff at least two of you are so enamored of, have NEVER provided empirical evidence that we've generated ONE DOLLAR of additional revenue we would not have otherwise generated, as a result of the media buys suggested by staff and EXL Media. Instead, we are told of meaningless visits to our web site, meaningless Facebook likes, and even more meaningless "touches." Never, never are we told of the additional revenue allegedly generated. Nor does Mr. Raymore address this subject in his memorandum. Which is because there's no way to proffer such evidence because we don't research this data.

Moreover, in the past Trustee Wong has argued for a formal risk-reward/cost-benefit analysis **before** big ticket expenditures such as this one are approved. Yet here Ms. Wong is conspicuously silent insofar as the undocumented proposed benefits are concerned. Why the about face Ms. Wong? MAKE STAFF PROVE THEIR CASE!

Remember, if NONE of this expenditure were made for 2020-21, the District would have to suffer from a \$425,701 loss in revenues before anyone can argue that we actually lost revenue because we didn't make this expenditure. But this will never, never happen because in our heart of hearts, we all know these media buys will not generate additional revenues we would not have realized if this media buy expenditure were not made.

Finally, I'm particularly disturbed by Mr. Raymore's comments that "in light of the impacts (of)...COVID-19...during Q3 and Q4 of the 2019-20 Fiscal Year (the District saved)...\$39,222...vs. budgeted advertising spending." WHERE DID THIS SAVINGS GO MR. RAYMORE? Did staff propose spending \$40K LESS on 2020-21 advertising expenditures than budgeted? Did it reduce the 2020-21 RFF by \$5/assessed parcel owner because the money wasn't actually required, even though it was collected? Or was this "savings" disingenuously used to increase the Community Services Fund Balance by a like amount so it can be used to spend on future unidentified, un-budgeted, un-appropriated "wish list" expenditures?

This is why I and others could care less about staff cost savings because none of those savings translate into any reductions in our RFF/BFF.

Please transfer this matter to the General Business Calendar. Make Paul Raymore and Wendy Hummer of EXL Media prove to the Board and public, with empirical evidence, how much additional revenue was generated in 2019-20 because of

advertising spending, that we would not have otherwise generated but for that spending. Until they do, it's an absolute waste to be spending our Rec Fee on media buys such as these. AND ALL OF YOU KNOW THIS FACT TO BE TRUE!.

Moreover, please don't tell me these media buys pay for costs the District incurs to make the public's recreational facilities available for my use. Instead, they pay to make these facilities available for the use of the world's tourists because that is the targeted audience for this advertising. So what's the justification for spending my Rec Fee on something like these media buys?

Finally, many of you have a short memory. Some years ago the public uncovered that EXL Media's principal, Wendy Hummer, had defrauded the public out of trade DP lift tickets made a part of an agreement similar to the subject agreement. Ms. Hummer arranged for a free Rec Center pass for HERSELF instead, and then tried to come up with a disingenuous justification that her personal Rec Center pass was a legitimate alternative for trade DP lift tickets even though the public realized no trade or reduction in agency fees from Ms. Hummer.

I argued that for this reason alone, the District should NEVER, NEVER, NEVER, ever contract with Ms. Hummer again. Yet now staff is proposing the exact opposite because Ms. Hummer is one of their favored collaborators. Don't you see the hypocrisy? When it comes to a favored collaborator like Ms. Hummer, staff will give away the store, whether ethical or not. Yet when it comes to members of our community who share the ugly truth and place embarrassment where it rightfully belongs, staff and the Board will go to the ends of the earth to marginalize and penalize those members.

How about doing the right thing here and saving the public over \$425K?

Respectfully, Aaron Katz

-----Original Message-----

From: s4s@ix.netcom.com
Sent: Jun 18, 2020 11:24 AM
To: Callicrate Tim
Cc: Wong Kendra Trustee , Dent Matthew , Morris Peter , "ISW@ivgid.org" , "Susan_Herron@ivgid.org"
Subject: The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

To Chairperson Callicrate and the other Honorable members of the IVGID Board.

On June 11, 2020 I sent the Board a copy of the e-mail below. In the same I pointed out the due process deficiencies of Resolution 1879 (which adopted the latest RFF/BFF and elected to have the same collected on the county tax roll) insofar as pursuing administrative refund as a pre-cursor to possible judicial action insofar as RFF/BFF refunds were concerned.

In the same I asked our Board Chairperson to agendize this matter for possible Board action.

I just received the agenda for next Tuesday's (June 23, 2020) Board meeting. As each of you knows, nowhere therein has the requested matter been agendized. Why not?

It's not too late to amend the agenda to include this matter, and I ask any Board member to so agendize this matter. I remind each of you that any trustee has the power to request that any item be agendized.

If none of you take action then I want the record to be crystal clear that your Resolution 1879 and future similar resolutions which deprive those who are compelled to pay the RFF/BFF of procedural due process of law. And should an action be filed because of the District's deprivation of this federal an state constitutional right, it will be my hope that any "Johnny-come-lately" justification IVGID's attorneys concoct, will fall on the deaf ears it will deserve, and that the District will be held liable.

Board members have a simple, straightforward means of remedying the problem along the lines I have suggested. I urge all of you to take advantage of it.

Respectfully, Aaron Katz

-----Original Message-----

From: s4s@ix.netcom.com
Sent: Jun 11, 2020 5:39 PM
To: Callicrate Tim
Cc: Wong Kendra Trustee , Dent Matthew , Morris Peter , Schmitz Sara
Subject: Re: Hyatt Signage at the Beaches - The Next Step - The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

EXHIBIT "B"

Now That Marketing Guru Paul Raymore Has Admitted We Didn't Need \$40K of Our Rec Fee to Subsidize 2019-20 EXL Media Buys, How About Refunding Each Parcel/Dwelling Unit Owner \$5 (\$40K/8.2K RFF Payors)?

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Wong Kendra Trustee <wong_trustee@ivgid.org>, Dent Matthew <dent_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan_Herron@ivgid.org" <Susan_Herron@ivgid.org>
Subject: Now That Marketing Guru Paul Raymore Has Admitted We Didn't Need \$40K of Our Rec Fee to Subsidize 2019-20 EXL Media Buys, How About Refunding Each Parcel/Dwelling Unit Owner \$5 (\$40K/8.2K RFF Payors)?
Date: Jun 20, 2020 12:31 PM

To Chairperson Callicrate and the other Honorable members of the IVGID Board. -

At pages 498-499 of the Board packet Paul Raymore revealed,

"In light of the impacts that the COVID-19 pandemic continue to have on District venues... during Q3 and Q4 of the 2019/20 fiscal year...staff directed EXL Media to pause general advertising campaigns...in mid-March...resulting in a savings of \$39,222 (14% of budgeted spending)."

Given staff have simply let this savings become a part of the excess Community Services fund balance, presumably for future unidentified, un-budgeted and un-appropriated staff pet projects, how about doing the right thing and refunding the unnecessary, excess subsidy (\$5/parcel/dwelling unit owner assessed the RFF) involuntarily exacted?

Thank you for your consideration.

Aaron Katz

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 23, 2020 REGULAR IVGID BOARD (“BOARD”) MEETING – AGENDA ITEM H(3) – EMERGENCY RESOLUTION 1881 WHICH TEMPORARILY LIMITS ACCESS TO AND CONDUCT AT THE BEACHES

Introduction: Here our interim General Manager (“GM”), Indra Winqest, proposes the Board adopt an emergency resolution which because of some twenty-three (23) Governor initiated emergency directives, allegedly limits access to and occupancy of the beaches. Since most of the recitals in the proposed resolution¹ are *unnecessary*, my objections are the purpose of this written statement.

Proposed Resolution 1881¹ is Not an “Emergency” COVID-19 Resolution, Notwithstanding its Purported Label: Although proposed Resolution 1881 says it is an “emergency resolution,” what exactly is the “emergency?” Take a look at the “Therefore, be it Resolved” portion² and *nowhere* will you find reference to COVID-19.

Moreover, look at the eight (8) items the proposed resolution purports to implement (see discussion below). Other than limitation of beach occupancy, *none* others has any direct connection to COVID-19. And besides, the GM *already* has the power to limit beach occupancy (see discussion below).

Proposed Resolution 1881¹ is Completely Unnecessary Given Language in the Beach Deed³, Resolution 1480⁴ and Ordinance No. 7⁵: Page 2, lines 15-18 of the beach deed⁶ states as follows:

“Said Board of Trustees shall have authority *to...regulate...said property as in its sole discretion it shall deem reasonable and necessary.*”

¶II of Resolution 1480⁷ states as follows:

¹ See pages 512-515 of the packet of materials prepared by staff in anticipation of this June 23, 2020 meeting [“the 6/23/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf)].

² See pages 513-515 of the 6/23/2020 Board packet.

³ See pages 532-537 of the 6/23/2020 Board packet as well as https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach_Deed.pdf.

⁴ See pages 540-545 of the 6/23/2020 Board packet as well as pages 12-17 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf.

⁵ See pages 516-531 of the 6/23/2020 Board packet as well as https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf.

⁶ See page 533 of the 6/23/2020 Board packet.

⁷ See page 541 of the 6/23/2020 Board packet.

Since “the District operates under a Board-Manager form of government which places the Board...in the role of establishing overall...policy direction...(it is) the (General) Manager (who) is responsible for supervising these operations and providing general administrative direction.”

Thus pursuant to this authority, staff have adopted “Beach Facilities Rules and Regulations”⁸ which in part, adopt and incorporate “all (*other*) District rules”⁹ such as those set forth at the District’s “Beaches and Tahoe Web Cam,”¹⁰ “Incline Village COVID-19 Beach & Boat Launch Operation Update”¹¹ web pages, and those pages addressing “IVGID (Picture) Passes and Punch Cards”¹² [also see Ordinance No. 7⁵ (see discussion below)].

Ordinance No. 7 is labeled “an Ordinance Establishing Rates, Rules and Regulations For Recreation Passes and...Punch Cards.”¹³ Those passes and punch cards define and provide for exercising “recreation privileges”¹⁴ (i.e., “recreation access...including the privilege to provide admission for guests...or special rates”). Notwithstanding, those privileges are subject to:

1. “Rule(s), polic(ies), procedure(s) or regulation(s)...and all such supplemental rules, policies, procedures or regulations...established by the District...for each recreational facility;”¹⁵

2. “The General Manager(’s authority to)... adopt, amend, or rescind rules consistent with this ordinance...Such authority shall include...application of this ordinance and rules to specific people, parcels, and circumstances;”¹⁶ and,

3. “Modifi(cation) by the terms of any amendments to this ordinance subsequently adopted by the Board.”¹⁷

⁸ See page 551 of the 6/23/2020 Board packet as well as https://www.yourtahoeplace.com/uploads/pdf-parks-rec/Beach_Rules_2020-_Final.pdf.

⁹ See ¶22 at page 551 of the 6/23/2020 Board packet.

¹⁰ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/beaches>.

¹¹ Go to <https://www.yourtahoeplace.com/news/incline-village-covid-19-beach-operations-plan>.

¹² Go to <https://www.yourtahoeplace.com/parks-recreation/about-recreation/ivgid-passholder-information>.

¹³ See pages 516 and 519 of the 6/23/2020 Board packet.

¹⁴ See ¶25 at page 521 of the 6/23/2020 Board packet.

¹⁵ See ¶66(a) at page 527 of the 6/23/2020 Board packet.

¹⁶ See ¶71 at page 529 of the 6/23/2020 Board packet.

¹⁷ See ¶72 at page 529 of the 6/23/2020 Board packet.

Our Interim General Manager Agrees He Already Has the Power to Implement the Restrictions Suggested by Proposed Resolution 1881¹: Listen to Indra’s admission at this June 23, 2020 Board meeting:

“There’s been a lot of talk about why is this on the agenda...*Certainly I have the authority to make these decisions, and I certainly have.* A lot of these restrictions have been made by myself and my team”¹⁸

Notwithstanding, His Reason For Bringing “This Agenda Item to Our Board is to Help Staff Make Decisions on How We Are Best to Provide Access to Our Beaches.”¹⁸

Staff Certainly *Don’t* Need Proposed Resolution 1881¹ to Obtain Input From the Board to Help Staff Make These Decisions: I take no issue with having the discussion our interim General Manager seeks. However in my opinion, the culmination of that discussion is not proposed Resolution 1881¹ which itself grants authority *which already exists*, and on a *non-emergency* basis no less. Policy and Procedure Resolutions should be adopted sparingly. And here the stated justification does *not* merit such a resolution.

Moreover, does the Board adopt a new policy and procedure resolution every time staff come to the Board seeking “input?” Does proposed Resolution 1881¹ need to be modified each time staff come up with a new idea for restriction access/conduct at the beaches? These are my objections.

The Alleged “Temporary Measures” to Be Implemented” by Proposed Resolution 1881¹, and the Absolute *Lack of Need* For a New Proposed Policy and Procedure Resolution to Implement the Same:

1. Beach access by IVGID Recreation Picture Pass holders with beach access¹⁹;
2. Beach access by IVGID Recreation Punch Card holders with beach access²⁰;
3. The ability of parcel owners to purchase additional Recreation Punch Cards²¹;
4. Elimination of beach guest passes obtained as a result of the “exchange” of Recreation Punch Card value²²;

¹⁸ The IVGID Board livestreams its public meetings (<https://livestream.com/accounts/3411104>). The portion of the livestream of this June 23, 2020 meeting [“the 6/23/2020 livestream” (<https://livestream.com/ivgid/events/9186678/videos/207841724>)] where the quote language appears is 2:54:17-2:55:21 of the 6/23/2020 livestream.

¹⁹ See ¶(1) at page 513 of the 6/23/2020 Board packet.

²⁰ See ¶(2) at page 513 of the 6/23/2020 Board packet.

²¹ See ¶(4) at page 514 of the 6/23/2020 Board packet.

5. Limitation(s) on beach occupancy²³;

6. Prohibition of pop-up tents at the beaches²⁴;

7. Reaffirm the interim General Manager's power "to limit, restrict, and/or cancel any...group" use of the beaches²⁵; and,

8. Should further changes to proposed Resolution 1881¹ be required, they may be made by the interim General Manager *without* consent of the entire Board (all that is required is electronic awareness "made as an informational item only."²⁶)

Like I said. Proposed Resolution 1881¹ is completely *unnecessary*.

Are We Going to Adopt a New Policy and Procedure Resolution Each Time We Implement New Beach Restrictions: when as here the General Manager already has the power to make that implementation? Are we going to modify such resolutions each time the General Manager modifies those restrictions when he/she has the power? If the Board is going to second guess the decisions our General Manager has the power to make, it should rescind Resolution 1480 and hereafter make all beach restrictions. If the Board is going to allow our General Manager to exercise the Board's powers which have been abdicated, then there is no reason for Resolution 1881¹. Like I said, policy and procedure resolutions should be adopted sparingly and only when there is a legitimate need.

It is for this reason that this morning I sent the Board an e-mail which asked members to vote "no" on this agenda item²⁷. Let's see how they respond!

²² See ¶(3) at page 513 of the 6/23/2020 Board packet. By the way, nowhere in Ordinance No. 7 are beach guest exchange passes recognized or regulated.

²³ See ¶(5) at page 514 of the 6/23/2020 Board packet.

²⁴ See ¶(6) at page 514 of the 6/23/2020 Board packet. How is this any different than prohibiting: "smoking or vaping (other than) in designated areas" (see ¶3 at page 551); or, "skate boards" (see ¶7 at page 551); or, "glass of any kind" (see ¶4 at page 551); or, "personal charcoal grills" (see ¶10 at page 551); or, "pets" (see ¶5 at page 551); of the 6/23/2020 Board packet? A new "policy and procedure resolution" was not required to prohibit *any* of these other matters, was it? So why now?

Moreover, the fact staff have already implemented this policy (see page 51 of the 6/23/2020 Board packet), is testament to the fact a formal policy and procedure resolution *is unnecessary*.

²⁵ See ¶(7) at page 514 of the 6/23/2020 Board packet. Why the need to "reaffirm" a power which already exists?

²⁶ See ¶(8) at page 514 and page 515 of the 6/23/2020 Board packet. If the GM already has this power because the Board has abdicated it away, why designate "in consultation with the Board...Chairman" as opposed to the Board as a whole?

²⁷ This e-mail is attached as Exhibit "A" to this written statement.

The REAL Reason For Proposed Resolution 1881¹: Although our interim GM, Indra Winquest, is a friendly and personable guy, we've all seen first hand he is *not* a strong leader. Although he touts a different management style than our immediate past GM, Steve Pinkerton, the only difference I and others I know have seen is that Indra "smiles" while implementing the same past IVGID culture policies which benefit Indra, his fellow IVGID employee colleagues and his various "favored" special interest collaborators, rather than we local parcel owners he was hired to represent.

Since Indra already possesses the power to implement essentially all of the temporary measures he proposes¹⁸, and he admits "there is no decision that we can make that is going to please everyone,"²⁸ the only discernable reason for his promoting what he promotes is a "CYA" ("cover your ass") policy so he can blame the Board for beach restrictions rather than accepting responsibility when criticized by local parcel owners, short term rental property managers, and others. But *this is no reason to champion a policy resolution.*

Why Doesn't Indra Spend His IVGID Time Addressing REAL Beach Problems Like Overcrowding Because Staff Refuse to Propose a "Guest" Policy? In my opinion our seminal problem with beach overcrowding has been caused by IVGID and staff's refusal to implement a true "guest" policy. Notwithstanding page 1, line 29-page 2, line 7 of the beach deed declares that the beaches "shall be held...by (IVGID)...for the benefit of...the guests of...property owners...*as the Board...may determine*²⁹, the Board has refused to determine exactly who is a property owner's "guest." In my opinion this refusal is fueled by staff's fear of the public relations consequences should local short term rental property managers' clients be denied access to the beaches because they're really not the "guests" of local property owners. Indra is more concerned with perpetuating his image, rather than making the hard decisions which need to be made.

Conclusion: Policy and Procedure Resolutions should only be sparingly adopted and certainly not when as here their subject matter is *already* addressed by other policies, resolutions and ordinances. If Indra simply wanted to get Board feedback insofar as beach restrictions he has implemented or proposed implementing, he could have done this differently. Because Indra already has the power to implement proposed restrictions and now he has secured the feedback requested, there is no reason for Resolution 1881¹. For this reason I urge the Board to vote no insofar as this agenda item is concerned.

At ¶III, Alternative, at page 511 of the 6/23/2020 Board packet, conspicuously, staff do *not* propose as an option that the Board, simply "*not* adopt Resolution 1881¹? *Why not*"?

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of some of the reasons why. Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!

²⁸ See 2:54:02-2:54:07 of the 6/23/2020 livestream.

²⁹ See pages 532-533 of the 6/23/2020 Board packet.

EXHIBIT "A"

Agenda Item H(3) at Tuesday June 23, 2020's IVGID Board Meeting - Please Vote No on Indra's Proposed Emergency Resolution 1881 Given it Provides For Temporary Measures at the Beaches the GM ALREADY Has the Power to Unilaterally Implement

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Dent Matthew <dent_trustee@ivgid.org>, Wong Kendra Trustee <wong_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, Schmitz Sara <schmitz_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan_Herron@ivgid.org" <Susan_Herron@ivgid.org>
Subject: Agenda Item H(3) at Tuesday June 23, 2020's IVGID Board Meeting - Please Vote No on Indra's Proposed Emergency Resolution 1881 Given it Provides For Temporary Measures at the Beaches the GM ALREADY Has the Power to Unilaterally Implement
Date: Jun 22, 2020 2:25 PM

Dear Chairperson Callicrate and Other Honorable Members of the IVGID Board:

I urge each of you to vote NO on Indra's proposed emergency Resolution No. 1881.

It serves no purpose other than allowing Indra to use the Board's action to cast blame for the temporary restrictive measures he proposes implementing at the beaches rather than tarnishing his image in the community.

Take a close look at proposed Resolution 1881. What does it really provide for?

1. Beach access by IVGID Picture Pass holders - we already have this;
2. Beach access by IVGID Recreation Punch Card holders with beach access - we already have this;
3. The ability of parcel owners to purchase additional Recreation Punch Cards - we already have this;
4. Elimination of beach guest passes obtained as a result of "exchange" of Recreation Punch Card value - this has been an impermissible practice for years because it is not recognized in Ordinance 7 and if staff really wanted authority to do this, they should have sought modification of Ordinance 7. So the fact staff may suspend an impermissible practice is really of no consequence;
5. Limitation of beach occupancy - staff already has this power;
6. Prohibition of pop-up tents at the beaches - staff already has this power. Moreover, staff have ALREADY implemented this policy pursuant to the authority they have without the need for a new policy and procedure resolution;
7. Reaffirm the interim GM has the power "to limit, restrict, and/or cancel any...group" use of the beaches - reaffirmation means we already have this; and,
8. Should further changes to proposed Resolution 1881 be required, they may be made by the interim GM "in consultation with the Board...Chairman" rather than the Board as a whole - now I am against this because the chairperson has no super power the other members of the Board also have. But since the GM need not listen to the Board as a whole, nor the chairperson for this matter, why even include such language? It's superfluous.

Why Doesn't Indra Spend His IVGID Time Addressing a REAL Beach Problem; the Definition of "Guests?" In my opinion our seminal problem leading to beach overcrowding is the Board's refusal to implement a true "guest" policy and we don't need guest passes to carry it out once resolved. Notwithstanding page 1, line 29-page 2, line 7 of the beach deed declares that the beaches "shall be held...by (IVGID)...for the benefit of...the guests of...property owners...as the Board...may determine[1], staff has steadfastly refused to propose to the Board a beach "guest" policy. In my opinion this refusal is fueled by staff's fear of the adverse public relations consequences should local short term rental property managers' clients be denied access to the beaches because they're really not the "guests" of local property owners.

Like I said Indra is more concerned with perpetuating his stellar image, rather than making the hard decisions which need to be made.

Please don't give Indra the cover he seeks. It's unnecessary.

Thanks for your consideration. Aaron Katz

[1] See pages 532-533 of the 6/23/2020 Board packet.

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS JUNE 23, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM C – PUBLIC COMMENTS - BECAUSE THE BOARD’S RESOLUTION(S) ADOPTING THE RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEES DEPRIVE ASSESSED PARCEL/DWELLING UNIT OWNERS DUE PROCESS, THE BOARD MUST ADOPT A POLICY WHICH AFFORDS THEM AN ADMINISTRATIVE REMEDY TO SEEK REFUND

Introduction: The Fifth Amendment (to the United States Constitution) prohibits the federal government from depriving a person “of life, liberty, or property¹, without due process of law.”² The Fourteenth Amendment instructs “nor shall any State deprive a...person of (the same) life, liberty, or property, without due process of law.”³ In addition, Article 1, 8(2) of the Nevada Constitution declares that “no person shall be deprived of life, liberty, or *property*, without due process of law.”⁴

What is due process? There are two types; substantive and procedural. For purposes of this written statement, I will discuss procedural due process which protects individuals whenever government seeks to deprive them of property. And when it comes to deprivation, at a minimum, government must afford the person deprived of notice an opportunity to be heard, and a decision made by a neutral decision maker⁵. Given the RFF/BFF deprive persons of property, both the U.S. and Nevada constitutions guaranty that IVGID cannot take that property without offering due process.

The NRS Chapters which allow IVGID to assess the RFF/BFF (NRS 318.197⁶) and order its collection on the county tax roll (NRS 318.201⁷) incorporate due process protections. Given those who challenge taxes must first pay them⁸ and then exhaust their administrative remedies to secure their

¹ Money is property.

² Go to <https://constitution.congress.gov/browse/amendment-5/>.

³ Go to <https://constitution.congress.gov/browse/amendment-14/>. “The Bill of Rights was originally intended to apply only to the federal government, but the ratification of the Fourteenth Amendment placed prohibitions on the actions of individual states as well. As time went on, the Supreme Court made a number of rulings that certain state laws or policies violated protections guaranteed by the Bill of Rights, thus ‘incorporating’ those protections, applying them to all U.S. citizens” (<https://legaldictionary.net/due-process/>).

⁴ Go to <https://www.leg.state.nv.us/Const/NvConst.html#Art1Sec8>.

⁵ Go to https://en.wikipedia.org/wiki/Procedural_due_process.

⁶ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec197>.

⁷ Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec201>.

⁸ NRS 361.330(2) makes clear that “no assessment of property is invalid, and no collection of taxes may be enjoined (or) restrained...on account of any failure...to do any act required by this chapter...if notice and an opportunity to be heard [i.e., due process] (a)re afforded generally to the class of

refund⁹, these are the same “laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, they are the ones applicable to such charges”⁵) which must be adhered to [see NRS 318.201(12)⁷]. Moreover, the resolution the IVGID Board adopts to order collection of each year’s RFF/BFF incorporates the *same* “so called” refund remedy¹⁰. But because those laws do not allow those who are compelled to pay the ability to seek their refund (see discussion below), IVGID must provide a due process remedy. And that’s the purpose of this written statement.

Laws Applicable to the Refund of General Taxes of the County: As aforesaid, in Nevada NRS 361.330¹¹ instructs that “no assessment of property is invalid, and no collection of taxes may be enjoined, restrained or ordered to be refunded, on account of any failure: (1) to do any act required by NRS 361.315¹² to 361.325¹³, inclusive; or, (2) to do any act required by this chapter within the time so required, (as long as) notice and an opportunity to be heard (a)re afforded generally to the class of taxpayers affected by the act required to be done.” Translation: a taxpayer cannot challenge the propriety of a tax by not paying it. He/she/it must first pay the tax and thereafter seek its refund.

As aforesaid, the way to seek refund of a general tax is to appeal their assessment. There are two (2) statutory bases for owners of real property to seek refund. First, where the taxpayer “believes

taxpayers affected by the act required to be done” (go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec330>).

⁹ See NRS 361.356 (go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec356>) and 361.357 (go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec357>).

¹⁰ ¶8 of Resolution 1879 states that “said amounts (the RFF/BFF) shall be...subject to the same delinquent penalties; and all laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to such charges” (see page 110 of the 5/27/2020 Board packet). And ¶VI of the “Report For Collection on the County Tax Roll of...Incline Village General Improvement District...Recreation Standby and Service Charges” which is adopted by ¶6 of Resolution 1879 (see page 109 of the 5/27/2020 Board packet) states that “all laws applicable to the levy, collection and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to such charges (the RFF/BFF)” [see page 115 of the packet of materials prepared by staff in anticipation of the IVGID Board’s May 27, 2020 meeting {https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-27-2020.pdf (“the 5/27/2020 Board packet”)}].

¹¹ Go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec330>.

¹² Go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec315>.

¹³ Go to <https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec325>.

that his or her property (has been) *assessed* at a higher value than another property whose use is identical and whose location is comparable.”¹⁴ And second, where the taxpayer “believes that the full cash value of his or her property is less than the taxable value¹⁵ computed for the property in the current assessment year.”¹⁶ An appeal founded upon either basis is filed with the County Board of Equalization¹⁷ (“CBOE”).

“Any taxpayer aggrieved at the action of the (CBOE) in equalizing, or failing to equalize, the value of his or her property...may file an appeal with the State Board of Equalization”¹⁸ (“SBOE”). However, “the State Board of Equalization shall (*only*) hear and determine... appeals from the action(s) of each (CBOE).”¹⁹ Translation: a taxpayer cannot appeal assessment of the county’s general taxes directly to the SBOE. He/she/it must file in the CBOE *first*.

Nor can an aggrieved taxpayer file suit in District Court²⁰ because his/her/its exhaustion of all administrative remedies is a pre-requisite to suit²¹. Therefore summarizing, if a taxpayer cannot file an appeal in the CBOE, then as a practical matter, he/she/it is precluded from seeking refund. And that’s exactly the case here.

Because the RFF/BFF Are Not Founded Upon County or Department Assessment, Assessed Parcel Owners, as a Practical Matter, Are Prevented From Seeking Their Refund: The amount of the RFF/BFF is not based upon the assessed value of the parcel/dwelling unit assessed. Rather, the RFF/BFF are uniform in amount²² whether the assessed parcel/dwelling unit is vacant, occupied, an undeveloped lot, or a Lake front 20,000 square foot mansion. Moreover, the RFF/BFF are not assessed by the County Assessor or the Department, but rather IVGID²³. Because a RFF/BFF payor’s appeal cannot be based upon assessed valuation, regardless of the assessor, the CBOE refuses to entertain

¹⁴ See NRS 361.356(1) [<https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec356>].

¹⁵ That is, *assessed* value.

¹⁶ See NRS 361.357(1) [<https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec357>].

¹⁷ See NRS 361.356(2)¹⁴, 361.357(2)¹⁶, 361.360(2)¹⁸ [“all such appeals must be presented...to the county board of equalization in the first instance”].

¹⁸ See NRS 361.360(1) [<https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec360>].

¹⁹ See NRS 361.400(1) [<https://www.leg.state.nv.us/NRS/NRS-361.html#NRS361Sec400>].

²⁰ See NRS 233B.130(2)(b) [<https://www.leg.state.nv.us/NRS/NRS-233B.html#NRS233BSec130>].

²¹ NRS 233B.130(1)²⁰ instructs that “any party who is: (a) identified as a party of record by an agency *in an administrative proceeding*; and (b) aggrieved by a final decision in a contested case, is entitled to *judicial review* of the decision.”

²² See page 104 of the 5/27/2020 Board packet.

²³ NRS 361.445 instructs that “*assessment made by the county assessor and by the Department, as equalized according to law, shall be the only basis for property taxation by any...district in that county.*”

such appeals. And since the CBOE never takes “action,” an appealing RFF/BFF payor cannot be “aggrieved” by that failure to act. Which makes the “so called” remedy under Resolution 1879 and NRS 318.201(12) illusory!

And Because Assessed Parcel/Dwelling Unit Owners Are Prevented From Seeking Refund of the RFF/BFF, Resolution 1879 Deprives Them of Procedural Due Process: That is, notice, an opportunity to be heard, and a decision made by a neutral decision maker⁵.

The Board Need Look No Further Than Ordinance No. 7 to Fashion a Due Process Remedy: Let me share how IVGID can easily provide a due process remedy to assessed parcel/dwelling unit owners insofar as RFF/BFF refunds are concerned by referring the reader to section 67 of Ordinance No. 7²⁸: Disciplinary Procedures for Misconduct – suspending or revoking a parcel owner's recreation privileges.

1. First, **the District Provides Notice and the Right to Review Before a Department Head:** After the filing “of an incident report, 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...to respond to the claims and to explain the user's position concerning the incident.”

“Within five (5) business days of mailing the written notice...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...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.”

2. Second, “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 (‘GM’):**” “In order to avail him/herself of **the Right to Appeal to the (‘GM’)**, the user must so inform the (GM)...within two (2) business days of issuance of the written opinion.”

“Within five (5) business days of the user's notice of appeal letter, the (GM) shall hear the user's appeal...The (GM) 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 (and)...shall advise the user.”

3. Third, “**the User’s Right to Appeal the (GM’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...within five (5) business days of issuance of the written opinion from the (GM).” “The Board of Trustees shall hear the user's duly agendized appeal at the Board’s next regularly scheduled public meeting...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 (GM’s) decision. The Board’s decision is final.”

4. Finally, **Judicial Review**: in accordance with NRS 233B.130(1)²¹.

What I have described is due process; notice and the right to be heard before a hearing tribunal to challenge some type of governmental action. Because this is a right which is absent from the procedure which adopts the RFF/BFF and elects to have their collection on the county tax roll, IVGID is required to create such a procedure just like it created one for Ordinance No. 7. **Why doesn't the Board ask the District's new attorney?**

My Request of May 20, 2020: "As part of (IVGID's)...annual budget process, the (IVGID) Board traditionally approves a resolution which outlines the billing and collection process set forth in Nevada Revised Statutes 318.197⁵ (establishing standby service charges for services and facilities furnished by the District) and 318.201⁶ (establishing the method of collection), as well as establishing the amount of the Recreation...(RFF) and Beach...(BFF)...Facility Fee(s)...to be collected. Upon final approval, the District provides Washoe County Treasurer's Office with appropriate fee amounts to be assessed on each individual parcel within the District, pursuant to the prescribed process. At its meeting of April 14, 2020, the (IVGID) Board of a Trustees took action (via Resolution 1878²⁴) to approve the Preliminary Report for Collection (of the RFF/BFF) as well as setting of the public hearing for May 27, 2020²⁵ to consider final action of the Recreation and Beach Facility Fees for FY2020-21."

Because ¶VI of the Preliminary [NRS 318.201(1)] Report²⁶ provided for the same illusory procedure for seeking refund of the RFF/BFF as does the Final Report (see discussion above), and I anticipated that without my intervention the IVGID Board would adopt that same illusory remedy, on May 27, 2020 I sent all members of the IVGID Board as well as the District's interim GM (Indra Winquest) an e-mail which made the case for adopting a Policy which created an administrative remedy for those seeking refund of the RFF/BFF²⁷. That e-mail, in part, stated that:

Because "there is no procedural remedy for refund (of the RFF/BFF) as there is for the District's or the County's general taxes because the RFF/BFF (are) not based upon assessed valuation...I am asking the Board to create an IVGID administrative remedy...so local property owners can appeal to the Board for refunds."

In addition, at the May 27, 2020 public hearing to hear protests to the proposed Final Report [mandated by NRS 318.201(7)], I expressly referenced and incorporated my comments in Exhibit "A."

²⁴ See page 57 of the packet of materials prepared by staff in anticipation of the IVGID Board's April 14, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular-4-14-20.pdf ("the 4/14/2020 Board packet")].

²⁵ See pages 51-56 of the 4/14/2020 Board packet.

²⁶ See page 55 of the 4/14/2020 Board packet.

²⁷ That e-mail is attached as Exhibit "A" to this written statement. The language quoted from that e-mail is identified next to the asterisk placed thereon.

“You (the Board) need to adopt a policy for people to seek refund of the Rec Fee. Your (proposed) resolution (1879) says there’s a right of refund. But you can’t (seek) it under the current regulations. So modify the resolution to allow a pathway for people to seek refund just like you have ...in (¶167 of) Ordinance No. 7²⁸.”²⁹

Yet when it came time to adopt Resolution 1879, it was adopted in its proposed form meaning there is no administrative means for those paying the RFF/BFF to seek their refund.

My Request of June 11, 2020: After the Board’s May 27, 2020 meeting, interim GM Winquest sent out a June 7, 2020 e-mail to “Community Members” explaining staff’s snafu in putting out a sign which encouraged/instructed Hyatt guests to

“Obtain (a) Guest Access Ticket at (the) Hyatt Front Desk, Present (the) Access Ticket at Any IVGID Beach Gate...and Pay (a) Fee to Enter.”

That e-mail caused a series of e-mails to be generated between Indra and me³⁰ concerning the issue of RFFs/BFFs paid by the Hyatt, and the illusory nature of the right to refund to those parcel owners paying the RFF/BFF. In the same I asked Indra to “put to bed” the problem with seeking refund of the RFF/BFF inasmuch as “the county Board of Equalization won’t accept owner appeals.” I asked Indra to “create an administrative remedy” similar to the one “which exists under Ordinance 7 when a parcel owner’s recreation privileges are subjected to suspension or revocation.”³¹

When Indra responded he was “open to discussing (it) assuming the Board (wa)s interested,”³² I laid out the due process problems with the administrative procedure identified in Resolution 1879, and a proposed “fix” in light of the procedure identified in Ordinance No. 7³³. My final comments to Indra were asking that he,

²⁸ “An Ordinance Establishing Rates, Rules and Regulations For Recreation Passes and...Punch Cards by the Incline Village General Improvement District” (go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf).

²⁹ The Board livestreams its meetings (<http://new.livestream.com/accounts/3411104>). The portion of the Board’s livestreamed May 27, 2020 meeting [<https://livestream.com/ivgid/events/9148672/videos/206642382> (“the 5/27/2020 livestream”)] where I made the statements referenced, can be viewed at 1:01:07-1:01:30 of the 5/27/2020 livestream.

³⁰ That e-mail string is attached as Exhibit “B” to this written statement.

³¹ See the asterisk placed next to the language on page 3 of Exhibit “B.”

³² See the asterisk placed next to the language on page 2 of Exhibit “B.”

³³ See page 1 through the top portion of page 2 of Exhibit “B.”

“Agendize this matter for (possible) Board action, and that staff create a new Policy with language which gives those seeking refund of the RFF/BFF the administrative remedy suggested by NRS 318.201(12) and...language from (¶8 of) Resolution 1879¹⁰. And to move matters along, I...cc(ed) the Board asking our Chairperson to agendize this matter for possible Board action.”³²

Yet when the agenda for this meeting came out³⁴, I sadly learned that this matter had *not* been agendized for discussion and possible action. During the public hearing noticed to hear protests to the proposed Final Report mandated by NRS 318.201(7), I expressly referenced and incorporated my comments in Exhibit “A.”

My Request of June 18, 2020: After the agenda came out for the Board’s June 23, 2020 meeting and it was evident that the requested due process item had been omitted, I sent the Board one last e-mail complaining and asking that the agenda be modified³⁵ so staff could create a new Policy with language which gives those seeking refund of the RFF/BFF the administrative remedy suggested by NRS 318.201(12) and the above-language from Resolution 1879¹⁰.

Conclusion: Assuming the agenda for this meeting is not modified as requested, *let the record be crystal clear that the District has deprived those whose properties have been involuntarily assessed the RFF/BFF procedural due process of law with full knowledge of the wrong.*

And to those asking why your RFF/BFF are as high as they are, never seem to be reduced, and never given an opportunity to seek refund, now you have another example of the reasons why.

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

³⁴ See https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Agenda_Regular_6-23-2020.pdf.

³⁵ The first portion of this e-mail which speaks to the subject matter is attached as Exhibit “C” to this written statement.


EXHIBIT "A"

Staff's Proposed 2020-21 Rec and Beach Fees - Please Do the Right Thing!

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Dent Matthew <dent_trustee@ivgid.org>, Wong Kendra Trustee <wong_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, Schmitz Sara <schmitz_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan_Herron@ivgid.org" <Susan_Herron@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>
Subject: Staff's Proposed 2020-21 Rec and Beach Fees - Please Do the Right Thing!
Date: May 20, 2020 11:26 AM

Dear Chairperson Callicrate and Other Honorable Members of the IVGID Board:

Last night four (4) of you made it quite clear you intend to adopt a combined 2020-21 RFF/BFF of \$830. Because you have already preliminarily adopted a report for the collection of those fees [see pages 51-56 of the packet of materials prepared by staff in anticipation of the Board's April 14, 2020 meeting (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular-4-14-20.pdf)], I want to call your attention to language in the report which is set forth at paragraph VI which I full expect will be incorporated into the final report you adopt: "all laws applicable to the levy; collection and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges." Moreover, this language complies with NRS 318.201(13) which states "All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

There is a public hearing on the RFF/BFF set for next Wednesday, May 27, 2020. Afterwards I fully expect four (4) of you to adopt a final version of the report which will adopt the proposed RFF/BFF and order its collection on the County Tax Roll. Although those of us who are aggrieved cannot avoid paying these fees, we can seek their refund. However there is no procedural remedy for refund as there is for the District's or the County's general taxes because the RFF/BFF is not based upon assessed valuation. 

So I am asking the Board create an IVGID administrative remedy for seeking refund so local property owners can appeal to the Board for refunds where as here:

1. The public's recreation and beach facilities have **not** been available for property owners' use contrary to the language of paragraph I of the report that "the following annual charges (i.e., the RFF/BFF) are for the availability of use of the recreational facilities above described;"
2. At last night's meeting both staff and all members of the Board admitted that because of our excess fund balances, no Rec Fee was "required." Yet this finding conflicts with paragraph II of the report that, "the amount of moneys **required for the fiscal year extending from July 1, 2020, to June 30, 2021, has been determined by this Board to be** about \$_____ (fill in the blank) for the Recreation Facility Fee and \$_____ (fill in the blank) for the Beach Facility Fee;
3. At last night's meeting both staff and all members of the Board admitted that rather than "**the proper servicing of said identified bonds and for the administration, operation, maintenance and improvement of said real properties, equipment and facilities,**" the purpose of a 2020-21 RFF/BFF was to create/increase Community Services and Beach Fund balances to pay for future CIPs - namely a reconstructed Burnt Cedar Beach pool, construction of a new Incline Beach "House" restaurant, and the repaving of Ski Way;

4. Notwithstanding the beaches are "private property" the Board intends to use "the provisions of this chapter (NRS 318)...to provide a method for financing the costs of developing private property" (i.e., the beaches) contrary to the prohibition of NRS 318.015(2); and,

5. Notwithstanding the fact that on May 16, 2020 I provided the Board with evidence that the District entered into a court approved settlement agreement with the public on or about April 11, 1968 that the BFF would never exceed \$50, I anticipate the Board will violate this agreement by adopting a 2020-21 BFF in excess of \$50.

This type of administrative remedy already has already been adopted by the Board at paragraph 67 of Ordinance 7 (https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf) for "misconduct" (paragraph 66). It would be pretty easy for the Board to adopt a similar administrative remedy for those seeking refund of part/all of the RFF/BFF. This is what I request.

Thank you for your anticipated courtesies and implementation as part of next Wednesday's Board meeting.

Aaron Katz

EXHIBIT "B"

Fw: Re: Hyatt Signage at the Beaches - The Next Step - The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

From: s4s@ix.netcom.com
To: "ISW@ivgid.org"
Subject: Fw: Re: Hyatt Signage at the Beaches - The Next Step - The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF
Date: Jun 11, 2020 5:32 PM

Thank you Indra -

I appreciate the fact you're "open to discussing (anything) assuming the board is interested."

So let's try again.

We have a U.S. and Nevada Constitution. Both grant rights to all citizens. One of those rights is to NOT take property without just compensation or due process of law.

It is for this very reason that NRS 318.201(12) includes a due process provision to allow those challenging the propriety of a rate, toll or charge assessed by a GID to seek its refund: "All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

And it is for this same reason that Resolution 1879 states that "said amounts shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from the general taxes for the District, and shall be delinquent at the same time and thereafter be subject to the same delinquent penalties; and all laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

But as I have explained, anyone paying the RFF/BFF who wants to seek its refund, and trust me, there are a number of such persons, cannot utilize all laws applicable to the levy, collection, and enforcement of general taxes of the District" because: 1) The District has no such laws; and, 2) The County's laws are limited to challenging the propriety of assessed valuation and here the RFF/BFF is not based on assessed valuation. So here we have another example of "paper work" which makes it sound to the casual observer that a due process right exists when in the real world, it doesn't.

Let me give you another example of how IVGID had to provide a due process remedy when suspending or revoking a parcel owner's recreation privileges. This one appears at section 67 of Ordinance 7: Disciplinary Procedures for Misconduct.

First, there is a right to review before a Department Head: After the filing "of an incident report, 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...to respond to the claims and to explain the user's position concerning the incident."

"Within five (5) business days of mailing the written notice...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...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...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."


"In order to avail him/herself of the right to appeal to the General Manager, the user must so inform the General Manager...within two (2) business days of issuance of the written opinion."

"Within five (5) business days of the user's notice of appeal letter, the General Manager shall hear the user's appeal...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 (and)...shall advise the user...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...within five (5) business days of issuance of the written opinion from the General Manager."

"The Board of Trustees shall hear the user's duly agendized appeal at the Board's next regularly scheduled public meeting...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."

What I have described is due process. The right to be heard and to challenge adverse governmental action. Because this is a right which is missing from the procedure which adopts the RFF/BFF and elects to have their collection on the county tax roll, IVGID is required to create one. Just like it created one for Ordinance 7. Don't believe me? **Ask the District's new attorney.**

I ask you agendize this matter for Board action, and that staff create a new Policy with language which gives those seeking refund of the RFF/BFF the administrative remedy suggested by NRS 318.201(12) and the above-language from Resolution 1879.

And to move matters along, I am ccing the Board asking our Chairperson to agendize this matter for possible Board action. 

Thank you for your cooperation. Aaron Katz

-----Forwarded Message-----


>From: "Winquest, Indra S."

>Sent: Jun 10, 2020 9:43 PM

>To: "s4s@ix.netcom.com"

>Subject: Re: Hyatt Signage at the Beaches - The Next Step

>

>Not what i was implying. Sorry if it came off that way. Im open to discussing assuming the board is interested. I just have a lot of other high priorities based on board and community requests. To be 100% clear. Im not opposed to evaluating anything. I can have my professional opinion but it does not mean im right or should not be challenged. Im as open as any GM you will ever get Aaron. I consistently admit when im wrong. I have the experience in the community to weigh in on these issues. I talk to everyone not just a specific faction. Have a good night and weekend. 

>

>Cheers, Indra


>

>> On Jun 10, 2020, at 9:18 PM, "s4s@ix.netcom.com" wrote:

>>

>> Thank you Indra -

>>

>> Just so we're clear. You have no intention of making available an IVGID administrative vehicle for those seeking refund of the RFF/BFF to have it their requests be heard and decided. Correct? 

>>

>> Aaron

>>

>> -----Original Message-----

>>> From: "Winquest, Indra S."


>>> Sent: Jun 10, 2020 8:32 PM

>>> To: "s4s@ix.netcom.com"

>>> Subject: RE: Hyatt Signage at the Beaches - The Next Step

>>>

>>> Hi Aaron -

>>> I will be discussing the parcel issue with the board and I am committed to digging into this. It will not be happening overnight as there needs to be a lot of investigation, evaluation and vetting that needs to be discussed. We cannot change 38 years of doing things in a month. In regards to your other question, I have not thought about it, nor do I have any intension of looking into it as of now. Im not saying you do not have a point but considering I rarely hear any complaints about the \$830 and knowing the venues and services the districts offers, along with how the venues and services equates to property values, I would consider the facility fee very fair. I know plenty of people who decided not to buy property in Incline/Crystal Bay as they did not think they would make good use of the facilities and services so not worth buying. I understand your question but just being honest with you. Im not opposed to having the discussion if the board so desires. I have to focus on higher priorities right now and there are quite a few. These are challenging times. Thanks for all the insight on the dwelling unit issue. 

>>>

>>> Indra

>>>

>>> Indra Winquest

>>> Interim General Manager

>>> Incline Village General Improvement District

>>> 893 Southwood Blvd, Incline Village NV 89451

>>> P: 775-832-1323

>>> F: 775-832-1380

>>> isw@ivgid.org

>>> http://www.yourtahoeplace.com

>>>

>>> -----Original Message-----

>>> From: s4s@ix.netcom.com

>>> Sent: Sunday, June 7, 2020 8:27 PM

>>> To: Winquest, Indra S.

>>> Subject: Re: Hyatt Signage at the Beaches - The Next Step

>>>

>>> Thanks Indra -

>>>

>>> This is not a county issue.

>>>

>>> In fact, take a look at NRS 318.201(1) which is the statute you use to collect the Rec Fee the Board approves at staff's urging. It is PARCELS against which the Rec Fee is collected; not dwelling units.

>>>

>>> The Hyatt has an easement for the occupants of all of its hotel rooms to use our beaches. That easement doesn't come from paying the BFF, nor anything else for that matter. It's a property right. Now if the hotel wants to give up that right in consideration of relief from payment, we can have a discussion. But all I'm asking is that we return to the initial practice in 1968. It's what's fair and right.

>>>

>>> As to there being 2,000 more punch card holders, I say so what? According to staff all of our facilities are "under utilized." That's the justification used to sell access to the public. Maybe with more payors, we won't need to sell anything to the public?

>>>

>>> And speaking to "putting to bed" an issue, once and for all, how about putting to bed the issue of a Rec Fee payor's right to seek refund? The resolution just passed by the board gives this right. So does the report for collection adopted. And so does NRS 318.201(12). Because the county Board of Equalization won't accept parcel owner appeals, IVGID must create an administrative remedy. The same type of remedy which exists under Ordinance 7 when a parcel owner's recreation privileges are suspended or revoked.



>>>

>>> Are you willing to take this issue on as well?

>>>

>>> Thank you, Aaron

>>>

>>> -----Original Message-----

>>>> From: "Winquest, Indra S."

>>>> Sent: Jun 7, 2020 8:16 PM

>>>> To: "s4s@ix.netcom.com"

>>>> Subject: Re: Hyatt Signage at the Beaches - The Next Step

>>>>

>>>> Another thing to consider is that in the event we assess a rec fee to all 446 parcels, it would equate to over 2000 more ivgid passes/punch cards. That's significantly more access and they will find ways to use it as the timeshares do. I want to put this issue to bed whatever the result may be and im willing to add it to my long list of priorities but seems as if the County would ultimately have final say.

>>>>

>>>> Cheers, Indra

>>>>

>>>>> On Jun 7, 2020, at 7:39 PM, "s4s@ix.netcom.com" wrote:

>>>>>

>>>>> Thank you Indra. And thank you for allowing Mr. Warren to share your response. So with your permission I have a couple of questions.

>>>>>

>>>>> You state your "hope is that in the future, prior to information going out on Next Door, Facebook etc., that members of the community give (you) and/or members of the board of trustees an opportunity to discuss and address the issue."

>>>>>

>>>>> How about in the future, before you allow your staff to take actions like this one apparently without your knowledge or approval, that you or your staff give members of the community a heads up and opportunity to address the issue?

>>>>>

>>>>> After all, and as you rightfully admit, you "fully own this mistake."

>>>>>

>>>>> So now let's take mistake issue #2 that I hope you will similarly acknowledge, apologize and take immediate action to rectify.

>>>>>

>>>>> As you know the beach deed expressly gives the occupants of hotel and motel rooms the same right to access and use our beaches, as every other property owner with beach access has. And in consideration for this right, the very first Rec Fee recited in Resolution 419, as modified by Resolution 451, assessed each hotel and motel room or unit a separate Rec Fee.

This practice continued for the next 13 years until July 1, 1982 when "mysteriously," hotels and motels were assessed a single Rec Fee much the same as any other commercial parcel. The Hyatt was fully aware of the assessment practice between 1968-1982 because it acquired the former Kings Castle in 1975.

>>>>

>>>> Today the Hyatt pays two Rec/Beach Fees. One for the hotel parcel proper, and the second for the Lone Eagle Grille parcel together with the 24 separate dwelling unit cottages housed adjacent thereto.

>>>>

>>>> Notwithstanding the fact the Hyatt is only paying one Rec/Beach Fee per parcel, the occupants of all its 446 hotel rooms and cottage units have the absolute right under the beach deed to access and use the beaches.

>>>>

>>>> Now I don't blame you for what happened in 1982, but I do hold you and the current Board responsible for what happened on May 27, 2020. That was when the Board, AT STAFF'S URGING, presented a proposed Rec Roll for the levy of 2020-21 Rec/Beach Fees which again assessed the Hyatt two Rec/Beach Fees; one per parcel.

>>>>

>>>> Neither you nor any member of the Board can claim "ignorance" because I expressly called these facts to all of your attentions ahead of that meeting and asked that for 2020-21 the Hyatt be assessed 446 Rec/Beach Fees. In fact I submitted a written statement on the subject which laid out all the facts, arguments and documents.

>>>>

>>>> I fully understand why you would never, never propose anything like this even though you know it is the right thing to do. But your reasons demonstrate that you're not here for local parcel owners' interests. And as our Beach steward/fiduciary, which is what IVGID is under the beach deed, you have failed us miserably.

>>>>

>>>> But wait. It's not too late to rectify the wrong which has taken place and I suggest you call a special meeting of the Board for this express purpose. Let's get the facts all out in the open because what I am talking about extends to all other hotels and motels in town and we're talking about many hundreds of thousands of dollars which presumably, would lower all of the rest of our Rec/Beach fees. If you need some help tracing what has happened in the past, I am more than happy to assist.

>>>>

>>>> Hoping you will do the right thing, Aaron Katz -----Original

>>>> Message-----

>>>> From: Dick Warren

>>>> Sent: Jun 7, 2020 6:30 PM

>>>> To: "Winquest, Indra S."

>>>> Cc: "Gail L. Krolick" , "margaretmartini@liveintahoe.com" , Wright

>>>> Frank , Mike Abel , "ptodoroff1@sbcglobal.net" , Group - IVGID Trustees

>>>> , Judith Miller , Frank Wright , Joy Gumz , Mike Abel , Mark Smith ,

>>>> Mark Alexander , Carolyn Stark , Linda Newman , Cliff Dobler , Jane

>>>> Bekowich , Don/Pam Wightdonald , Aaron Katz

>>>> Subject: Re: Hyatt Signage at the Beaches

>>>>

>>>> Good response Indra, except that in paragraph 3 below, you ask that Community members first go to you and the Board before responding online. Indra, they responded online because your Staff did stuff they should not have done, and it was already out there. So let's not blame the locals for responding prior to running it by you and the Trustees. Maybe your Staff should have let you know what they were doing before it happened...just my opinion.

>>>>> On Jun 7, 2020, at 6:10 PM, Winquest, Indra S. > wrote:

>>>>

>>>> Dear Community Members –

>>>>

>>>> As you know, IVGID beach staff put up a sign down at the beaches that was explaining to Hyatt Guests how they may be able to access the beaches. This was a huge mistake and it has been rectified as the sign has been removed. As you are probably aware, the Hyatt opened this weekend and the beach gates were getting bombarded by Hyatt Guests. Staff was trying to solve this issue by attempting to detour Hyatt Guests from walking up to the gates. As soon as I found out about the sign from a member of the community, I immediately reached out to my staff and had them remove the sign. Unfortunately this was a mistake and for this I apologize to anyone that it may have offended.

>>>>

>>>> As you know, this is not a business as usual summer season and beach access is currently restricted to IVGID Passholders and Recreation Punch Card holders only until further notice. Therefore, Hyatt hotel guests do not have access to the beaches considering they do not have IVGID Passes nor Punch Cards. Typically, we do not get many Hyatt Hotel guests as they have their own beach and pool. I have been in discussions with the Board of Trustees and we will have this on the agenda on 6/23 to discuss and take action on how we will be managing beach access for the rest of this summer season.

>>>>

>>>> My hope is that in the future, prior to information going out on Next Door, Facebook etc., that members of the community give myself and/or members of the board of trustees an opportunity to discuss and address the issue. I fully understand why folks were alarmed about this as does the IVGID Beach Staff team. We will take this is a learning opportunity to ensure these kinds of mistakes are not made twice. Staff is fully committed to restricting access per mine, and Board of

EXHIBIT "C"

The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Wong Kendra Trustee <wong_trustee@ivgid.org>, Dent Matthew <dent_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>, "Susan_Herron@ivgid.org" <Susan_Herron@ivgid.org>
Subject: The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF
Date: Jun 18, 2020 11:24 AM



To Chairperson Callicrate and the other Honorable members of the IVGID Board.

On June 11, 2020 I sent the Board a copy of the e-mail below. In the same I pointed out the due process deficiencies of Resolution 1879 (which adopted the latest RFF/BFF and elected to have the same collected on the county tax roll) insofar as pursuing administrative refund as a pre-cursor to possible judicial action insofar as RFF/BFF refunds were concerned.

In the same I asked our Board Chairperson to agendize this matter for possible Board action.

I just received the agenda for next Tuesday's (June 23, 2020) Board meeting. As each of you knows, nowhere therein has the requested matter been agendized. Why not?

It's not too late to amend the agenda to include this matter, and I ask any Board member to so agendize this matter. I remind each of you that any trustee has the power to request that any item be agendized.

If none of you take action then I want the record to be crystal clear that your Resolution 1879 and future similar resolutions which deprive those who are compelled to pay the RFF/BFF of procedural due process of law. And should an action be filed because of the District's deprivation of this federal and state constitutional right, it will be my hope that any "Johnny-come-lately" justification IVGID's attorneys concoct, will fall on the deaf ears it will deserve, and that the District will be held liable.

Board members have a simple, straightforward means of remedying the problem along the lines I have suggested. I urge all of you to take advantage of it.

Respectfully, Aaron Katz

-----Original Message-----

From: s4s@ix.netcom.com
Sent: Jun 11, 2020 5:39 PM
To: Callicrate Tim
Cc: Wong Kendra Trustee , Dent Matthew , Morris Peter , Schmitz Sara
Subject: Re: Hyatt Signage at the Beaches - The Next Step - The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

Thank you Indra -

I appreciate the fact you're "open to discussing (anything) assuming the board is interested."

So let's try again.

We have a U.S. and Nevada Constitution. Both grant rights to all citizens. One of those rights is to NOT take property without just compensation or due process of law.

It is for this very reason that NRS 318.201(12) includes a due process provision to allow those challenging the propriety of a rate, toll or charge assessed by a GID to seek its refund: "All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

And it is for this same reason that Resolution 1879 states that "said amounts shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from the general taxes for the District, and shall be delinquent at the same time and thereafter be subject to the same

delinquent penalties; and all laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges."

But as I have explained, anyone paying the RFF/BFF who wants to seek its refund, and trust me, there are a number of such persons, cannot utilize all laws applicable to the levy, collection, and enforcement of general taxes of the District" because: 1) The District has no such laws; and, 2) The County's laws are limited to challenging the propriety of assessed valuation and here the RFF/BFF is not based on assessed valuation. So here we have another example of "paper work" which makes it sound to the casual observer that a due process right exists when in the real world, it doesn't.

Let me give you another example of how IVGID had to provide a due process remedy when suspending or revoking a parcel owner's recreation privileges. This one appears at section 7 of Ordinance 7: Disciplinary Procedures for Misconduct.

First, there is a right to review before a Department Head: After the filing "of an incident report, 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...to respond to the claims and to explain the user's position concerning the incident."

"Within five (5) business days of mailing the written notice...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...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...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."

"In order to avail him/herself of the right to appeal to the General Manager, the user must so inform the General Manager...within two (2) business days of issuance of the written opinion."

"Within five (5) business days of the user's notice of appeal letter, the General Manager shall hear the user's appeal...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 (and)...shall advise the user...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...within five (5) business days of issuance of the written opinion from the General Manager."

"The Board of Trustees shall hear the user's duly agendized appeal at the Board's next regularly scheduled public meeting...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."

What I have described is due process. The right to be heard and to challenge adverse governmental action. Because this is a right which is missing from the procedure which adopts the RFF/BFF and elects to have their collection on the county tax roll, IVGID is required to create one. Just like it created one for Ordinance 7. Don't believe me? **Ask the District's new attorney.**

I ask you agendize this matter for Board action, and that staff create a new Policy with language which gives those seeking refund of the RFF/BFF the administrative remedy suggested by NRS 318.201(12) and the above-language from Resolution 1879.

And to move matters along, I am ccing the Board asking our Chairperson to agendize this matter for possible Board action.

Thank you for your cooperation. Aaron Katz

-----Forwarded Message-----

>From: "Winquest, Indra S."

>Sent: Jun 10, 2020 9:43 PM

>To: "s4s@ix.netcom.com"

>Subject: Re: Hyatt Signage at the Beaches - The Next Step

>

>Not what i was implying. Sorry if it came off that way. Im open to discussing assuming the board is interested. I just have a lot of other high priorities based on board and community requests. To be 100%