



NOTICE OF MEETING

The regular meeting of the Incline Village General Improvement District will be held starting at **6:00 p.m.** on **Wednesday September 30, 2020** in the Boardroom at 893 Southwood Boulevard, Incline Village, Nevada.

In compliance with State of Nevada Executive Department, Declaration of Emergency Directive 006, 016, 018 and 021, this meeting is closed to the public and attendance is limited to members of the Board of Trustees and essential staff. Public comment is allowed and the public is welcome to make their public comment either via e-mail (please send your comments to info@ivgid.org by 4:00 p.m. on Wednesday, September 30, 2020) or via telephone (the telephone number will be posted to our website on the day of the meeting).

CLOSED SESSION – TIME CERTAIN - 5:00 p.m. to 5:45 p.m.

The Board may consider a motion to enter a Closed Session to consider negotiating strategy pertaining to the Operating Engineers Local Union No. 3 (pursuant to NRS 288.220).

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*
- C. PUBLIC COMMENTS* - Limited to a maximum of three (3) minutes in duration.
- D. APPROVAL OF AGENDA (*for possible action*)

The Board of Trustees may make a motion for a flexible agenda which is defined as taking items on the agenda out of order; combining agenda items with other agenda items; removing items from the agenda; moving agenda items to an agenda of another meeting, or voting on items in a block.

-OR-

The Board of Trustees may make a motion to accept and follow the agenda as submitted/posted.

- E. DISTRICT STAFF UPDATES (*for possible action*)
 - 1. District General Manager Indra Winquest – **pages 4 - 13**
 - a. Review of the long range calendar – **page 14**
 - 2. General Manager Diamond Peak Ski Resort Mike Bandelin
 - a. Diamond Peak Tentative Operational Plan (PowerPoint Presentation) – **pages 15 - 29**
 - 3. District General Counsel Josh Nelson – **pages 30 – 50 and pages 51 - 81**
 - a. Possibly review and discuss Office of Attorney General (OAG) File No. 13897-278 Findings of Fact and Conclusions of Law – Open Meeting Law Complaint filed by Mr. Frank Wright – **Finding by OAG of no violation – AND** – Possibly review and discuss

Incline Village General Improvement District

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

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

www.yourtahoeplace.com



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Office of Attorney General (OAG) File No. 13897-330 Findings of Fact and Conclusions of Law – Open Meeting Law Complaint filed by Mr. Aaron L. Katz – ***Finding by OAG of no violation***

F. REPORTS TO THE IVGID BOARD OF TRUSTEES*

1. Board Treasurer Sara Schmitz
2. Audit Committee Chairman Matthew Dent

G. GENERAL BUSINESS (*for possible action*)

1. Review, discuss, and provide feedback on a project delivery method [Design/Bid/Build (DBB), Construction Manager as Agent (CMA), and Construction Manager-at-Risk (CMAR)] for the Burnt Cedar Swimming Pool Improvement Project – Fund: Beaches; Project 3970BD2601 (Requesting Staff Member: Engineering Manager Nathan Chorey) – ***pages 82 - 113***
2. 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; Venue: Diamond Peak; Vendor: EXL Media; Contract Amount: Not-To-Exceed a total of \$100,000 (*consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees*) (Requesting Staff Members: Diamond Peak General Manager Mike Bandelin & Marketing Manager Paul Raymore) – ***pages 114 - 124***
3. Review, discuss, and possibly approve the District General Manager Goals for Fiscal Year 2020/2021 **and** set a date for the District General Manager's Performance Evaluation (Requesting Trustee: Chairman Tim Callicrate) – ***pages 125 - 126***
4. Potential Rebate to all Recreation and/or Beach Fee Rate Payers for Fiscal Year ending 2019/2020 due to COVID-19 impacts on IVGID Recreational Venues – Discussion of possible processes to issue the rebate (Requesting Staff Member: District General Manager Indra Winqest) – ***pages 127 - 130***
5. Discuss, potentially revise, and approve revisions to Board Policy 3.1.0 (Requesting Trustee: Trustee Sara Schmitz through Chairman Tim Callicrate) – ***pages 131 - 168***
6. Review, discuss and provide guidance to Staff on possibly adopting a Code of Conduct for the Board of Trustees and any Board Advisory Committees (Requesting Trustee: Chairman Tim Callicrate) – ***pages 169 - 225***
7. Review, discuss and possibly approve the revisions made to the Board of Trustees Handbook (Requesting Trustee: Trustee Sara Schmitz) – ***pages 226 - 287***

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

1. Meeting Minutes of August 26, 2020 – ***pages 288 - 342***

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



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- J. PUBLIC COMMENTS* - Limited to a maximum of three (3) minutes in duration.
- K. ADJOURNMENT *(for possible action)*

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Friday, September 25, 2020 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of September 30, 2020) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

- 1. IVGID Anne Offices)
- 2. Incline Village
- 3. Crystal Bay
- 4. Raley's
- 5. Incline Village
- 6. IVGID's
- 7. The Chateau at

**SUSPENDED – STATE OF NEVADA
EXECUTIVE DEPARTMENT,
DECLARATION OF EMERGENCY,
DIRECTIVE 006 (SECTION 3), 016, 018
AND 021.**

- Vorderbruggen Building (Administrative
- Post Office
- Post Office
- Shopping Center
- Branch of Washoe County Library
- Recreation Center
- Incline Village

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

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

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

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

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

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

MEMORANDUM

TO: Board of Trustees

FROM: Indra Winqest
General Manager

SUBJECT: General Manager's Status Report
Prepared for the meeting of September 30, 2020

DATE: September 22, 2020

General Manager & Board of Trustees Priority Projects & Tasks

ACTION ITEM	TARGET DATE COMPLETION	RESPONSIBLE PARTY	STATUS
Effluent Pond Lining Project Request for Qualifications (RFQ) <i>*updated</i>	CMAR RFQ Process to begin in October 2020	GM Winqest/DPW Pomroy Trustees Wong/Dent	Currently working on a RFQ to hire a CMAR Contractor.
Effluent Pipeline Project Request for Qualifications (RFQ)	See above	GM Winqest/DPW Pomroy Trustees Wong/Dent	See above
Burnt Cedar Pool Project <i>*updated</i>	Design Phase	Engineering Manager Chorey/GM Winqest	Schematic Design Proposal approved at the 9/9/20 BOT Meeting
<u>Internal Controls Project(s)</u>			
Review of Internal Control * Policies and Procedures	Winter/Spring	Director of Finance Navazio	Draft framework / project plan shared with Audit Committee; prioritizing procurement policy review
* Construction Contract Review <i>*updated</i>	Winter 2020	GM Winqest/Director of Finance Navazio	Moss Adams contract audit underway; completed document review and stakeholder interviews; fact validation by 10/30; final report 11/16
Ordinance 7 Administrative Revisions <i>*updated</i>	Fall/Winter 2020	GM Winqest	GM Advisory Committee Kick off meeting was held on 9/29/20.
Smith vs IVGID Litigation <i>*updated</i>	Ongoing	Legal Counsel/Board of Trustees/GM Winqest	Update provided by Legal Counsel at the 9/9/20 BOT mtg

ACTION ITEM	TARGET DATE COMPLETION	RESPONSIBLE PARTY	STATUS
Utilities Performance/Asset Management Review <i>*updated</i>	Hiring of Consultant Fall 2020	GM Winquest/Board	Draft RFQ / RFP under final review; target date for engaging consultant 11/1/20
2020/2022 Strategic Plan	February 2020/21	Senior Management Team/Board of Trustees	Will discuss, in the future, during long range calendar
USFS Parcel Acquisition – Potential Dog Park	Ongoing	GM Winquest	Met with USFS Staff 4/2/20 process of filing a special use permit.
2020/2021 Budget Kick off Workshop <i>*updated</i>	November 2020	GM Winquest/Director of Finance Navazio	Will discuss during long range calendar
Recreation Punch card accounting <i>*updated</i>	Fall 2020	Director of Finance Navazio	Board Workshop took place on 9/9/20.
USACE Grant Funding for Pond Lining/Pipeline Projects	TBD	GM Winquest/DPW Pomroy	No Update

COVID–19, Impacts to the District & update on closures and restrictions

The Recreation Center is currently open with a limited capacity of 50% for current members only. Drop in use is being evaluated at this time. Reservations are required for Group Fitness Classes, Gymnasium, Pool, and Strength and Conditioning area. The Chateau Grille is currently open with limited capacity and reservations are required. Weddings, Banquets and Events are currently taking place with significant restrictions based on state and county guidelines and restrictions. A variety of Parks & Recreation programs are being offered with strict health and safety guidelines. The community parks remain open for drop in use and social/physical distancing is being closely monitored. The Tennis Center remains open until late October weather dependent.

Beach operations are constantly changing and Staff has and will remain flexible as restrictions are ready to either lifted or added dependent on impact of COVID–19 and observed behavior at the beach properties. Currently the beach operational season is winding down. Food & Beverage and lifeguard operations ended on September 7th. Beach Host Staff will continue to staff the entrance gates and the boat ramp as weather and utilization allows.

- All Beach Parking lots open 7am – 8pm daily
- Ski Beach Boat Ramp Gate is currently open and staffed from 8am – 7:00pm daily.
- Beaches are currently open to IVGID Picture Pass and Recreation Punch Card Holders only. Physical/Social Distancing required. Pop up tents only allowed in specific areas.

Championship Course	Mountain Course
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August	2019	% of Play	2020	% of Play	2019	% of Play	2020	% of Play
Total Rounds	5832		5269		4771		4204	
Residents	1498	26%	1796	34%	1532	32%	2062	49%
Play Pass	2115	36%	2123	40%	709	15%	676	16%
Guest of Resident's	714	12%	592	11%	623	13%	497	12%
Non-Resident	1265	22%	627	12%	1635	34%	884	21%
Other	240	4%	131	3%	272	6%	85	2%

**85% of rounds were Residents or Residents Guest – Championship Course*

**77% of rounds were Residents or Residents Guest – Mountain Course*

Championship Golf Course

The Championship Course continued to be busy for the month of August and operated at 89.7% capacity with COVID-19 restrictions. The California fires did impact play, with several cancellations the last half of the month. Closing day for the Championship Course is scheduled for October 18th and the Range will remain open until weather dictates otherwise. All of our managers and staff have jumped in to do whatever it takes to get daily operations accomplished and many have gone above and beyond to manage through COVID-19.

Mountain Golf Course

The Mountain Course is continuing to enjoy great success this year and play for August was at 75.2% capacity with COVID-19 restrictions. Much like the Championship Course, the Mountain Course was also affected by the California fires. Closing day for the Mountain Course is scheduled for October 11th.

Public Works

- IVGID Public Works will temporarily suspend disconnections and penalty charges for delinquent accounts during this time. We will work with customers facing financial hardship to develop payment plans in order to assist with past due balances. We encourage any of our customers to contact us if they have concerns about their account balances. We expect to discontinue this by December 1.
- Solid waste violations and fines have been reinstated as of all new violations beginning August 31, 2020.

Ordinance 7 General Manager Advisory Committee

All committee members have been given a variety of historical and supporting material and data for thorough review. A kick off Zoom meeting will be held on September 29, 2020 to kick

off the project. Staff is anticipating this will be 4-month process and should include opportunities for the community to weigh in prior to presenting recommended draft amendments to Ordinance 7. A formal process and timeline will be presented to the Board of Trustees in October, 2020. Committee members are all full time residents and have a strong understanding of the District.

The Board of Trustees and community were provided with a verbal update on the committee members and the process at the September 9, 2020 Board of Trustees Meeting. The members of the committee are: Diane Becker, Mary Danahey, Denise Davis, Kristen Ferrall, Scott Hill, Margaret Martini, Hal Paris, Trevor Smith, Bruce Townsend, Karen Viel, Ken Viel, Frank Wright, Indra Winquest, IVGID District General Manager, Tim Callicrate, IVGID Board of Trustees, Chairman, Administrative Support Staff: Kari Ferguson and Susan Herron. A page on the IVGID website has been created and that link is <https://www.yourtahoepace.com/ivgid/general-managers-committee-on-ordinance-7>.

Key Project Updates

Burnt Cedar Swimming Pool Improvements

A 2020/2021 Capital Improvement and Board of Trustees Priority Project, this project will reconstruct the two (2) existing pools (full size and toddler) at Burnt Cedar Beach. A design consultant has been selected and worked with IVGID Staff and a community group to develop a preferred conceptual design. On August 12, 2020, the Board of Trustees unanimously selected a preferred option. On September 9, 2020, the Board of Trustees unanimously authorized schematic design services. On September 30, 2020, the Board of Trustees will review the project delivery method (Construction Manager-At-Risk or Design-Bid-Build). Schematic Design is tentatively scheduled to be presented to the Board of Trustees at the November 18, 2020 Board Meeting.

Tennis Center Renovation

The project includes remodeling the pro-shop and restrooms, enclosing the existing kitchenette area, expanding and enhancing the deck area, and layout improvements to make the venue more welcoming. The construction contract was awarded at the June 10, 2020 Board of Trustees meeting. Construction has commenced and the project is scheduled to be substantially complete April 1, 2021.

Daniel Fraiman Construction Contract Status:

Original Contract Amount	Change Orders	Current Total Contract Amount	Total Payments for Work Completed to Date	Current Balance to Completion (including retainage)
\$709,000	\$25,358	\$734,358	\$107,287	\$627,071

Effluent Pipeline Project

District Staff provided a detailed Effluent Export Project update to the Board of Trustees on January 29, 2020. The immediate priority is to replace all of the remaining Segment 3 pipeline (12,385 linear feet) and to make immediate repairs to the Segment 2 pipeline (17,314 linear feet) to extend its life and mitigate a potential future leak site. At the February 26, 2020 Board of Trustees Meeting, a design services scope of work was presented to the Board to begin replacement of Segment 3, the scope of work was not approved. The Board has placed this project on hold pending the hiring of a Project Manager/Construction Manager-At-Risk (CMAR) to conduct a complete project review of the Effluent Export Project. IVGID staff is preparing a Request for Qualifications (RFQ) to solicit responses from potential CMARs.

Effluent Pond Lining Project – 2599SS2010 (this is a new capital project #) – PO#

A component of the Water Resource Recovery Facility (WRRF) operation is a 2.4-million-gallon effluent storage basin located adjacent to the wastewater resource recovery facility (Plant). The WRRF Effluent Storage Alternative Analysis Memorandum, September 2018, recommends a reinforced concrete or the combination of concrete and shotcrete lining that provides the best long term value, maximizes storage volume, and has low maintenance to keep in service. At the February 26, 2020 Board of Trustees Meeting, a design services scope of work was presented to the Board for lining the pond, the scope of work was not approved. The Board has placed this project on hold pending the hiring of a Project Manager/Construction Manager-At-Risk (CMAR) to conduct a complete project review of the Effluent Export Project. IVGID staff is preparing a Request for Qualifications (RFQ) to solicit responses from potential CMARs.

Financial Transparency

Fiscal Year 2019/2020 Year-End Audit

Staff has been working on fiscal year-end close and completed trial balances and preparation preliminary financial statements for review by the District's Independent Auditor first week in September. Audit team is finalizing field work and testing District's financial transactions are 10-14 days behind schedule re deliverables, but are working to ensure overall audit plan is completed within required timeframe. Audit team is finalizing their field work and completing "testing" of sample transactions. Draft financial statements are scheduled to be completed in October with the final Comprehensive Annual Financial Report due to be delivered by the statutory requirement of November 30, 2020.

Fiscal Year 2020/2021

Staff has closed the first accounting period of the new fiscal year (July) and is scheduled to close August week of 9/28. Consistent with the fund structure of the adopted FY2020/21 budget monthly operating and capital project reports have been updated. Staff is evaluating potential modifications to the District's adopted budget based on feedback received from the Board related to Punch Card accounting as well as treatment of deferred revenues (fees paid in advance of facility use).

Work also continues on the engagement with Moss Adams to perform a review of the District's contract management practices. Consultant has completed document review for identified projects as well as stakeholder interviews. Fact validation is scheduled to be completed by the end of October with a final report delivered by mid-November.

Incline Village Crystal Bay Visitor's Bureau

Please see the attached letter dated September 15, 2020 from President/Chief Executive Officer Andy Chapman.

Personnel Update

Director of Public Works Joe Pomroy has tendered his resignation with the District effective October 2, 2020. We wish him the very best in the next chapter of his professional career.



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September 15th 2020
Indra Winquest
Incline Village General Improvement District
Via Email

Indra

Thanks for the conversation last week regarding questions that have come up related to IVGID's possible changes in the promotion and marketing of IVGID owned assets including Diamond Peak Ski Resort this winter. I have reviewed meeting video as well as the board meeting minutes for Item H1 from July 29th and have linked below.

<https://www.yourtahoeplace.com/uploads/pdf-ivgid/I.1. - Meeting Minutes - July 29 2020.pdf>.

There continues to be substantial misinformation regarding how the Incline Village Crystal Bay Visitors Bureau operates in our partnership with the North Lake Tahoe Resort Association in the marketing and promotion of the North Lake Tahoe region (including Incline Village and Crystal Bay). I have outlined a few points for consideration below.

1. Incline Village Crystal Bay Visitors Bureau (IVCBVB)

The IVCBVB is the official visitor bureau for the Washoe County portion of Lake Tahoe. The Bureau was created in January 1991 by the Reno Sparks Convention and Visitors Authority (RSCVA) as a distinct and separate organization. Articles of incorporation were filed with State of Nevada on June 25th, 1991. The IVCBVB is overseen by a 5-member, appointed board of directors and adheres to State of Nevada NRS regulations.

The mission of the IVCBVB reads: "To encourage tourist visits and ultimately enhance the occupancy and revenues for lodging facilities in the Incline Village and Crystal Bay areas".

2. TOT Collection and Distribution

Visitors to the Incline Village/Crystal Bay region, when staying overnight at an accommodation, pay a 13% tax on room cost. This tax is paid by the overnight visitor. Residents of IV/CB do NOT pay this tax, nor do businesses located in the region, nor do visitors that do not stay overnight. The overnight visitor pays this tax, it is collected by the accommodation and remitted monthly to the RSCVA tax authority for distribution. Distribution is designated by NRS Code and is distributed as follows: 4 and 5/16 % to RSCVA; 3 and 5/16 % to IVCBVB; 2% to Reno Sparks Convention Center Expansion; 1% to Nevada Department of Education; 1% to Washoe County; 1% to Reno Downtown Special Events Center; and 3/8 % to State of Nevada Taxation.

3. North Lake Tahoe Marketing Cooperative (NLTCM)

The NLTCM was established in October 2006 by an agreement between the IVCBVB and the North Lake Tahoe Resort Association (NLTRA). This agreement was developed through an extensive process with both the IVCBVB and the NLTRA. This agreement has been extended 3 times, each for a three-year period. In 2015, both organization's board of directors revised the agreement to be perpetual in length with the ability of either organization to request a formal review of the



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agreement. The NLTMC is overseen by a committee made up of 4 members from each organization.

The NLTMC was developed with the following objectives: 1. Distinguish North Lake Tahoe from our competitive set, 2. Build awareness of North Lake Tahoe in specific target markets, 3. Increase overnight visitation to North Lake Tahoe. In addition, the NLTMC determined these strategies: 1. Create a single destination voice for the North Lake Tahoe region, 2. Eliminate confusion from prior messaging from IVCBVB and the NLTRA, 3. Stretch limited budgets to compete with identified competitive destinations.

The NLTMC effort is designed to reach a target audience that may not know much about the NLT travel product. We support the strategy that it is the Coop's responsibility to market where our individual businesses cannot. It is our strategy to develop and drive visitation to new markets, typically outside of our traditional Bay Area drive market. This includes US domestic efforts as well as targeted international efforts. These efforts have been modified during the COVID-19 pandemic that we are currently experiencing (please note that the NLTMC has stopped all paid marketing efforts since March 15th). While our efforts are designed to promote the region, it is not our responsibility to be viewed as an in-house marketing arm of any one part of the destination. However, the various activities and product offering within the NLT region is vitally important to promote and is a critical part of our messaging.

Funding for the coop and all related marketing, sales, communication, social and promotional efforts is shared between the IVCBVB and the NLTRA. Historically, the IVCBVB has contributed approximately 40% of the total cooperative funding budget with the NLTRA funding the remaining 60%. As an example, this past year, the IVCBVB contributed \$850,000 to the cooperative effort while the NLTRA contributed \$1,500,000. For every dollar we spend in marketing the NLT region, our contribution covers .40 cents with the NLTRA contributing .60 cents. In combining our collective resources to promote the NLT region as a single travel destination, we not only maximize our resources, but we also are able to compete against larger destinations all of which are actively inviting visitors to their location.

Regarding the RSCVA or Washoe County. Both organizations are aware of the NLTMC effort and the efforts behind promoting the region as single destination. In addition, we work closely with the RSCVA to ensure that our portion (Incline Village/Crystal Bay) is getting an appropriate amount of promotional effort from the RSCVA sales and marketing effort. I sit on the RSCVA board as our Incline Village Crystal Bay bureau representative.

4. GoTahoeNorth.com

There has been some misinformation shared and discussed with your board as related to our region's consumer website, www.GoTahoeNorth.com. As stated above, via the NLTMC we market under a single destination umbrella and the single website as our fulfillment. As our



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efforts are targeted at developing new visitation, we must first sell the destination against our competitive set (South Lake Tahoe, Santa Cruz, Mammoth, Monterey, Palm Springs, Colorado and Utah resort, to name a few). With this, our consumer website promotes the entire destination of NLT including Incline Village and Crystal Bay. We have 13 distinct and different regions within NLT. Each provides the visitor with a unique experience tailored to their specific travel interests. IV and CB is no different in that effort. As an example, here are two links to specific IV and CB pages within our consumer website.

<https://www.gotahoenorth.com/lake-tahoe/towns/crystal-bay/>

<https://www.gotahoenorth.com/lake-tahoe/towns/incline-village/>

In addition, IVGID facilities are all listed on our site in various locations based on the type of search being conducted. In fact, on our winter landing page here <https://www.gotahoenorth.com/lake-tahoe-activities/winter/> you can see that Diamond Peak is prominently positioned with a photo and location ID on the Find Your Mountain section of the winter page. Diamond Peak is listed (with all other NLT ski resorts) in all applicable pages and links

<https://www.gotahoenorth.com/lake-tahoe-activities/downhill-resorts/>. IVIGID's golf product is

also promoted within the golf section of the site <https://www.gotahoenorth.com/lake-tahoe-activities/golf/> as is the tennis center

<https://www.gotahoenorth.com/listing/incline-village-tennis-center/> and the Chateau

<https://www.gotahoenorth.com/listing/chateau-at-incline-village/>

The design of the new site also allows the guest to customize their search to narrow down the content. As an example, you can search for just Incline Village lodging via the lodging page

<https://www.gotahoenorth.com/lodging/>, the dining page

<https://www.gotahoenorth.com/dine/bytown/> and the deals page

<https://www.gotahoenorth.com/deals/> amongst other.

5. Diamond Peak Marketing and Winter 2020

Just a few thoughts regarding this upcoming season. As I am sure you can agree, no one has a clear crystal ball of what the 2020 winter season will bring us. What will Mother Nature send our way in terms of snow, weather, temperatures? What will the COVID pandemic bring as it collides with the regular winter flu season? What will the traveling consumer be looking for from its host destinations? While none of us have these answers, we all need to be prepared as best we can to pivot and respond based on conditions on the ground. I am sure you have seen the information released last week from Vail Resort on how they will be handling pass holder and day visitor "reservations". I am sure Alterra will follow and perhaps Diamond Peak is also considering some adjustments to their operations. From the intel we have received as well as information provided by various organization such as NSAA, this season will no doubt be a regional, drive market, market share game. Resorts will focus on their key relationships with pass holders and close drive market guests. There will little to no long-haul market promotion or visitation (airlines are sure to reduce their capacity to RNO once CARES Act funding ends in October) and international efforts will be diverted to drive immediate guest visitation and returns. With that, we should expect all



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the Lake Tahoe ski resort operators to be focused on the close drive markets. This season will no doubt be a market share race to see who entice the visitors to their facilities. This and the unknown of what the season will bring in snowfall and temps may not be the best time to initiate a dramatic change in the marketing operation for Diamond Peak.

Indra, I hope these points are helpful in your review and ultimate determination of your efforts moving forward and that I have been able to shed some light on how we operate as well as potentially clear up some misinformation regarding various aspects of our operations. I am happy to further discuss any of these or other items that may be appropriate.

Best Regards

Andy Chapman

Andy Chapman

President/CEO

Incline Village Crystal Bay Visitors Bureau

DATE	DAY OF THE WEEK	TIME	LOCATION	TYPE OF MEETING - 2020	COMPLETED MEMORANDUMS WITH ALL BACK UP MATERIALS FOR AGENDA ITEMS FROM BOARD MEMBERS DUE DATES	ITEMS SLATED FOR CONSIDERATION
10/14	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	10/05/2020 8 a.m.	POSSIBLE CLOSED SESSION FOR UNION NEGOTIATIONS – Determination to be made by Director of Human Resources Dee Carey (5:00 p.m. to 5:45 p.m.) GM Report to include update on the Ordinance 7 GM Advisory Committee Review, discuss, and move forward with the selected preferred alternative for the Ski Way and Diamond Peak Parking Lot Reconstruction Project
10/27	Tuesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	10/13/2020 9 a.m.	Budget Calendar (FY2021/22) HR/Payroll and Financial System (Carey, Gove and Navazio) Finalize allocation of the fund balances to specific projects (from 08/12/2020) POSSIBLE CLOSED SESSION FOR UNION NEGOTIATIONS – Determination to be made by Director of Human Resources Dee Carey (5:00 p.m. to 5:45 p.m.)
10/28	Wednesday	TBD	Southwood – VIRTUAL	Audit Committee Meeting	10/19/2020 8 a.m.	Staff Updates: Internal Controls and 2019/2020 Audit RFQ for new auditor CAFR Transmittal Letter Management Discussion and Analysis (MD&A) Capitalization Correspondence received
11/18	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	11/03/2020 8 a.m.	GM Report to include update on the Ordinance 7 GM Advisory Committee FY2020/21 1st Qtr Budget Update Review of the Watermain Project (see award made on 06/23/2020) Present Schematic Design of Burnt Cedar Swimming Pool Improvement Project Season end report for Golf Season end report for Baches
11/18	Wednesday	TBD	Southwood – VIRTUAL	Audit Committee Meeting	11/09/2020 8 a.m.	CAFR Review Q1 Financials RFQ for new auditor Correspondence received
12/09	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	11/30/2020 8 a.m.	GM Report to include update on the Ordinance 7 GM Advisory Committee Review of the Washpad Project (see award made on 06/23/2020) Export Project Manager Budget Workshop #1 (December - Date TBD)
12/30	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	12/21/2020 8 a.m.	<i>Typically cancelled</i>

DATE	DAY OF THE WEEK	TIME	LOCATION	TYPE OF MEETING - 2020	COMPLETED MEMORANDUMS WITH ALL BACK UP MATERIALS FOR AGENDA ITEMS FROM BOARD MEMBERS DUE DATES	ITEMS SLATED FOR CONSIDERATION
01/13	Wednesday	6 p.m.		Regular Board Meeting		Budget Workshop #2 (January - Date TBD)
01/27	Wednesday	6 p.m.		Regular Board Meeting		
01/27	Wednesday	TBD		Audit Committee Meeting		Chair
02/10	Wednesday	6 p.m.		Regular Board Meeting		FY2020/21 Mid-Year Budget Update
02/24	Wednesday	6 p.m.		Regular Board Meeting		Budget Workshop #3 (February - Date TBD)
03/10	Wednesday	6 p.m.		Regular Board Meeting		
03/24	Wednesday	6 p.m.		Regular Board Meeting		
04/14	Wednesday	6 p.m.		Regular Board Meeting		
04/28	Wednesday	6 p.m.		Regular Board Meeting		
05/12	Wednesday	6 p.m.		Regular Board Meeting		Approval of FY2021/22 Tentative Budget
05/26	Wednesday	6 p.m.		Regular Board Meeting		Adoption FY2021/22 Budget (incl. Public Hearing) Approval of Rec Roll – FY2021/22 (incl. Public Hearing)

<i>Items sitting in the parking lot (to be discussed but (a) not yet scheduled for a specific Regular Board Meeting) or (b) a future Board not on this calendar</i>
RFID Picture Passes – Item for next Strategic Plan or three years from now – software not available nor is infrastructure/hardware
TRPA EIS Contract at Diamond Peak
Split Ordinance 7 (allow 45 days ahead of action)
Enterprise vs special revenue accounting
Trustee handbook
General Manager's job description clean up
Utility Rate adjustments (fee schedules) – pushed out from the April 14, 2020 meeting
Contract Award for Human Resources, Payroll and Financial Software
Board Policy 7.1.0 and Board Practice 7.2.0 (Trustee Dent) (Navazio)
Pricing policy

*Budget approval is required after the third Monday however whatever date is selected, a 10-day notice must be given. Must accomplished no later than June 1, 2021.



Diamond Peak Ski Resort
Winter Season 2020 -2021
Current Ski Venue Operating Plan
December 10th - April 11th

Board of Trustees – September 30, 2020

General Manager Mike Bandelin



STEP 1: CONDUCT AN OVERALL RISK ASSESSMENT

Before we decide whether or not we are going to reopen for winter operations we asked and answered the questions about local restrictions, our ability to meet local/national health guidelines, keeping employees healthy, and the overall feasibility of operating under current conditions

STEP 2: DECIDE

Opening for Winter

YES

STEP 3: DECIDE

What will operate?

STEP 4: MAKE A PLAN FOR EACH DEPARTMENT

PLAN COMPONENTS

- Communication—staff, community, guest
- Hygiene/Cleaning/Disinfection
- Physical Distancing
- PPE

STEP 5: TRAIN THE PLAN

STEP 6: COMMUNICATE THE PLAN

Share with staff, community, guests

STEP 7: EXECUTE THE PLAN

Put your plan in motion

STEP 8: MONITOR AND ADAPT

Monitor our results and guidance, make adjustments to the plan (S)

Safe Working - Safe Recreating

Face Coverings are Required

Diamond Peak will require face coverings while visiting the ski area whenever physical distancing cannot be achieved.

This includes both indoor and outdoor spaces, except when eating or drinking.



Safe Working - Safe Recreating

Physical Distancing

Diamond Peak's operating plan includes providing appropriate physical distancing through monitored occupancy to our community, guests and employees while visiting the facility.

This includes but is not limited to the following operations:

- Chair lifts
- Ticket lines
- Indoor facilities; dining areas, child Ski center a
- Ski and Snowboard lessons
- Transportation
- Employee work spaces



Safe Working - Safe Recreating

Cleaning and Disinfection

Our plan includes adopting a critical cleaning and disinfection strategy for all areas such as restrooms, dining facilities, ticket areas, chair lifts, shuttle busses, locker rooms, equipment rental areas and employee spaces.

We will encourage guests and staff to regularly disinfect their hands.

All Cleaning products used will follow CDC and EPA guidance on agents which are effective against COVID – 19.



Safe Working - Safe Recreating

Employee Health and Safety

Our operating decisions will be made with the health and safety of our employees in mind.

- Our staff will be trained in COVID-19 safety and disinfection protocols
- Employees will be provide proper Personnel Protective Equipment
- Employees will be asked to complete a wellness check prior to each shift.
- Employees will be required to wear a face coverings while working



Safe Working - Safe Recreating

Communication

We will communicate our plan and requirements to the guests prior to their arrival to the ski area, stressing the shared responsibility in keeping our ski area a safe place to ski and ride.

Diamondpeak.com will be continually updated to keep our community, guests and employees aware of current operations. We currently have detailed information posted on our site of COVID FAQ - Know Before You Go.

Signs will also be posted notifying the guests and employees of required best practices to help ensure a safe recreating experience.



Season Pass Holder Information

Season pass holders are at the core of the Diamond Peak family and we look forward to welcoming you back to the resort this winter. We hope to offer our pass holders as close to a "normal" experience as possible given the new restrictions and protocols in place including:

- At this time we will not be creating a reservation system/requirement for season pass holders to access the mountain.
- Diamond Peak's easy refund policy, the Peak Pledge, remains in effect.
- Bonus Lift Tickets at Diamond Peak's partner resorts may include additional restrictions, blackout dates, or reservation requirements. Please call each partner resort to verify requirements before making plans.
- Season pass sales cap: Diamond Peak will be limiting the number of season passes available to members of the public this season. Once we reach this limit, season passes will no longer be available for purchase. (We will not limit pass sales for IVGID Picture Pass holders.)
- Season passes must be purchased via our online store.

Examples of Informative Signs

HOW WE WORK



BE WISE - SANITIZE!



FACE MASKS REQUIRED AT ALL TIMES



PRACTICE PHYSICAL DISTANCING STAY 6 FEET APART

FACE COVERINGS ARE REQUIRED IN THIS AREA



PRACTICE PHYSICAL DISTANCING

BE WISE SANITIZE!



PRACTICE PHYSICAL DISTANCING FACE COVERINGS ARE REQUIRED

LET'S KEEP OUR SEASON SAFE!

PRACTICE PHYSICAL DISTANCING



FACE COVERINGS ARE REQUIRED

IF YOU ARRIVE TOGETHER



RIDE TOGETHER



PRACTICE PHYSICAL DISTANCING FACE COVERINGS ARE REQUIRED

Food and Beverage

Main Lodge

- At this time the ski area will follow the guidelines set forth by Washoe County of 50% capacity of indoor seating within the dining areas of the Main Lodge and Loft Bar.
- The Lodge deck seating will be available while the tables will be arranged to accommodate physical distancing.
- We have made plans and adjustments to the operation of the Food Court and dining areas with best practices in mind.
- The outdoor Wild Bill's barbeque will be open on weekend and holiday periods or as demand allows.
- We will also provide menu items from the Lightning Grab and Go outdoor service window.
- Following current operating guidelines our Loft Bar will not be available for walk up or sit down service.

Food and Beverage

Snowflake Lodge

- Snowflake Lodge will operate on a daily basis
- Indoor seating will not be available at this time
- Indoor food service will be available while practicing physical distancing
- Deck seating has been arranged to accommodate comfortable physical distancing
- Wild Bill's outdoor Barbeque will operate on a daily basis depending on weather conditions

Chairlifts

Lift lines

Physical distancing in lift lines occurs organically front to back due to the length of the skis and snowboards. Ghost lanes on the sides of each lanes will provide and achieve proper side to side distancing.



Loading the Chair

The guests will be asked to self-group and load the chair with their family or traveling party. We will not require guests to ride the chairlift with people they do not know.

At this time the plan reflects a reduced capacity of riders on the chair. For example the Quad chairs Lakeview, Lodgepole and Crystal will have a capacity of two riders per chair and the double chairs Schoolhouse, Redfox and Ridge will be reduced to 1 person riding the chair at a time.



Chairlifts

Riding the Chair

The average chairlift travels at approximately 5mph, 7 feet every second, providing consistent directional air flow. Chairs are spaced approximately 50 feet apart.



Unloading the Lift

Standard ski area safety rules and on-mountain signage require that people clear the unload area quickly after disembarking. Once clear of the chair, skiers and riders have wide open spaces on which to slide



Skiing Services

Group Lessons

- Reserve and purchase lessons in advance
- Available for skiers and riders 51” and above
- 7+ years and under 51” must take a family lesson with a parent
- Group sizes will be at a 5:1 skier/rider to instructor ratio
- Children 3 to 6 year old group lessons will be available for beginners only
- Multi-week programs are still in the planning process
- All Day Programs, which include lunch, will not be available at this time

Private Lessons

- Reserve and purchase lessons in advanced
- Adult and 7+ 51” and above lessons will be available
- Parent/Child lessons will be available for children under 51”
 - The parent or guardian must be able to ski



We always have, and always will, put the health and safety of our staff, guests and community first.

This season will be different than in the past, our goal as an industry and a local community ski area is to stay open for the entire season.

The guidelines and practices set forth are designed to provide a safe experience to all and set an example to local and state authorities that we can safely operate the ski area.

- What we need from our community and guests:
 - Wear Face Coverings
 - Practice Proper Physical Distancing
 - Plan ahead
 - Consider your day; as indoor facilities will have limited access



500 DAMONTE RANCH PARKWAY, SUITE
980
RENO, NEVADA 89521
775.853.8746
FAX 775.201.9611
HUTCHLEGAL.COM

JASON D. GUINASSO
PARTNER
JGUINASSO@HUTCHLEGAL.COM

September 8, 2020

Via Electronic Mail-

IVGID Board of Trustees

Chairman Tim Callicrate, callicrate_trustee@ivgid.org
Vice Chairman Matthew Dent, matthew.ivgid@gmail.com
Trustee Sara Schmitz, trustee_schmitz@ivgid.org
Trustee Kendra Wong, kwong.ivgid@gmail.com
Trustee Peter Morris, pmorris.ivgid@gmail.com

Indra Winquest, IVGID Interim General Manager, ISW@ivgid.org
Susan Herron, District Clerk, sah@ivgid.org
Joshua Nelson, Esq., IVGID General Counsel, joshua.nelson@bbklaw.com

**Re: CASE UPDATE – DECISION OF OFFICE OF THE ATTORNEY GENERAL
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES
OPEN MEETING LAW COMPLAINT
Wright, Frank O.A.G. FILE NO. 13897-278**

On August 25, 2020, this office received from the State of Nevada Office of the Attorney General its Decision regarding the Open Meeting Law Complaint filed by Frank Wright under OAG File No. 13897-278. Provided below is the procedural process related to the aforementioned Open Meeting Law Complaint. It is important to note that the Office of the Attorney General rendered its decision more two years after sending its initial notification to Incline Village General Improvement District (herein referenced as “IVGID” or “District”) regarding the subject Complaint.

Procedural history

On May 4, 2020, this office received correspondence notifying IVGID of the above referenced complaint by Frank Wright alleging that IVGID has violated the Nevada Open Meeting Law (“OML”). **See Attachment 1 (May 4, 2018 letter from the Office of the Attorney General)**. In Mr. Wright’s Complaint, we concluded that he presented the following issue:

1. Whether the IVGID Board of Trustees have demonstrated a recognition of the importance of public comment periods to the fulfillment of the spirit of the OML.

On May 23, 2018, this office prepared a response to the OML Complaint of Mr. Wright. **See Attachment 2 (May 23, 2018 response to Open Meeting Law Complaint of Frank Wright under OAG File No. 13897-**

278). *available upon request*

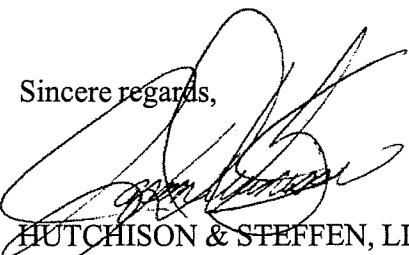
No violation of the Open Meeting Law

As stated above, on August 25, 2020, this office received from the State of Nevada Office of the Attorney General its Decision regarding the Complaint filed by Frank Wright under OAG File No. 13897-278. See **Attachment 3 (Decision from Office of the Attorney General dated July 20, 2020)**. The OAG's investigation of the Complaint included, "a review of the agenda, the public comment advisory statement, and Complaint with attachments, the October 2017 Findings, Complaints 13897-224& 226, together with the written response to the Complaint and the supporting material provided by IVGID." After such review, the OAG concluded that:

The Legislative intent behind the OML is for all action of all public bodies to be taken openly and their deliberations to be conducted openly. This creates a natural tension between the rights of those choosing to attend a public meeting desiring to interact with their public officers and the rights of those who would not be alerted to those discussions because of their absence on the posted agenda. The OML balanced these competing interests by allowing Boards to discuss public comment but not to deliberate toward a decision on any item not properly agendized. IVGID is not the first Board to have been advised to refrain from discussion of public comment, and Complainant is not the first member of the public to feel aggrieved by that policy. Previously, this office has twice found a Board with an overly restrictive view of its own ability to discuss comments was not in violation of the OML, but also recommended a policy of canvassing Board members to determine if anyone wished to discuss a comment. Having reviewed the available evidence, we again caution the Board from having an overly restrictive view of its ability to engage in discussion with its public. Have determined no violations of the OML have occurred, the OAG will close the file regarding this matter.

Since the OAG has concluded that there are no violations in this matter. No further action is needed.

Thank you for the opportunity to serve the Incline Village General Improvement District before the Office of the Attorney General regarding Open Meeting Law Complaint of Frank Wright, A.G. File No. **13897-278**. This matter will now be closed.

Sincere regards,

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

JDG:bf

ATTACHMENT 1

ATTACHMENT 1

ADAM PAUL LAXALT
Attorney General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

J. BRIN GIBSON
First Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

KETAN D. BHIRUD
General Counsel

May 4, 2018

via U.S. Mail

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

**Re: Incline Village General Improvement District –
Open Meeting Law Complaint, OAG File No. 13897-278**

Dear Chair Wong:

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

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

Due to the time limitations set forth in NRS 241, the OAG asks that you respond on or before May 23, 2018.

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

Sincerely,

ADAM PAUL LAXALT
Attorney General

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

CB:arz
Enclosure

SECTION 3.

BUSINESS OR INDIVIDUAL COMPLAINT IS AGAINST

Business/Provider Name: _____

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

Individual/Business Address: _____
Address City State Zip

Individual/Business Phone: _____
Work Mobile Fax

Individual/Business Email: _____

Individual/Business Web Site: _____

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

My complaint is:

The Public Comment advisory statement issued by Incline Village General Improvement District is seriously flawed and discourages public comment.

ALLEGED OPEN MEETING LAW VIOLATION IS AGAINST

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

Date of meeting where alleged violation occurred (mm/dd/yyyy): *Bi-monthly*

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

My complaint is:

see attached pages

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

Official's Name: Kendra Wong - IUGIO Board Chair

Title: and rest of Board of

Official's Government

Agency or Body:

Incline Village General Imp. Dist Trustees

Official's Work Address: 985 Southwood Incline NV 89451
(Street / PO Box) Blvd (City) Village (State) (ZIP Code)

Official's Telephone: 775-831-1100

SECTION 4.

PAYMENTS

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

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

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

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

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

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

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

OTHER AGENCIES

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

Have you contacted an attorney? Yes No

If so, what is the attorney's name, address, and phone number?

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

Is court action pending? Yes No
Have you lost a lawsuit in this matter? Yes No

SECTION 5.

EVIDENCE

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

SECTION 6.

WITNESSES

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

*The whole community of
Inactive Voters
Crystal Bay*

SECTION 7.

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

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

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

[Signature]
Signature FRANK WRIGHT
Print Name
4-6-18
Date (mm/dd/yyyy)

SECTION 8. (Optional)

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

Gender: Male Female

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

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

I am (mark all that apply):

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

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

Ethnic Identification:

- White/Caucasian
- Black/African American
- Hispanic/Latino
- Native American/Alaskan Native
- Asian/Pacific Islander
- Other: Senior Citizen

Primary Language:

- English
- Spanish
- Other:

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

Yes No

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

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

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

Nevada Attorney General
100 North Carson St
Carson City, Nevada

Open meeting Law Complaint

Dear Deputy Attorney General Bateman,

The Incline Village General Improvement District Public Advisory Statement is seriously flawed and intimidating to those who wish to give public comment. And it relegates the board to assume a role of a Mime, and it reduces the comments made by the public to irrelevant mumbo jumbo. This current advisory statement is the product of a previous decision of the Attorney General forcing Incline Village General Improvement District to revise this document, rather than creating a document fostering free and open dialog, the current Public Advisory Statement restricts free speech, and intimidates those who wish to speak.

Mr. Jason Guinasso, the districts legal counsel, having been instructed by the Attorney General to revise the Public Advisory Statement has made a mockery of those instructions. Although there were some edits to the former advisory statement, the intimidating language remains. As noted below:

Public Comment Advisory Statement – A public body has a legitimate interest in conducting orderly meetings. IVGID may adopt and enforce reasonable restrictions on public comment to ensure the orderly conduct of a public meeting and orderly behavior on the part of persons attending the meeting. Public comment, as required by the Nevada Open Meeting Law, is an opportunity for people to publicly speak to the assembled Board of Trustees. 1. Generally, it can be on any topic. 2. whether it is included on the meeting agenda. In other cases, it may be limited to the topic at hand before the Board of Trustees. Public comment cannot be limited by point of view. That is, the public has the right to make negative comments as well as positive ones. However, public comment can be limited in duration and place of presentation. While content generally cannot be a limitation, all parties are asked to be polite and respectful in their comments and refrain from personal attacks. Willful disruption of the meeting is not allowed. Equally important is the understanding that this is the time for the public to express their respective views. 3. and is not necessarily a question and answer period. This generally is not a time where the Board of Trustees responds or directs staff to respond. If the Chair feels there is a question that needs to be responded to, the Chair may direct the General Manager to coordinate any such response at a subsequent time. 4. Finally, please remember that just because something is stated in public comment that does not make the statement accurate, valid, or even appropriate. 5. The law mitigates toward allowing comments, thus even nonsensical and outrageous statements can be made. However, the Chair may cut off public comment deemed in their judgment to be slanderous, offensive, inflammatory and/or willfully disruptive. 6. Counsel has advised the Staff and the Board of Trustees not to respond to even the most ridiculous statements. 7. Their non-response should not be acquiescence or agreement just professional behavior on their part. IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open.

I have # the places in the public advisory statement which relate to #s below

- ① • After defining public comment can be on any topic, the advisory statement clouds the issue with "whether or not" it is included in the meeting agenda. What difference does it make?
- ③ • This statement takes the board out of the meeting, if a board member wants clarification or wants to add a comment he/she has been regulated to a mime. The chair giving the general manager the power to respond to public comment over an elected public official is just wrong, if not illegal.
- ② • This statement is a pre-condition to voiding a presentation by a member of the community.
- ② • It goes so far as to discredit any statement. It is an attempt to marginalize public comment.
- ⑤ • This statement infers public comment is "nonsense", or "outrageous", so a member of the community reading this pre-set condition will be intimidated and possibly refrain from speaking. It is just unnecessary to have such a comment in an advisory statement.
 - This statement is also a pre-condition to intimidation. TOTALLY unnecessary. And equally a hidden restraint on free speech. The statement references a "LAW", what law, is the district legal counsel suggesting a Nevada Statute on restraint of free speech? This is again a method to restrain public comment. The statement in the public comment advisory "thus even nonsensical and outrageous statements can be made", it assumes public comments are or could be not worthy of consideration.
- ⑤ • In this statement legal counsel has eliminated the board from doing their elected duties, by not engaging the public, and again tainted the public comments as being not worthy of consideration. "Staff and the Board of Trustees are advised; not to respond to even the most ridiculous statements".
- ⑦ • Here counsel has again taken the board out of the mix, by not responding! And having the board act like a "mime" and legal counsel goes as far as to identifying this conduct as "being professional." What is professional when a board member has a question and can't ask for clarification. Is sitting on your hands professional?

Conclusion: After a diatribe of intimidating instructions, the advisory statement concludes with a condescending and rather obnoxious **"IVGID appreciates the public taking the time to make public comment and will do its best to keep the lines of communication open."** There are no lines of communication! Communication is not always a one-way street, a street loaded with obstacles and hidden secret caverns.



And to add insult to injury, the speaker must sign an affidavit agreeing to the Public Comment Advisory statement, which further compounds the right to free speech, and open dialog by intimidating the speaker into believing if they don't agree with the Advisory Statement and adhere to the controlling language, they can't speak. (Although I have never signed the request to speak and checked the box that I will agree to everything in the Advisory Statement, I have always been allowed to speak. But for those new to the system it would be intimidating and cause some to remain silent.)

Frank Wright

P.O Box 186

Crystal Bay, Nevada 775-253-4919

IVGID BOARD OF TRUSTEES
REQUEST TO SPEAK/PUBLIC COMMENT FORM

Meeting of April 25, 2018

Please print legibly when completing the information below.

Turn in your request to speak/public comment form to the District Clerk prior to the beginning of the meeting to ensure your opportunity to speak/comment.

THANK YOU FOR COMING TO TODAY'S MEETING!

NAME: _____
 ADDRESS: _____
 TELEPHONE #: _____
 E-MAIL ADDRESS: _____

OML "Amendment 1"
13897-278

SIGN ME UP TO RECEIVE IMPORTANT NEWS AND INFORMATION BY E-MAIL

WHICH OF THE FOLLOWING ITEMS DO YOU WISH TO SPEAK ON?

AGENDA ITEM	BRIEF AGENDA ITEM DESCRIPTION	Speak on (v)
C.	Public Comments	
M.	Public Comments	

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

Please initial in the box below to indicate that you have read, understand, and agree to the above Public Comment Advisory Statement.

** This Is Intimidating to ANY Speaker*

April 19, 2018

ATTACHMENT 3

ATTACHMENT 3

AARON D. FORD
Attorney General

KYLE E.N. GEORGE
First Assistant Attorney General

CHRISTINE JONES
BRADY
Second Assistant Attorney General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701

July 20, 2020

JESSICA L. ADAIR
Chief of Staff
RACHEL J. ANDERSON
General Counsel
HEIDI PARRY STERN
Solicitor General

Via U.S. Mail

Frank Wright
P.O. Box 186
Crystal Bay, NV 89402



Re: Open Meeting Law Complaint, O.A.G. File No. 13897-278

Dear Mr. Wright:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) filed on April 9, 2018 alleging a violation of the Open Meeting Law (“OML”) by the Incline Village General Improvement District (“IVGID”) at an unspecified date and time.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (“NRS”) 241.037; NRS 241.039; and NRS 241.040. In response to the Complaint, the OAG reviewed the Complaint, response from IVGID (“Response”), prior open meeting law decisions, recorded video from the meeting in question, and portions of the Nevada Revised Statutes relevant to the Complaint.

FACTUAL BACKGROUND

Previously, Mr. Wright filed two separate complaints on February 16, 2017 and April 3, 2017 complaining of conduct at prior IVGID meetings.¹ In response to those complaints the Office of the Attorney General issued Findings of Fact and Conclusions of Law on October 19, 2017 (the “October 2017 Findings”). Amongst the various issues discussed in the October 2017 Findings was IVGID’s public comment advisory statement, which had been read into the record by IVGID’s counsel.² IVGID’s use of a

¹ OAG file Nos 13897–224 & 226.

² The present complaint contains specific allegations against Board counsel, who is alleged to have “made a mockery of [the Office of the Attorney General’s] instructions.” While Board counsel is

public comment advisory statement in that instance was not found to have constituted a violation of the OML.³

The Complaint now alleges that the public comment advisory statement issued by IVGID “is seriously flawed and discouraged public comment.” The Complaint also includes a copy of the advisory statement with separate allegations of impropriety.

LEGAL ANALYSIS

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; and NRS 241.040. The OML applies only to a “public body” as defined in NRS 241.015(4). Here the Complaint is alleged against IVGID, which is a General Improvement District organized and operating under Chapter 318 of the Nevada Revised Statutes.⁴ As such it is a public body as defined in NRS 241.015(4).

The OAG’s investigation of the Complaint included a review of the agenda, the public comment advisory statement, and Complaint with attachments, the October 2017 Findings, complaints 13897–224 & 226, together with the written response to the Complaint and the supporting material provided by IVGID.⁵

The specific allegations of the Complaint can be broken down into two separate categories: 1) IVGID’s public comment advisory statement does not allow the Board to fully consider public comments and engage with the public; and 2) IVGID’s public comment advisory statement intimidates the public into refraining from comment. Each will be considered separately.

IVGID’s public comment advisory statement does not prevent the Board from fully

not a public body within the meaning of NRS 241.020(4), a Board may violate the OML by allowing its counsel to take improper actions, thus actions of Board counsel taken in the name of the Board may be the basis of violations.

³ The Office of the Attorney General advised IVGID to revise the statement consistent with those Findings but found no formal violation of the OML based on the content or use of the statement.

⁴ <https://www.yourtahoeplace.com/ivgid/about-ivgid>

⁵ IVGID presents an allegation that the Complaint was brought in bad faith and requests the OAG review an electronic video of Mr. Wright’s various public comments to the Board at the IVGID meetings. That video was not reviewed and the OAG did not investigate IVGID’s allegation of bad faith against the Complainant. IVGID did not present any argument relating to the legal consequences of a finding of bad faith, thus it is unclear what legal effect a substantiated finding of bad faith would have. As such, the Complainant’s motivations, and IVGID’s bad faith allegation were not considered relevant to this investigation and are not reached by this analysis.

considering public comment or engaging with the public.

The Complaint alleges that several portions of IVGID's public comment advisory statement prevent consideration or engagement with the public. Specifically, the Complaint alleges the following about various portions of the public comment advisory statement:

Allegation #1: "This statement is a pre-condition to voiding a presentation by a member of the public."

Allegation #2: "It goes so far as to discredit any statement, it is an attempt to marginalize public comment."

There is no support for these allegations. The public comment advisory statement does not indicate that public comment will be voided, ignored or otherwise diminished except for several narrow restrictions consistent with Nevada law. The quotation simply explains legal requirements placed on the body regarding public comment and expresses a request for politeness and respect during the public comment period. Nevada law further establishes that any restrictions on public comment must be placed on the agenda.⁶ There is no requirement for a public comment advisory statement, however, the public must be apprised of any restrictions on public comment. IVGID's decision to include such restrictions in its advisory statement are reasonable and consistent with the OML. Additionally, the public comment advisory statement specifically informs the public that their right to make negative or positive comments is protected and only indicates that willful disruption of the meeting will not be allowed while encouraging politeness and civil discourse. IVGID did not violate the Open Meeting Law by including lawful restrictions on public comment in its public comment advisory statement.

Allegation #3: "This statement takes the board out of the meeting, if a board member wants clarification or wants to add a comment he/she has been regulated [sic] to a mime. The chair giving the general manager the power to respond to public comment over an elected public official is just wrong, if not illegal."

Here IVGID's public advisory statement attempts to explain to the public the prohibition on engaging in Board deliberation of public comments which have not been properly agendized.⁷ The difficulty for IVGID is that a public body's ability to engage

⁶ NRS 241.020(2)(d)(7)

⁷ OMLO 10-07, AG File No. 10-037 (October 19, 2010)

in discussion with the public during public comment is specifically protected by statute.⁸ However, this ability to discuss matters does not allow a public body to deliberate, as defined by NRS 241.015(2), on matters that have not been properly agendaized. This tension and the legislative history behind it has been previously addressed in OMLO 10-07. Here, the public comment advisory statement does not state that discussion of public comment is legally prohibited, just that public comment is not generally a question and answer period. The record does not show that the Board holds the mistaken impression that discussion of public comments is legally prohibited, nor that it has advised the public of such. Though they may engage in discussion of public comment if they choose to, "if members decide discussion with the public is not warranted, no OML violation occurs."⁹ The record does not demonstrate IVGID incorrectly advised the public that it was prohibited from discussing public comment with speakers. IVGID did not violate the Open Meeting Law by indicating that generally public comment is not a question and answer period in its public comment advisory statement.

IVGID's public comment advisory statement does not violate the OML by intimidating the public into refraining from comment.

The Complaint further alleges that the public comment advisory statement intimidates the public into refraining from comment.

Allegation #4: "The statement infers public comment is "nonsense", or "outrageous", so a member of the community reading this pre-set condition will be intimidated and possibly refrain from speaking. It is just unnecessary to have such a comment in an advisory statement."

Allegation #5: "This statement is also a pre-condition to intimidation. TOTALLY unnecessary. And equally a hidden restraint on free speech. The statement references a "LAW"; what law; Is the district legal counsel suggesting a Nevada Statutes [sic] on restraint on free speech? This is again a method to restrain public comment. The statement in the public comment advisory [sic] "thus even nonsensical and outrageous statements can be made", it assumes public comments are or could be not worthy of consideration."

The public comment statement informs the public that their right to make statements will not be restricted even if the statements are nonsensical. Contrary to

⁸ Discussion of Public comment is specifically allowed. NRS 241.020(2)(d)(3)

⁹ OMLO 10-07, AG File No. 10-37 (October 19, 2010), quoting OMLO 2003-13 (March 21, 2003)

the Complaint's allegation that this implies that the public comment is nonsense, the statement actually confirms that even nonsensical and outrageous comments would be allowed. There is no evidence that this statement has the effect of intimidating the public to refrain from speaking. IVGID did not violate the Open Meeting Law by specifically including notice that outrageous and nonsensical statements can be made in its public comment advisory statement.

Allegation #6: "In this statement legal counsel has eliminated the board from doing their elected duties, but not engaging the public, and again tainted the public comments as being not worthy of consideration. "Staff and the Board of Trustees are advised; not to respond to even the most ridiculous statements"

Allegation #7: "Here counsel has again taken the board out of the mix, by not responding! And having the board act like a "mime" and legal counsel goes as far as to identifying this conduct as "being professional." What is professional when a board member has a question and can't ask for clarification. Is sitting on your hands professional?"

The public comment advisory statement includes notice that counsel has advised the staff and the Board not to respond to comments. As discussed above and in previous decision OMLO 10-07, the Board is allowed to discuss public comments so long as they stop short of deliberation. The Board has been advised by its counsel to refrain from any responses to public comment. The Office of the Attorney General has previously recommended a different practice regarding public comment. Our prior recommendation was "that at the conclusion of the public comment period or after each individual public member's comments, the Chairperson ask the Board members whether they would like to address the comments made by the public."¹⁰ This practice was again recommended to a board struggling with the natural tension between the preference toward public engagement and its inability to deliberate toward a decision of a non-agendized item.¹¹ Neither prior decision of this office recommending a public body adjust its public comment practice found an OML violation in the first instance, but left open the possibility that the continued practice could result in a future finding of violation. Thus, the inclusion of these statements in the public comment advisory statement do not constitute an OML violation in this instance, but could result in a future finding of violation.

¹⁰ OMLO 2005-17, AG File No. 05-033 (August 26, 2005) Footnote #2.

¹¹ OMLO 10-07, AG File No. 10-37 (October 19, 2010)

CONCLUSION

The Legislative intent behind the OML is for all actions of all public bodies to be taken openly and their deliberations be conducted openly. This creates a natural tension between the rights of those choosing to attend a public meeting desiring to interact with their public officers and the rights of those who would not be alerted to those discussion because of their absence on the posted agenda. The OML balances these competing interests by allowing Boards to discuss public comment but not to deliberate toward a decision on any item not properly agendized. IVGID is not the first Board to have been advised to refrain from discussions of public comment, and Complainant is not the first member of the public to feel aggrieved by that policy. Previously, this office has twice found a Board with an overly restrictive view of its own ability to discuss public comments was not in violation of the OML, but also recommended a policy of canvassing Board members to determine if anyone wished to discuss a comment. Having reviewed the available evidence, we again caution the Board from having an overly restrictive view of its ability to engage in discussion with its public. Having determined that no violations of the OML have occurred, the OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD,
Attorney General

By: /s/ Gregory D. Ott
GREGORY D. OTT
Chief Deputy Attorney General

cc: Jason Guinasso, Board Counsel to IVGID

CERTIFICATE OF SERVICE

I certify that on the 19th day of August, 2020, I mailed the foregoing letter by depositing a copy of the same in the U.S. mail, properly addressed, postage prepaid, first class mail, to the following:

Frank Wright
P.O. Box 186
Crystal Bay, NV 89402

Jason Guinasso, Board Counsel to IVGID
Hutchison & Steffen
500 Damonte Ranch Pkwy., Suite 980
Reno, NV 89521

/s/ Debra Turman
An employee of the State of Nevada
Office of the Attorney General



500 DAMONTE RANCH PARKWAY, SUITE
980
RENO, NEVADA 89521
775.853.8746
FAX 775.201.9611
HUTCHLEGAL.COM

JASON D. GUINASSO
PARTNER
[JGUINASSO@HUTCHLEGAL.COM](mailto:jguinasso@hutchlegal.com)

September 9, 2020

Via Electronic Mail-

Indra Winquest, IVGID Interim General Manager, ISW@ivgid.org
Susan Herron, District Clerk, sah@ivgid.org
Joshua Nelson, Esq., IVGID General Counsel, joshua.nelson@bbklaw.com

IVGID Board of Trustees:

Chairman Tim Callicrate, callicrate_trustee@ivgid.org
Vice Chairman Matthew Dent, matthew.ivgid@gmail.com
Trustee Sara Schmitz, trustee_schmitz@ivgid.org
Trustee Kendra Wong, kwong.ivgid@gmail.com
Trustee Peter Morris, pmorris.ivgid@gmail.com

**Re: CASE UPDATE – DECISION OF OFFICE OF THE ATTORNEY GENERAL
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES
OPEN MEETING LAW COMPLAINT
KATZ, AARON O.A.G. FILE NO. 13897-330**

On August 21, 2020, this office received from the State of Nevada Office of the Attorney General its Decision regarding the Open Meeting Law Complaint filed by Aaron Katz under OAG File No. 13897-330. Provided below is procedural history related to the aforementioned Open Meeting Law Complaint. It is important to note that the Office of the Attorney General rendered its decision almost exactly one year after sending its initial notification to Incline Village General Improvement District (hereinafter referenced as “IVGID” or the “District”) regarding the subject Complaint.

Procedural history

On August 1, 2019, this office received correspondence notifying IVGID of the above referenced Complaint submitted by Aaron Katz alleging that IVGID had violated the Nevada Open Meeting Law (“OML”). **See Attachment 1 (August 1, 2019 letter from the Office of the Attorney General).** In Mr. Katz’s Complaint, we concluded that he presented the following issue:

1. Whether IVGID violated Nevada Open Meeting Law by including in its May 1, 2019, meeting minutes, which were approved on May 22, 2019, written comments that were filed by members of the public with the District Clerk prior to the May 1, 2019, meeting in accordance with the Notice of Intention to Authorize a Medium-Term Installment Purchase Agreement published in the Tahoe Tribune on April 19, 2019, and again as an agenda item on April 26, 2019.

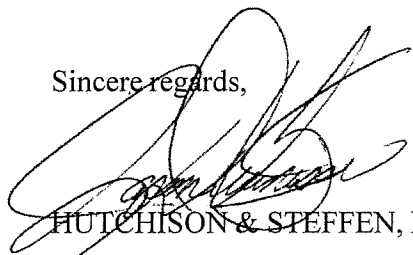
On August 23, 2019, this office prepared a response to the OML complaint of Mr. Katz. **See Attachment 2 (August 23, 2019 response to Open Meeting Law Complaint of Aaron Katz under OAG File No. 138971-330).** *available upon request*

No violation of the Open Meeting Law

As stated above, on August 21, 2020, this office received from the State of Nevada Office of the Attorney General its Decision regarding the Complaint filed by Aaron Katz under OAG File No. 13897-330. **See Attachment 3 (Decision from Office of the Attorney General dated July 29, 2020).** We are happy to report that “after the [Office of the Attorney General’s] review of [Aaron Katz’s] Complaint; the Board’s response; video from the Board’s May 1, 2019 meeting; Attorney General Open Meeting Law Opinion 13897-263; and relevant legal authorities; the OAG conclude[d] the Board did not violate the Open Meeting Law. The Office of the Attorney General concluded that “[t]he Board’s decision to include in its meeting minutes written statements from persons who were not physically present at a public meeting did not violate Nevada’s Open Meeting Law.” No further action is required to be taken.

Thank you for the opportunity to serve the Incline Village General Improvement District before the Office of the Attorney General regarding Open Meeting Law Complaint of Aaron Katz, A.G. File No. **13897-330**. This matter will now be closed.

Sincere regards,



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

JDG:bf

ATTACHMENT 1

ATTACHMENT 1

AARON D. FORD
Attorney General

KYLE E.N. GEORGE
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General



JESSICA L. ADAIR
Chief of Staff

RACHEL J. ANDERSON
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

August 1, 2019

Via U.S. Mail

Incline Village General Improvement District
Board of Trustees
893 Southwood Blvd.
Incline Village, NV 89451

Re: Incline Village General Improvement District Board of Trustees –
Open Law Complaint, OAG File No. 13897-330

Dear Board:

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

The OAG requests that the IVGIDBT, through its legal counsel, prepare a response and/or defense to the allegations contained in the attached Complaint. Please include any records or documentation that support the response.

Due to the time limitations set forth in NRS 241, the OAG asks that you respond on or before August 19, 2019.

Should you have any questions, please contact Debra Turman via email at dturman@ag.nv.gov.

Sincerely,

AARON D. FORD
Attorney General

By: /s/ Jared M. Frost
JARED M. FROST
Senior Deputy Attorney General

JMF:dkt

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 N. CARSON ST., CARSON CITY, NV 89701 - TEL# 775-684-1100 - FAX# 775-684-1108
555 E. WASHINGTON AVE., STE 3900, LAS VEGAS, NV 89101 - TEL# 702-486-3420 - FAX# 702-486-3768



COMPLAINT FORM

The information you provide on this form may be used to help us investigate violations of state laws. Please be sure to complete all required fields. The length of this process can vary depending on the circumstances and information you provide. The Attorney General's office may contact you if additional information is needed. Supplemental materials can be attached to Section 6 of this complaint form, and if additional supplemental materials are acquired after submitting this form, please email them to AGCOMPLAINT@aa.nv.gov with COMPLAINT in the subject line.

COMPLAINTS THAT ARE SIGNED WILL BE

HAVE YOU PREVIOUSLY FILED A COMPLAINT WITH OUR OFFICE? *YES NO
If so, what are the approximate dates of previously filed complaint(s)?

SECTION 1: COMPLAINANT INFORMATION

LASTNAME: KATZ		FIRST NAME AARON		MI	
ORGANIZATION:					
ADDRESS: P.O. BOX 3022		CITY: Incline Vlg	STATE: NV	ZIP: 89450	
PHONE/MOBILE: (775) 833-1008		EMAIL: s4s@ix.netcom.com			
AGE GROUP	<input type="checkbox"/> UNDER 21	<input type="checkbox"/> 21-39	<input type="checkbox"/> 40-65	<input checked="" type="checkbox"/> OVER 65	
PRIMARY LANGUAGE:					

SECTION 2: TYPE OF COMPLAINT

<input type="checkbox"/> GENERAL INVESTIGATIONS	<input type="checkbox"/> MISSING CHILDREN	<input type="checkbox"/> TICKET SALES
---	---	---------------------------------------

HIGH TECH CRIME	MORTGAGE FRAUD	WORKERS COMP FRAUD
INSURANCE FRAUD	OPEN MEETING LAW	OTHER
MEDICAID FRAUD	PUBLIC INTEGRITY	

SECTION 3: MY COMPLAINT IS AGAINST

<input type="checkbox"/> INDIVIDUAL <input checked="" type="checkbox"/> BUSINESS / GOVERNMENT AGENCY / REPRESENTATIVE		
NAME OF PERSON / BUSINESS / AGENCY: INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES		
ADDRESS: 893 Southwood Blvd.	CITY: <i>Incline Village</i>	STATE: NV
TELEPHONE NUMBER: 832-1 100 (775)	EMAIL: • <i>herron@ivgid.org</i>	
WEBSITE: yourtahoeplace.com		
DATE ALLEGED VIOLATION OCCURRED: <i>May 22, 2019</i>		
WAS A CONTRACT SIGNED? YES NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
HAVE YOU CONTACTED ANOTHER AGENCY FOR ASSISTANCE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF SO, WHICH AGENCY:		
HAVE YOU CONTACTED AN ATTORNEY? YES NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF SO, PROVIDE ATTORNEY'S CONTACT INFORMATION:		
IS COURT ACTION PENDING? YES NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
DID YOU MAKE ANY PAYMENTS TO THE INDIVIDUAL OR BUSINESS? <input type="checkbox"/>		
HOW MUCH WERE YOU ASKED TO PAY?	HOW MUCH DID YOU ACTUALLY PAY?	
DATE OF PAYMENT:	PAYMENT METHOD:	

Continue to Section 4 to describe complaint.

Facebook: [/NVAttorneyGeneral](#) Twitter: [@NevadaAG](#) YouTube: [NevadaAG](#)

SECTION 4: DESCRIBE YOUR COMPLAINT:

► (to add attachments, see Section 5)

See attached written statement with exhibits.

EMAIL AGCOMPLAINT@ag.nv.gov to submit any additional Infol motion

SECTION5: EVIDENCE

List and attach photocopies of any relevant documents, agreements, correspondence or receipts that support your complaint Copy both sides of any canceled checks that pertain to this complaint,

SECTION 6: WITNESSES

List any other known witnesses or victims. Please provide names, addresses, phone numbers, email address and website information
Board Trustees, Clerk and GM all present at May 22, 2019 meeting.

SECTION 7: SIGN AND DATE THIS FORM

(The Attorney General's Office will not process any unsigned, incomplete or illegible complaint forms)

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

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

ONLY COMPLAINTS THAT ARE SIGNED WILL BE PROCESSED

JRE:

NAME: AARON L. KATZ

DATE: JUNE 14, 2019

knowledge.

SIGNATURE:

PRINTNAME:

DATE:

Facebook [/NVAttorneyGeneral](#) Twitter: [@NevadaAG](#) YouTube: [NevadaAG](#)

> SECTION 8: OPTIONAL INFORMATION

> GENDER

MALE	FEMALE	OTHER
------	--------	-------

> ETHNICITY

WHITE/CAUCASIAN	<input type="checkbox"/>	BLACK/AFRICAN AMERICAN	<input type="checkbox"/>	HISPANIC LATINO	<input type="checkbox"/>
NATIVE AMERICAN/ALASKAN NATIVE	<input type="checkbox"/>	ASIAN/PACIFIC ISLANDER	<input type="checkbox"/>	OTHER:	

> HOW DID YOU HEAR ABOUT OUR COMPLAINT FORM
(CHOOSE ONE):

CALLED/VISITED CARSON OFFICE	<input type="checkbox"/>	SEARCH ENGINE	<input type="checkbox"/>
CALLED/VISITED LAS VEGAS OFFICE	<input type="checkbox"/>	ATTORNEY GENERAL WEBSITE	<input type="checkbox"/>
CALLED/VISITED RENO OFFICE	<input type="checkbox"/>	ATTORNEY GENERAL SOCIAL MEDIA SITE	<input type="checkbox"/>
ATTENDED AG PRESENTATION	<input type="checkbox"/>	MEDIA/NEWSPAPER/RADIO/TV	<input type="checkbox"/>
NV AGENCY OFFICIAL/ELECTED OFFICIAL	<input type="checkbox"/>	OTHER	<input type="checkbox"/>

> MARK ALL THAT APPLY

INCOME BELOW FEDERAL POVERTY GUIDELINE	<input type="checkbox"/>	MILITARY SERVICEMEMBER	<input type="checkbox"/>
DISASTER VICTIM	<input type="checkbox"/>	VETERAN	<input type="checkbox"/>
PERSON WITH DISABILITY	<input type="checkbox"/>	IMMEDIATE FAMILY OF SERVICEMEMBER/VETERAN	<input type="checkbox"/>
MEDICAID RECIPIENT	<input type="checkbox"/>	OTHER:	<input type="checkbox"/>

EMAIL AGCOMPLAINT@ag.nv.gov to submit any additional information

Facebook: [/NVAttorneyGeneral](#) Twitter: [@NevadaAG](#) YouTube: [NevadaAG](#)

ADDITIONAL COMMENTS: What are you hoping the Attorney General's office can do for

Find an OMI- violation and then because there have been so many, seek court injunction restraining the IVGID Board from committing future violations of the OML.

EMAIL AGCOMPLAINT@aa.nv.gov to submit any additional information.

ATTACHMENT TO NEVADA ATTORNEY GENERAL
OPEN MEETING LAW COMPLAINT FORM

INTRODUCTION

The Incline Village General Improvement District ("IVGID") is a general improvement district ("GID") and governmental subdivision of the State of Nevada [NRS 318.075(1)]. On May 20, 1961 it was created by Washoe County Bill No. 57, (initiating) Ordinance No. 97 [see NRS 318.055(1)(a)]. Thus it is an "administrative...executive or legislative body...created by...a...statute of this State" [see NRS 241.015(3)(a)(2)] and thus a "public body" for purposes of NRS 241¹ [the Open Meeting Law ("OML")].

After the Washoe County Board of Commissioners ("the County Board") adopted IVGID's initiating ordinance, it appointed "five persons to serve as the first board of trustees of the district" [NRS 318.080(3)]. Thereafter, IVGID conducted, and currently conducts, biennial elections for the election of trustees who serve for terms of four (4) years each. Elections for trustees are staggered so that in 2018, for instance, two trustees were elected. And in 2016, three trustees were elected [see NRS 318.095(3)].

IVGID's Board of trustees ("Board") regularly conducts "meetings" subject to the OMI- in that three or more "gather...to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power" [see NRS 241.015(2)(a)(1)].

IVGID's POWERS ARE LIMITED TO THOSE
EXPRESSLY GRANTED IN (ITS) INITIATING
ORDINANCE...AS SUPPLEMENTED (PURSUANT TO
NRS 318.077) BY...SECTIONS OF...
CHAPTER (NRS 318) DESIGNATED THEREIN"

Unlike true municipalities, GIDs have few powers and expressly no power to pass laws, policies, procedures nor to provide for the general health, safety and welfare of their inhabitants. NRS 318.055(4)(b) instructs that once initiated, a GID's basic powers are expressly limited to those "stated in (its) initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein."

IVGID IS A LIMITED PURPOSE SPECIAL
DISTRICT BECAUSE IT HAS ONLY BEEN
GRANTED THE BASIC POWRS OF:
PAVING, CURBS AND GUTTERS, SIDEWALKS,
STORM
DRAINAGE, SEWER DISPOSAL, WATER SUPPLY,
STREET LIGHTING, GARBAGE AND REFUSE,

PUBLIC RECREATION, ELECTRIC
LIGHT AND POWER, AND NONE
OTHERS

IVGID's initiating ordinance granted it the basic powers to furnish facilities for paving, curbs

¹ See NRS 241.015(4)(a)(2) and (7).

and gutters, sidewalks, storm drainage, sewer disposal and water supply. On March 5, 1964 IVGID was granted "additional (basic) powers (pursuant to NRS 318.077) relating to street lighting, garbage and refuse" (see County Board Bill No. 102, Ordinance No. 97). On November 15, 1965 it was granted the additional basic power (pursuant to NRS 318.077) to furnish facilities for public recreation (see County Board Bill No. 132, Ordinance No. 97). And on May 5, 1969 it was granted additional basic powers relating to electric light and power (see County Board Bill No. 227, Ordinance No. 97). Given Nevada has adopted Dillon's Rule² [Ronnow v. City of Las Vegas, 57 Nev. 332, 341-43, 65 P.2d 133 (1937)], GIDs in general and IVGID in particular exist to only exercise these expressly enumerated powers³, and none other [A.G.O. 63-61, p. 103 (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 granted are void" (Id., at 57 Nev. 343).

This means that unlike true municipalities, GIDs have no power to pass laws, policies nor procedures. At best, their Boards may "adopt and amend bylaws, not in conflict with the Constitution and laws of the State: (1) for carrying on the business, objects and affairs of the board and of the district; (and, 2) Regulating the use or right of use of any project or improvement" (see NRS 318.205). The OAG will find this latter point to be germane to complainant's arguments insofar as a GID's power to exercise discretion to include written remarks in the minutes of the meetings its governing board adopts, notwithstanding they do not comply with statutory requisites.

A PUBLIC BODY'S OBLIGATION TO ATTACH
PREPARED WRITTEN REMARKS TO THE MINUTES
OF ITS MEETINGS

NRS 241.035(1)(d) instructs that "each public body shall keep written minutes of each of its meetings, including...the substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks (and)...if the member of the general public has prepared written remarks, a copy of *th(os)e* prepared remarks if the member of the general public submits a copy for inclusion."

OFFICE OF ATTORNEY GENERAL ("OAG") FILE NO.
13897-263

On February 12, 2018 complainant filed a complaint with the OAG against IVGID alleging three (3) OML violations, each associated with the Board's failure to include proffered written remarks to the minutes of three (3) meetings (September 13, 2017, September 26, 2017 and February 21, 2018). On June 26, 2018 the OAG issued a letter determining no OMI- violations ("letter"). The letter construed NRS 241.035(1)(d) as follows:

Which declares that a municipal government has authority to act only when: (1) the power IS granted in the express words of a statute, (2) the power is necessarily or fairly Implied In, or incident to, the powers expressly granted; or, (3) the power IS one that is neither expressly granted nor fairly Implied from the express grants of power, but is otherwise Implied as essential to the government's declared objects and purposes.

Unlike counties, cities, and towns (NRS 244, 266, 269) which are granted police powers (to provide for the general health, welfare and safety of their Inhabitants).

"NRS 241.035(1)(d) requires inclusion of the prepared written remarks of a member of the general public in the minutes of a public body only if the member of the general public makes remarks to the public body during a meeting and requests his (written) remarks be (included) in the minutes." ⁴

Based upon this construction of NRS 241.035(1)(d) the OAG determined that:

1. Since Frank Wright did not expressly ask that his proffered written statement be included in the minutes, that statement was not required to be included in the minutes of the Board's September 13, 2017 meeting;
2. Since complainant's proffered written statement was not physically submitted in person, that statement was not required to be included in the minutes of the Board's September 26, 2017 meeting; and,
3. Since Linda Newman's and Cliff Dobler's joint proffered written statement was not physically submitted in person, that statement was not required to be included in the minutes of the Board's February 21, 2018 meeting.

PROLOGUE

This complaint addresses a similar state of facts where the Board included written remarks made by five (5) members of the public in the minutes of its May 1, 2019 meeting, notwithstanding their authors were neither physically present to address the Board on May 1, 2019, nor did they request their remarks be included in the minutes of that meeting.

In a prior OMI- complaint (OAG No. 13897-260), complainant accused IVGID staff of intentionally omitting written statements submitted by members of the public expressly requested to be included in Board meeting minutes, based upon the identity of the author, as a means of censorship. He alleged that the intent of staff was to deprive members of the public from learning of material facts and arguments included in such written statements, which were intended to counter staff's deceitful and one-sided facts and arguments on important public issues. And here we have further evidence this is exactly what is occurring.

THE IVGID BOARD'S MAY 1, 2019 MEETING

Gerald "Gerry" Eick is the District's Finance Director⁵. At the Board's May 21, 2019 meeting Mr. Eick gave a presentation to the Board in support of Agenda Item C⁶; staff's request the Board approve entry into a medium term installment agreement for the purchase of a Championship Golf Course

See page 3 at [http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental Affairs/AGO_File_13897-263.pdf](http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental%20Affairs/AGO_File_13897-263.pdf)

Go to <https://www.yourtahoeplace.com/ivgid/departments/senior-management,,team>.

Go to https://www.yourtahoeplace.com/uploads/pdf-iWd/BOT_Packet_Regular_5-1-2019.pdf.

mower, 58 carts for use at the Mountain Golf Course, and a snow cat for Diamond Peak. During Mr. Eick's presentation he made the following statement:

I would like to note for the record that the District has received five (5) written public comments which I will provide to the clerk so they can be included in the minutes." ⁷

At 20:19 of the 5/1/2019 livestream one can see Mr. Eick handing these written public comments to the District's Clerk, Susan Herron.

Although Mr. Eick did not disclose the identities of the authors of these written statements, nor did complainant know whether any was present at that meeting, complainant knows none spoke to the Board at that meeting nor did he/she physically submit any of these five (5) written statements. He knows this because there were only five (5) members of the public who spoke on this agenda item and they were: complainant, Judith Miller, Michael Abel, Tony Lillios, and Sara Schmitz⁸. When the identities of the authors of the subject written statements were subsequently revealed in the packet of materials prepared by staff in anticipation of the Board's May 22, 2019 meeting ("the 5/22/2019 Board packet"), and compared to those persons who addressed the Board on May 1, 2019, complainant was able to determine that none of the five (5) was physically present.

On/about May 16, 2019 staff posted the 5/22/2019 Board packet online⁹. Agenda item K(2) noticed possible approval of the minutes of the Board's May 1, 2019 meeting (those proposed minutes appear at pages 421-489 of the 5/22/2019 Board packet). The five (5) written statements at issue appear at pages 454-458 of the 5/22/2019 Board packet. The OAG can now see the identities of the six (6) authors of those written statements: Kirk Hardie, Lindsay Fletcher Hardie, Clifford F. Dobler, Mark and Carolyn Alexander, and Jim Croley.

In contrast, the 5/1/2019 livestream confirms that three (3) of those members of the general public who physically spoke to the Board on this agenda item submitted written statements; complainant, Michael Abel, and Tony Lillios. Although Ms. Schmitz read from a petition signed by eighteen (18) residents she stated had previously been sent to the Board and she would be submitting again ¹⁰, the 5/1/2019 livestream does not evidence that Ms. Schmitz actually handed that petition to the Board Clerk.

Notwithstanding complainant was the only one who addressed the Board at its May 1, 2019 meeting and requested his written statement be included in the minutes of that meeting, the five (5) written statements at issue in addition to those of complainant, Mr. Abel and Mr. Lillios are all attached to the minutes of the Board's May 1, 2019 meeting¹¹. Since this complaint deals with the

The District livestreams its Board meetings (<https://livestream.com/accounts/3411104>), and this testimony can be viewed at 18:43-54 of the livestream of the Board's May 1, 2019 meeting [<https://livestream.com/IVGID/events/8663894> ("the 5/1/2019 "vestream")].

The OAG can view the comments of those addressing the Board at 20:38-35:20 of the 5/1/2019 livestream

The OAG can View these materials at https://www.yourtahoeplace.com/uploads/pdf-lvgEd/BOT_Packet_Regular_5-22-19.pdf.

See 32:14-33:55 of the 5/1/2019 Itvstream.

11 See pages 459-472 of the 5/22/2019 Board packet.

subject five (5) written statements, I have marked them collectively as Exhibit "A," and attached them as an exhibit to this complaint. They reveal the following:

Statement of Kirk Hardie: Besides the fact Mr. Hardie was not physically present at the Board's May 1, 2019 meeting and did not submit this statement to the Board Clerk, nowhere in the statement does he ask it be attached to the minutes of the meeting;

Statement of Lindsay Fletcher Hardie: Besides the fact Ms. Hardie was not physically present at the Board's May 1, 2019 meeting and did not submit this statement to the Board Clerk, nowhere in the statement does she ask it be attached to the minutes of the meeting;

Statement of Clifford F. Dobler: Besides the fact Mr. Dobler was not physically present at the Board's May 1, 2019 meeting and did not submit this statement to the Board Clerk, nowhere in the statement does he ask it be attached to the minutes of the meeting;

Statement of Mark and Carolyn Anderson: Besides the fact Mr. and Mrs. Alexander were not physically present at the Board's May 1, 2019 meeting and did not submit this statement to the Board Clerk, nowhere in the statement does either ask it be attached to the minutes of the meeting; and,

Statement of Jim Croley: Besides the fact Mr. Croley was not physically present at the Board's May 1, 2019 meeting and did not submit this statement to the Board Clerk, nowhere in the statement does he ask it be attached to the minutes of the meeting.

THE IVGID BOARD'S MAY 22, 2019 MEETING

As referenced above, Agenda Item 1<(2) for this meeting was labeled possible approval of the minutes of the Board's May 1, 2019 meeting. And the subject five (5) written statements were attached to the proposed minutes. During public comment complainant objected to the Board approving those minutes with the subject written statements attached expressly because of the OAG's construction of NRS 241.035(1)(d) in File No. 13897-263¹². Complainant also objected to the Board's uneven handed treatment of written statements submitted by members of the public not physically present at Board meetings nor expressly requesting that their statements be included in the minutes of the meetings¹². While the Board's attorney was present and could have stepped in to avert an OMI- violation, complainant warned the Board that if it approved the proposed minutes with the subject five (5) written statements included over his objections, he would be filing an OML complaint. Notwithstanding, the Board approved the proposed minutes as presented¹³ with the subject written statements included.

ARGUMENTS

Based upon the OAG's construction of NRS 241.035(1)(d), it was improper for the subject five (5) written statements to be attached to the minutes of the Board's May 1, 2019 meeting. Although

See 47:10-47:44 of the livestream of the Board's May 22, 2019 meeting
[<https://vestream.com/IVGID/events/8690184/videos/191596067> ("the 5/22/2019 livestream").

see 1:49:41-4:50:25 of the 5/22/2019 livestream.

any Board trustee could have requested that the subject statements be attached to the minutes of the Board's May 1, 2019 [see NRS 241.035(1)(e)] and thus avoid an OML violation, none did. Given Mr. Eick is not an IVGID Board trustee, he couldn't.

In response to what complainant suspects is going to be an argument that nothing prohibits staff from submitting someone else's written statements for inclusion in the minutes of a Board meeting, notwithstanding that someone else is neither present nor asks his/her statement be included, I submit the following arguments:

Dillion's Rule — declares that a municipal government has authority to act only when: (1) its power is granted in the express words of a statute; (2) that power is necessarily or fairly implied in, or incident to, those powers expressly granted; or, (3) that power is one that is neither expressly granted nor fairly implied from the express grants of power, but is otherwise implied as essential to the government's declared objects and purposes (*Ronnow v. City of Las Vegas*, supra, at 57 Nev. 341-43). 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 granted are void" (*Id.*, at 57 Nev. 343).

Here the express words of NRS 241.035(1)(d) do not permit the IVGID Board to include the written statement of a member of the general public who neither makes remarks to the Board during a meeting, nor requests his/her written remarks be included in its minutes. Nor does anything in NRS 241.035(1)(d) imply such authority. Nor is it essential to government's declared objects and purposes.

IVGID's attorney, Jason Guinasso, is notorious for promoting the notion that unless a statute expressly prohibits a GID from exercising some power, IVGID has the power to fill the void. Thus he will likely argue that the Board has the discretion to attach written remarks to the minutes of its meetings from members of the general public neither present at those meetings, nor requesting their remarks be included in the minutes. If so, such action violates Dillion's Rule. And should there be "any fair, reasonable (or) substantial doubt concerning the (Board's)...power (to exercise such discretion, it) is (to be) resolved...against" the IVGID Board (*Ronnow*, supra, at 57 Nev. 343).

Expressio Unius est Exclusio Alterius — is a Latin maxim which means to express one thing is to necessarily exclude another [this maxim has been expressly adopted in Nevada by *SFR Investments Pool 1, LLC v. U.S. Bank*, 130 Nev. Adv. op. 75, 334 P.3d 408, 419 (2014)]. Basically what this maxim means is that since the Legislature knows how to allow two classes of persons¹⁴ to request that written statements be included in the minutes of a public body's meetings, yet here it did not expressly allow other classes of persons to make similar request, it is implied that the Legislature expressly intended those other classes of persons not be allowed to request inclusion of the subject five (5) written statements in the minutes of its May 1, 2019 meeting.

Members of the governing body of a public body, and members of the general public who make remarks to the public body during a meeting, request their written remarks be included in the minutes, and submit copies of those written remarks for inclusion in the minutes.

Exercise of Discretion — There is nothing in NRS 241.035 which gives a public body the discretion to include written statements from members of the general public where submitted by

persons other than their author(s), those persons are not physically present at the meeting of the Board, those persons have not addressed the Board, and their written statements do not expressly request they be included in the minutes of that meeting. Given IVGID is a limited purpose special district without implied powers to include such proffered written statements, Dillon's Rule instructs the Board has no discretion to exercise.

Disparate Exercise of Discretion — One of the hallmarks of the OMI- is that "a public body's restrictions (on public comment) must be neutral as to the viewpoint expressed."¹⁵ Since a public body doesn't know the nature of a member of the general public's comment ahead of time, included within the requirement of neutrality, would be the identity of the member of the general public giving comment based upon the perceived nature of his/her comment. Given it is no secret that complainant is IVGID's number one critic, for the Board to have exercised discretion to include the subject five (5) written statements in the minutes of its May 1, 2019 meeting, yet not included similar written statements in the minutes of its September 13, 2017, September 26, 2017 and February 21, 2018 meetings, is evidence of the Board's lack of neutrality which amounts to nothing short of censorship based upon the identity of the author and the perceived nature of his/her remarks.

Stated differently, assuming *arguendo* a GID Board has the discretion to include written statements from members of the general public in the minutes of its meetings, notwithstanding those members are neither present, do not physically address the Board, nor expressly request their written statements be included in the minutes of a meeting, that discretion must be exercised uniformly to in essence allow all such written statements to be included¹⁶. To rule otherwise "leads to...self-censorship and would deter protected speech" [see OAG File No. 11-024 (November 21, 2011)]. "It is patent that th(is)...right...to speak, write, and publish, cannot be abused until it is exercised, and before it is exercised there can be no responsibility" [Dailey v. Superior Court, 112 Cal. 94, 97, 44 P. 458 (1896)].

CONCLUSION

According to the OAG, "any practice or policy that discourages or prevents public comment, even if technically in compliance with the law...does not comport with the spirit of the OMI- (because it has)...the effect of unnecessarily restricting public comment."¹⁷ Assuming *arguendo* GIDs have the discretion to allow or refuse written statements to be attached to the minutes of its meetings, it must allow all proffered written statements to be attached to the minutes of its meetings, even where: they are submitted by persons other than their author(s), those persons are not physically present at a meeting of the Board, those persons do not address the Board, and their written statements do not

See §6.04 at page 65 and §7.05 at pages 70-71 of the OAG's OML Manual ["the OMI- Manual" (http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental_Affairs/OML_Portal/2016-0125_OML_12TH_AGOMANUAL.pdf)].

See §7.05 of the OMI- at page 69: "Once the right to speak (or submit written statements for inclusion in the minutes) has been granted by the Legislature...the full panoply of (constitutional) rights attaches to the public's right to speak" and submit written statements, expressly including the Equal Protection Clause to the U.S. Constitution

See §7.05 of the OML at pages 69-70.

expressly request they be included in the minutes of that meeting. Anything short represents an OMI violation.

As a consequence, complainant suggests the OAG revisit the complaint filed in OAG File No. 13897-263 given he feels it can no longer stand given the facts and determination of this complaint.

Complainant has shared his views of IVGID on several past occasions; an enterprise run by nonelected and mostly nonresident staff which has a callous disregard for the rights of its citizens. In the words of the late George Carlin, its "arrogance is stunning." Part of the reason is because IVGID staff do not consider IVGID to be a "public agency." According to them IVGID is only "quasi-public" and for this reason, staff can pretty much do anything they want without repercussion or consequence. Moreover, this complaint does not represent the first instance of IVGID's OMI- violations¹⁹ and others believe something more is required to "get its attention" and protect the public.

For these reasons in addition to reversing the IVGID Board's approval of the minutes of its May 1, 2019 meeting which includes the five (5) written statements the subject hereto, and/or to revisit and reverse the substance of its June 26, 2018 letter in OAG File No. 13897-263, the time has come to subject IVGID, its public officers, its staff and attorneys (as accessories) to which the Board has abdicated all powers, to real consequence. Given only "the Attorney General shall investigate and prosecute any violation of...(NRS) chapter" 241 [NRS 241.039(1)]; and, he "may sue in any court of competent jurisdiction ...for an injunction against any public body or person to require compliance with or prevent violations of the provisions of this chapter" [NRS 241.037(1)]; amongst other remedies, complainant feels the time has come to obtain an injunction which permanently enjoins future violations of NRS Chapter 241 by IVGID. This way should they continue, the perpetrator(s) will be in contempt of court and for the first time face very real consequence.

See <https://www.yourtahoeplace.com/lvgd/about-ivgid>. A screenshot of this page With an asterisk next to the referenced language IS attached to this complaint as Exhibit "B." See OAG File Nos. 13897-257 and 13897-260.

EXHIBIT

Eick, Gerald W.

From: Herron, Susan
Sent: Wednesday, May 01, 2019 2:29 PM
To: Pinkerton, Steve J; Eick, Gerald W.
Subject: Fwd: Comment re: May 1st Regular Meeting Agenda item C

Begin forwarded message:

From: Kirk Hardie Date:

May 1, 2019 at To: PM PDT wong_mxstee@ivgid.org, [callicrate trustee@ivgid.org](mailto:callicrate_trustee@ivgid.org), [mortis dent trustee@ivgid.org](mailto:mortis_dent_trustee@ivgid.org), frustee@ivgid.org,
Cc: "Herron, Susan" <Susan.Herron@ivgid.org>
Subject: Comment re: May 1st Regular Meeting, Agenda item C

Dear Trustees,

I strongly recommend and encourage you to approve the proposed leases for golf carts, mowers and a grooming machine. Especially with such a low interest rate available to IVGID, it is prudent and financially responsible to spread the cost of these assets over their service life. Thanks to the IVGID staff for managing our money well enough to have one of the best credit ratings in NV. The lease vs. buy decision has been a staple of business leaders forever; and overwhelmingly businesses decide to lease. The golf and ski operations are more similar to business than to government. Unless you are aware of specific facts unique to IVGID, it would be foolish and irresponsible to purchase instead of lease.

Additionally, reducing our cash has a cost: it limits our ability to do additional work. For example, the community has voiced strong opinions about making improvements to Incline Village, both rehabbing existing assets, and developing new services. In order to make sound decisions about any improvements, assessments are required (e.g., architectural work, design analysis, etc. necessary to develop a real cost estimate). That takes cash. By voting against the leases you are essentially saying "I don't want to make improvements." If you vote no, please be up front and tell the residents who you represent and that you are not interested in moving Incline Village forward.

Thank you for being open to input and listening,

Kirk Hardie

"Not everything that counts can be counted, and not everything that can be counted counts."
Sign hanging in Einstein's office at Princeton

Eick, Gerald W.

~~From: Herron, Susan Sent:~~

1

To: Wednesday, May 1st 2019 8:56 AM
Eick, Gerald W; Pinkerton, Steve J.
Subject: Fwd: Comment re: May 1st Regular Meeting, Agenda
Item C

Begin forwarded message:

From: Lindsay Fletcher Hardie
Date: May 1, 2019 at AM PDT
To: horan_wong_trustee@ivgid.org, calliccate_morris_trustee@ivgid.org, dent_tmstee@ivgid.org Cc: "Herron, Susan" <Susan.Herron@ivgid.org>
Subject: Comment re: May 1st Regular Meeting, Agenda item C

Dear Trustees:

I strongly recommend and encourage you to approve the proposed leases for golf carts, mowers and a grooming machine. Especially with such a low interest rate available to IVGID, it is prudent and financially responsible to spread the cost of these assets over their service life. Thanks to the IVGID staff for managing our money well enough to have one of the best credit ratings in NV. The lease vs- buy decision has been a staple of business leaders forever; and overwhelmingly businesses decide to lease. The golf and ski operations are more similar to business than to government. Unless you are aware of specific facts unique to IVGID, it WOULD be foolish and irresponsible to purchase instead of lease.

Additionally, reducing our cash has a cost: it limits our ability to do additional work. For example, the community has voiced strong opinions about making improvements to Incline Village, both rehabbing existing assets, and developing new services. In order to make sound decisions about any improvements, assessments are required (e.g., architectural work, design analysis, etc. necessary to develop a real cost estimate). That takes cash. By voting against the leases you are essentially saying "I don't want to make improvements." If you vote no, please be up front and tell the residents who you represent and that you are not interested in moving Incline Village forward.

Thank you for being open to input and listening.

2019 7:21 PM

To: Pinkerton, Steve J.; Eick, Gerald W.
Fwd: Objection to the Districts Issuance of an \$800,000 Medium-Term Installment Purchase Plan and Proposed Resolution 1869

Eick, Gerald W.

From: ~~Herron, Susan~~
Sent: Tuesday, April 30,
FYI

Begin forwarded message:

From: <linda@marknewman.net>
Date: April 30, 2019 at 7:11:00 PM PDT
To: wong_trustee <wong_trustee@ivgid.org>, horan_trustee <horan_trustee@ivgid.org>, callicrate_trustee <callicrate_trustee@ivgid.org>, dent_trustee <dent_trustee@ivgid.org>, Peter Morris <Peter Morris@ivgid.org>
CC: Susan Herron <Susan_Herron@ivgid.org>
Subject: Objection to the District's Issuance of an \$800,000 Medium-Term Installment Purchase Plan and Proposed Resolution 1869

Dear Trustees Wong, Horan, Callicrate, Dent and Morris;

We oppose the District's issuance of an \$800,000 Medium-Term Installment Purchase Plan for the mower, Mountain Course Golf Carts and Snow Cat.

As the Community Services Fund has a surplus of \$6 million over and above the \$4.7 million targeted fund balance, there is more than adequate cash available to fund these purchases. It is a waste of our taxpayer money to incur \$30,000 for contingencies above the \$770,000 needed for this purchase and imprudent to unnecessarily pay close to \$100,000 of interest expense.

We request that you vote against Resolution 1869 and exercise proper financial management of our public money by paying cash for these purchases.

Very Truly Yours,

Mark and Carolyn Alexander

Eick, Gerald W.

From: Herron, Susan
Sent: Tuesday, April 30, 2019 8:54 PM
To: Pinkerton, Steve J; Eick, Gerald W
Subject: Fwd: Objection to the District's Issuance of an \$800,000 Medium-Term Installment Purchase Plan and Proposed Resolution 1869

Begin forwarded message:

From: cfdobler@aol.com
Date: April 30, 2019 at PM PDT
To: linda@marknewman.net wong.trustee@ivgid.org, horan.trustee@ivgid.org, callicrate.trustee@rvgid.org,
dent.trustee@ivgid.org, Peter.Morris@ivgid.org Cc: Susan Herron@ivgid.org
Subject: Re: Objection to the District's Issuance of an \$800,000 Medium-Term Installment Purchase Plan and Proposed Resolution 1869

While I oppose borrowing any money to purchase operating equipment, it should be noted that on page 235 of the Board Packet for tomorrow's meeting, the Community Services Fund balance at the end of this fiscal year is expected to be \$12,692,482. Subtracting the targeted fund balance of \$4,493,000 there is \$8,199,482 in excess fund balance which is far in excess of the \$6,000,000 you indicated in the e mail below. Also according to page 235 at the end of fiscal year 2023/2024 the excess funds over the targeted fund balance would be over \$4,000,000. To compare an apple with an apple and see actual consequences I have excluded \$2,279,800 which Staff, being disingenuous, added expenditures for design of Community Services projects to the ^RALTERNATIVE - NO LEASING scenario but did not include them in the LEASING scenario. Therefore the IVGID staff apparently cannot even find a need to borrow money over the next five years. Borrowing should only be required if no money is available.

The reality is that assuming this Board approves the borrowing they do not want to comply with their own Board Policy for an appropriate level of fund balance and want to waste money on interest. Does this in anyway seem APPROPRIATE.

Thanks for sending me this e mail

Clifford F. Dob(er)

Eick, Gerald W.

From: Herron, Susan
Sent: Tuesday, April 30, 2019 9:57 AM
To: Eick, Gerald W.; Pinkerton, Steve J.
Subject: FW: Recommendation for lease vs. cash

Susan A. Herron, CMC
Executive Assistant/District Clerk/public Records Officer
Incline Village General Improvement District
893 Southwood Boulevard, Incline Village, NV 89451
P: 775-832-1207

F: 775-832-1122
M: 775-846-5158
sah@ivgid.org
http://ivgid.org

From: jim croley <jim.a.croley@gmail.com>
Sent: Tuesday, April 30, 2019 9:55 AM
To: Kenda Wong <Kwong.ivgid@gmail.com>; Matthew Dent <matthew.ivgid@gmail.com>;
<Horan_Trustee@ivgid.org>; Peter Morris <Peter_Morris@ivgid.org>
Tim Callicrate <tim_callicrate2@ivgid.org>; Horan, Phil

Cc: Herron, Susan <Susan_Herron@ivgid.org>
Subject: Recommendation for lease vs. cash

Dear Trustees:

I strongly recommend and encourage you to approve the proposed leases for golf carts, mowers and a grooming machine. Especially with such a low interest rate available to IVGED, it is prudent and financially responsible to spread the cost of these assets over their service life. Thanks to the IVGID staff for managing our money well enough to have one of the best credit ratings in NV. The lease vs. buy decision has been a staple of business leaders forever; and overwhelmingly businesses decide to lease. The golf and ski operations are more similar to business than to government- Unless you are aware of specific facts unique to (V)GID, it would be foolish and irresponsible to purchase instead of lease.

Additionally, reducing our cash has a cost: it limits our ability to do additional work. For example, the community has voiced strong opinions about making improvements to our existing assets. In order to make sound decisions about any improvements, assessments are required (e.g., architectural work, design

EXHIBIT "B"

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ABOUT IVGID

The Incline Village General Improvement District, commonly referred to as IVGID, a public utility under Nevada Revised Statute Chapter 181B, provides sewer, trash and collection services to the communities of Incline Village and Crystal Bay, Nevada.

(In the strategies for the Incline

Village and Crystal Bay, Nevada

Washoe County the entity that had the authority to create IVGID and they

both areas within Washoe County

Within the limits of the statutes IVGID is empowered to establish rates that prepay or enhance the general health, safety and welfare of the community. IVGID may set rates, tolls and fees to be charged for the provision of those services and to raise funds to construct and maintain facilities to the community. IVGID has the power to and collect taxes necessary to sustain its

April

Station

AARON KATZ

Special Announcements

(Updates

Local Eng * Job?

Master plan

Type here to search

ATTACHMENT 3

ATTACHMENT 3



AARON D. FORD
Attorney General

KYLE E. N. GEORGE
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

JESSICA L. ADAIR
Chief of Staff

RACHEL J. ANDERSON
General Counsel

HEIDI PARRY STERN
Solicitor General

July 29, 2020

Via U.S. Mail

Aaron Katz
P.O. Box 3022
Incline Village, Nevada 89450

**Re: Open Meeting Law Complaint, OAG File No. 13897-330,
Incline Village General Improvement District**

Mr. Katz:

The Office of the Attorney General ("OAG") has received your Complaint alleging the Incline Village General Improvement District Board of Trustees (hereafter "the Board") violated Nevada's Open Meeting Law ("OML") at public meetings held on May 1, 2019, and May 22, 2019. Pursuant to Nevada statute, the Office of the Attorney General is authorized to investigate and prosecute violations of the OML. See Nevada Revised Statutes ("NRS") 241.037, 241.039, and 241.040.

Following a review of your Complaint; the Board's Response; video from the Board's May 1, 2019 meeting; Attorney General Open Meeting Law Opinion 13897-263; and relevant legal authorities; the OAG concludes the Board did not violate the OML.

FACTUAL BACKGROUND

On May 1, 2019, the Board held a public meeting to consider various agenda items. Agenda Item C involved the question of whether to authorize the lease of a golf course fairway mower, golf carts, and a snowcat vehicle. Eleven days before the meeting, the Board published notice of Agenda Item C and invited written public comment via email. In response to its publication, the Board received five (5) written statements prior to the commencement of the meeting. Three of these statements expressed support for the agenda item, and the other two opposed the item.

Aaron Katz
Page 2
July 29, 2020

During his presentation at the May 1, 2019 meeting, Director of Finance Gerry Eick noted that the Board had received the five written statements and provided the statements to the clerk for inclusion in the minutes. The statements were subsequently attached to the meeting minutes, and the Board approved the minutes at another meeting held on May 22, 2019.

Following an extended discussion of the merits of Agenda Item C at the May 1, 2019 meeting, there was insufficient support from the Board and a related motion failed to clear a vote.

DISCUSSION AND LEGAL ANALYSIS

In the Complaint, you argue the Board's decision to include the five written statements resulted in a violation of the OML because none of the persons who submitted the statements were physically present at the meeting or made an affirmative request to include their statement with the minutes.

Minutes of public meetings are governed by NRS 241.035. Pursuant to NRS 241.035(1)(d), the minutes must include:

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

As you correctly note, the OAG interpreted this statute in an opinion dated June 26, 2018. *See* Attorney General OML Opinion (File No. 13897-263). There, you complained the same Board had failed to include written statements of the general public in its minutes of meetings held in September 2017 and February 2018. *See id.* at 1. In determining no violation occurred, the opinion concluded NRS 241.035(1)(d) requires inclusion of written statements "only if the member of the general public makes remarks to the

Aaron Katz
Page 3
July 29, 2020

public body during a meeting and requests his [or her] remarks be reflected in the minutes." *Id.* at 2.

While both decisions relate to the public meeting minutes statute, the issue presented here is with a public body's decision to *include* in its minutes the written statements of persons who were not physically present at the meeting. This distinction matters. Although Nevada law did not require the Board to include written statements of persons who did not attend the meeting, its decision to nevertheless include the statements is not prohibited and is consistent with the legislative intent that public actions be "taken openly and that [a public body's] deliberations be conducted openly." See NRS 241.010(1). The OAG therefore concludes that the inclusion of the five statements did not violate the OML.

You also assert the Board's decision to include the statements exceeded its limited powers and shows favoritism when contrasted with its decision not to include other statements. However, these assertions fall outside the scope of the OML and thus are not addressed in this opinion.

CONCLUSION

The Board's decision to include in its meeting minutes written statements from persons who were not physically present at a public meeting did not violate Nevada's Open Meeting Law.

Sincerely,

AARON D. FORD
Attorney General

By: /s/ Jared M. Frost
JARED M. FROST
Senior Deputy Attorney General

Aaron Katz
Page 4
July 29, 2020

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August, 2020, I mailed the foregoing letter by depositing a copy of the same in the U.S. first class mail, properly addressed to the following:

Aaron Katz
P.O. Box 3022
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/s/ Debra Turman
An employee of the State of Nevada
Office of the Attorney General

MEMORANDUM

TO: Board of Trustees

THROUGH: Indra Winquest
District General Manager

FROM: Nathan Chorey, P.E.
Engineering Manager

SUBJECT: Review, discuss, and provide feedback on a project delivery method [Design/Bid/Build (DBB), Construction Manager as Agent (CMA), and Construction Manager-at-Risk (CMAR)] for the Burnt Cedar Swimming Pool Improvement Project – Fund: Beaches; Project 3970BD2601

STRATEGIC PLAN: Long Range Principle #5 – Assets and Infrastructure

DATE: September 23, 2020

I. RECOMMENDATION

The Board of Trustees provide feedback on a project delivery method for the Burnt Cedar Swimming Pool Improvement Project. Staff recommends delivering this project with the CMAR delivery method.

II. DISTRICT STRATEGIC PLAN

Long Range Principle #5 – Assets and Infrastructure – The District will practice perpetual asset renewal, replacement, and improvement to provide safe and superior long term utility services and recreation activities.

- The District will maintain, renew, expand, and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.
- The District will maintain, procure, and construct District assets to ensure safe and accessible operations for the public and the District’s workforce.

III. BACKGROUND

The Burnt Cedar swimming pool is one of the most popular facilities operated by IVGID. From May to September, Incline Village residents and guests frequent Burnt Cedar beach property specifically to utilize the pool.

At the August 12, 2020 Board Meeting, the Trustees unanimously selected a conceptual design, with the intent of full pool replacement in the summer of 2021.

At the August 26, 2020 Board Meeting, project deliver method for the Burnt Cedar Swimming Pool Improvement Project was discussed and selection of a project delivery method was continued to a future date.

At the September 9, 2020 Board Meeting, the Trustees unanimously authorized schematic design services contract for the Burnt Cedar Swimming Pool Improvement Project.

There are three (3) major project delivery methods allowed per NRS 338 for this Project for a project of this size. Note; Design-Build is no longer being considered.

1. Design – Bid – Build (DBB)
 - a. The traditional project delivery method utilized by IVGID.
 - b. Utilized for ~99% of IVGID’s Capital Improvement Projects.
2. Construction Manager as Agent (CMA), *NRS 338.1718*
 - a. Last utilized by IVGID in 2002 for construction of the Chateau
3. Construction Manager at Risk (CMAR), *NRS 338.169*
 - a. Last utilized by IVGID in 2018 to construct the Diamond Peak - Incline Creek Culvert Rehabilitation Project

IV. DESIGN – BID – BUILD (NRS 338.1385 Advertising for Bids)

The DBB project delivery method is the traditional method of moving a project from conception to completion. It is a sequential sequence of activities generally occurring in the following order: Project conception, design (including schematic and design development), construction documents, competitive bidding, and then construction.¹

This is the project delivery method IVGID utilizes for the vast majority of our capital projects.

¹ *The Project Resource Manual*, Fifth Edition, The Construction Specifications Institute, 2005

V. CONSTRUCTION MANAGER AS AGENT (CMA), NRS 338.1718

The Construction Manager-at-Agent project delivery method is when a construction manager serves as agent or advisor to the owner and the owner maintains direct contractual relationships with the A/E as well as the Contractors.¹ In other words, the owner (IVGID) holds the contracts for all the Contractors performing work on the project. Management of the individual contracts can be challenging and time consuming. IVGID utilized this project delivery method for construction of the Chateau.

Below is an excerpt from NRS 338.1718 with regard to the CMA method:

1. *A construction manager as agent:*
 - (a) *May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not:*
 - (1) *Take part in the design or construction of the public work; or*
 - (2) *Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.*

VI. CONSTRUCTION MANAGER AT RISK (CMAR), NRS 338.169

The Construction Manager-At-Risk project delivery method is the process of professional management applied to a construction project from conception to completion, with the goal of controlling project time, cost, and extent. IVGID would negotiate a contract with a CMAR who consults with the Design Team and IVGID, prepares a preliminary project schedule, makes recommendations for sequencing construction, prepares cost estimates, and, when this pre-construction phase is complete, proposes a Guaranteed Maximum Price (GMP) and executes the construction as Contractor.¹

Below is an excerpt from NRS 338.1685 with regard to the CMAR method:

The Legislature hereby declares that the provisions of NRS 338.1685 to 338.16995, inclusive, relating to contracts involving construction managers at risk:

1. *Are intended:*
 - a. *To promote public confidence and trust in the contracting and bidding procedures for public works established therein;*
 - b. *For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and*
 - c. *To better equip public bodies to address public works that present unique and complex construction challenges.*
2. *Are not intended to be used by the State or a political subdivision of this State to:*
 - a. *Limit competition;*
 - b. *Discourage competitive bidding; or*
 - c. *Engage in or allow bid-shopping.*

VII. COMMENTS

Staff prepared a PowerPoint presentation to review the defining characteristics, how each method works, provide examples of when IVGID utilized each method, and identify advantages/disadvantages of the three (3) project delivery methods identified above. Staff will provide this presentation during the Board meeting. For reference the slides have been included.

A comparison summary table of the advantages and disadvantages of each project delivery method is included in the PowerPoint presentation and shown below.

	DBB	CM Agent	CMAR
Process	Sequential (-)	Sequential (-)	Fast Track (+)
# of Contracts	2 (+)	Many (-)	2 (+)
Speed of Delivery	Slowest (-)	Slowest (-)	Fastest (+)
Public Protection/Safety	Some Risk (-)	Some Risk (-)	Least Risk (+)
Financial Risk	On Owner (-)	On Owner (-)	On CMAR (+)
Pre-Con Services	No (-)	Yes (+)	Yes (+)
Sub Selection Process	Low Bid (-)	Low Bid (-)	QBS or BV (+)
Evaluation	Easy (+)	Easy (+)	Harder (-)
Pricing	Fixed Price + (-)	Fixed Price + (-)	GMP (+)
Accounting	Closed Book (-)	Open Book (+)	Open Book (+)

The above features are identified as an advantage or disadvantage compared to the other project delivery methods. (+) and green cell indicates an advantage; (-) and red cell indicates a disadvantage.

Staff believes the advantages identified above warrant using the CMAR project delivery method for the Burnt Cedar Swimming Pool Improvement Project. Specifically, the ability to; value engineer and review constructability with the Contractor during design, develop a firm construction schedule, and reduce the project timeline needed in advance of construction make CMAR the recommended project delivery method. Further, the collaborative environment between the Owner, A/E, and Contractor reduces the time required by the Owner to manage and coordinate the project.

As noted in the August 26, 2020 IVGID Board of Trustee's General Business - *Project Delivery Method for BC Swimming Pool Imp Project*; TSK Architects (Architect of Record on the Burnt Cedar Swimming Pool Improvement Project) believe this project would be an excellent candidate for CMAR delivery.

VIII. FINANCIAL IMPACT AND BUDGET

The financial impact between project delivery methods is difficult to assess. The traditional DBB may potentially have the lowest construction bid price. However, not all lowest price bids result in the lowest total project construction cost and may not also result in the best value. This is very difficult to ascertain at the beginning of the project. IVGID has had projects performed with low change orders and high value that were awarded to the low bidder. IVGID has also had projects enter protracted legal action which resulted in higher costs and in some cases performed to a lower value with delayed completion dates.

The CMAR intent is to build a project team that is committed to working together to construct the best value project with budget and schedule constraints. Changes to project scope occur during the design development phase that modify total project cost. The expected total project cost is also known early in the design development phase to inform future decisions. If the cost is escalating, actions can be taken early to modify the project to control costs. Alternatively, cost savings can be otherwise utilized to provide additional features that were going to be bid as alternatives.

IX. ALTERNATIVES

1. That the Board of Trustees recommends Staff to deliver the Burnt Cedar Swimming Pool Improvement Project via the Design – Bid – Build delivery method.
2. That the Board of Trustees recommends Staff to deliver the Burnt Cedar Swimming Pool Improvement Project via the Construction Manager as Agent delivery method.

X. BUSINESS IMPACT

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

Public Works Projects Project Delivery Method NRS 338

Nathan Chorey
Engineering Manager



Major Project Delivery Methods for Public Work Projects

- Design/Bid/Build (DBB)
- Construction Manager as Agent (CMA)
- Construction Manager at Risk (CMAR)

Overview

- Identify major project delivery methods for Public Work Projects (*NRS 338*).
 - Defining characteristics
 - How it works
 - IVGID Examples
 - Advantages
 - Disadvantages

What's a Project Delivery Method?

- The process used to execute planning, design, and construction of a project.
 - These processes are covered in NRS 338.

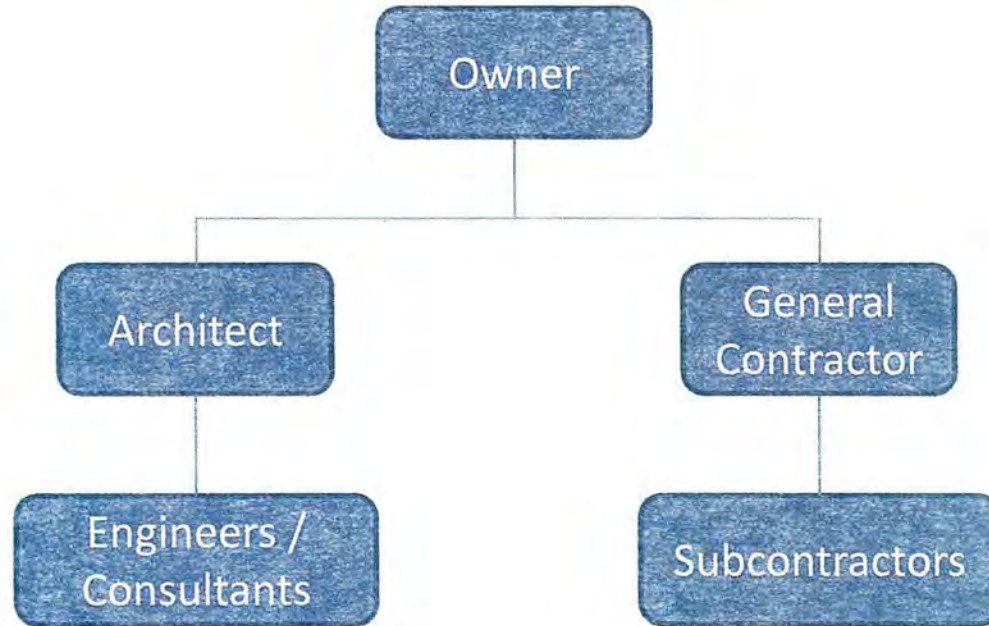
Definitions

- Public Work - New construction, repair or reconstruction of a project financed in whole or in part from public money. *NRS 338.010*
 - Architect/Engineer (A/E) and Contractor must be licensed.
 - Prevailing wage is required. *NRS 338.020*
 - Exceptions exist for project <\$100,000.

Design/Bid/Build (DBB) Defining Characteristics

- Two separate contracts (A/E and Contractor)
- A/E provides complete set of plans and specifications
- Contractor provides fixed price contract (lump sum or unit price)
- Low bid selection based on NRS 338
- Sequential process

Design/Bid/Build (DBB) How It Works



Design/Bid/Build (DBB) How It Works

Sequential
Process



A/E



Contractor

Design/Bid/Build (DBB)

IVGID Examples

- Mtn. Golf Clubhouse Renovation
- Championship Golf Maintenance Drainage and Wash Pad Improvements
- Martis Peak Drive Water Main Replacement
- Tennis Center Remodel
- WRRF Aeration Improvements
- Reservoir Safety and Security Improvements – Phase I and II

Design/Bid/Build (DBB)

Advantages

- Proven Track Record
- A/E and Contractor checks and balances
- Owner control of design
- Program (basis of design) can be less developed at design start
- A/E remains Owner's agent throughout construction
- Easy to evaluate (low bid wins)
- Contractor wants to execute efficiently and maximize profits.

Design/Bid/Build (DBB)

Disadvantages

- Owner liable for design errors and omissions
- Owner is negotiator/arbiter in design vs. construction disputes
- Requires complete plans and specifications
- Cannot begin construction until design finished
- Typically, No Contractor input during design.
- Potential for cost surprise at bid opening or potential to receive no bids.
- Low bid may not be the “best” bid

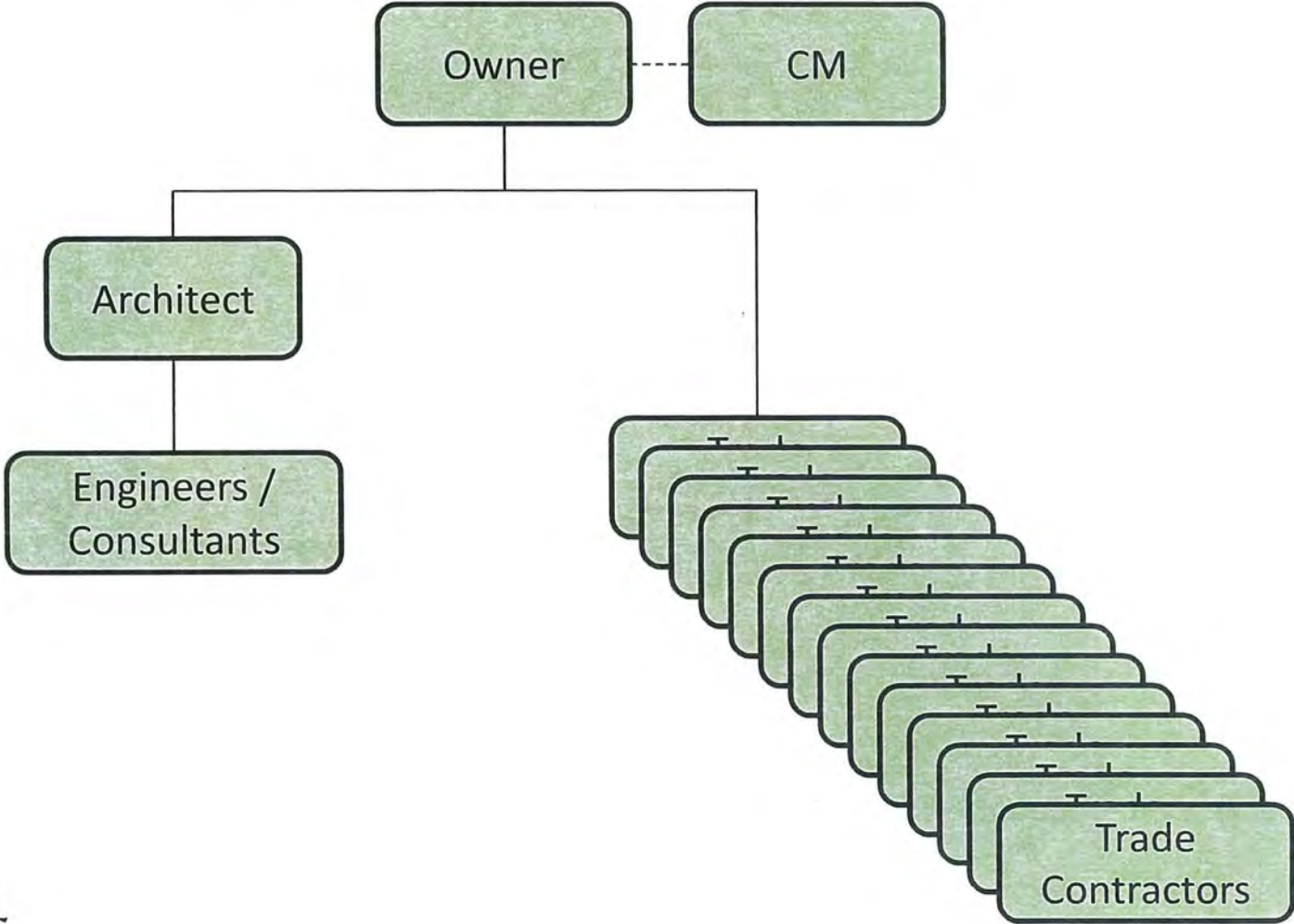
CM Agent (CMA)

Defining Characteristics

- Owner hires CM as an Agent to represent their interests and oversee trade contractors.
- Owner hires Architect for design
- Owner carries all individual contracts with trade contractors.
- Low Bid Selection based on NRS 338
- Sequential Process

Construction Manager as Agent (CMA)

How It Works



Construction Manager as Agent (CMA) How It Works

Sequential
Process



A/E



CM | Trade Contractors

Construction Manager as Agent (CMA)

IVGID Examples

- Chateau ~2002
- Public Works Building ~2003

Construction Manager as Agent (CMA)

Advantages

- A/E and Contractor checks and balances
- Owner control of design
- CM augment's Owner staff for project oversight
- A/E remains Owner's agent throughout construction
- Easy to evaluate (low bid wins)
- Can analyze subcontractor cost for project anomalies and for redesign

Construction Manager as Agent (CMA)

Disadvantages

- Owner liable for design errors and omissions
- Owner responsible for carrying all trade contracts, issuing change orders, issuing monthly payments, etc.
- Owner carries all project insurance (OCIP)
- CM is not at risk. Owner carries all risk.
- Requires complete plans and specifications
- Cannot begin construction until design finished
- No Builder input during design
- Potential for cost surprise at bid opening or potential to receive no bids.
- Low bid may not be the “best” bid
- Owner is responsible for schedule. CMA coordinate work activities/schedules trades

Construction Manager at Risk (CMAR)

Defining Characteristics

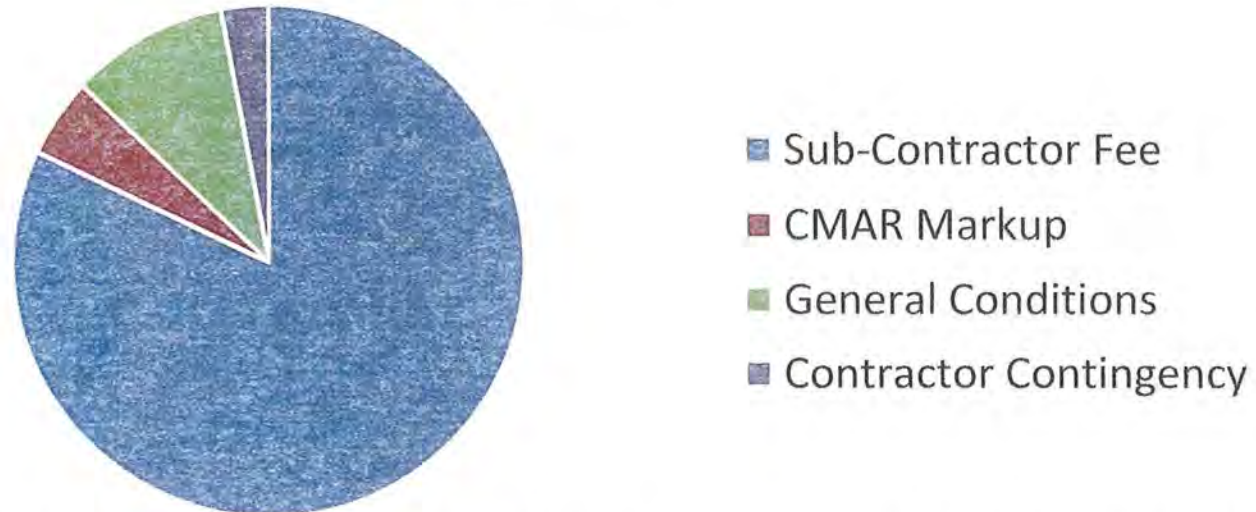
- Two separate contracts (A/E and Contractor)
- Fast-track or simultaneous process
- Preconstruction services of Contractor
- Qualifications Based Selection (QBS) or Best Value (BV) selection process
- Guaranteed Maximum Price (GMP)
- Contingency is owner controlled
- Savings shared between Owner and CMAR

Qualifications Based Selection (QBS) or Best Value (BV) selection process

- Sub-Contractors who submit the BEST proposal are selected. Selection factors may include:
 - Safety Record
 - Understanding of project requirements
 - Past performance record
 - Availability
 - Fee
- Per NRS 338.16995(11)
 - *A subcontractor selected pursuant to subsection 9 need not be selected by the CMAR solely on the basis of lowest price.*

Guaranteed Maximum Price (GMP)

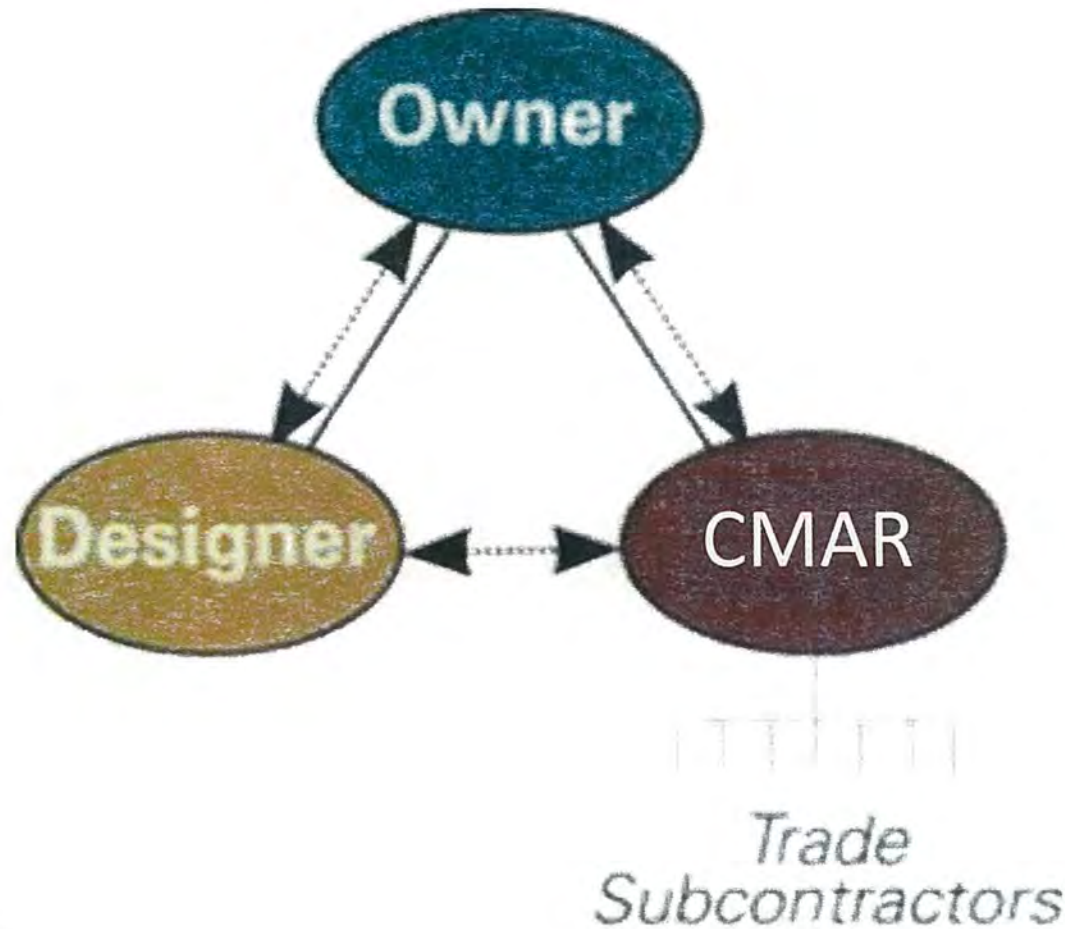
Fee Composition



- CMAR Mark-up is negotiated during the selection process. Industry standard for vertical construction is 2.5% - 7.5%.
- General Conditions is a fixed fee. This fee includes; insurance, bonds, and project specific requirements. Typically 10% - 12% of total construction costs depending on the duration and complexity of project.
- Contractor Contingency is typically 2% - 3% of total construction costs. The unused dollars may be returned to the owner depending on what is negotiated during selection of CMAR.

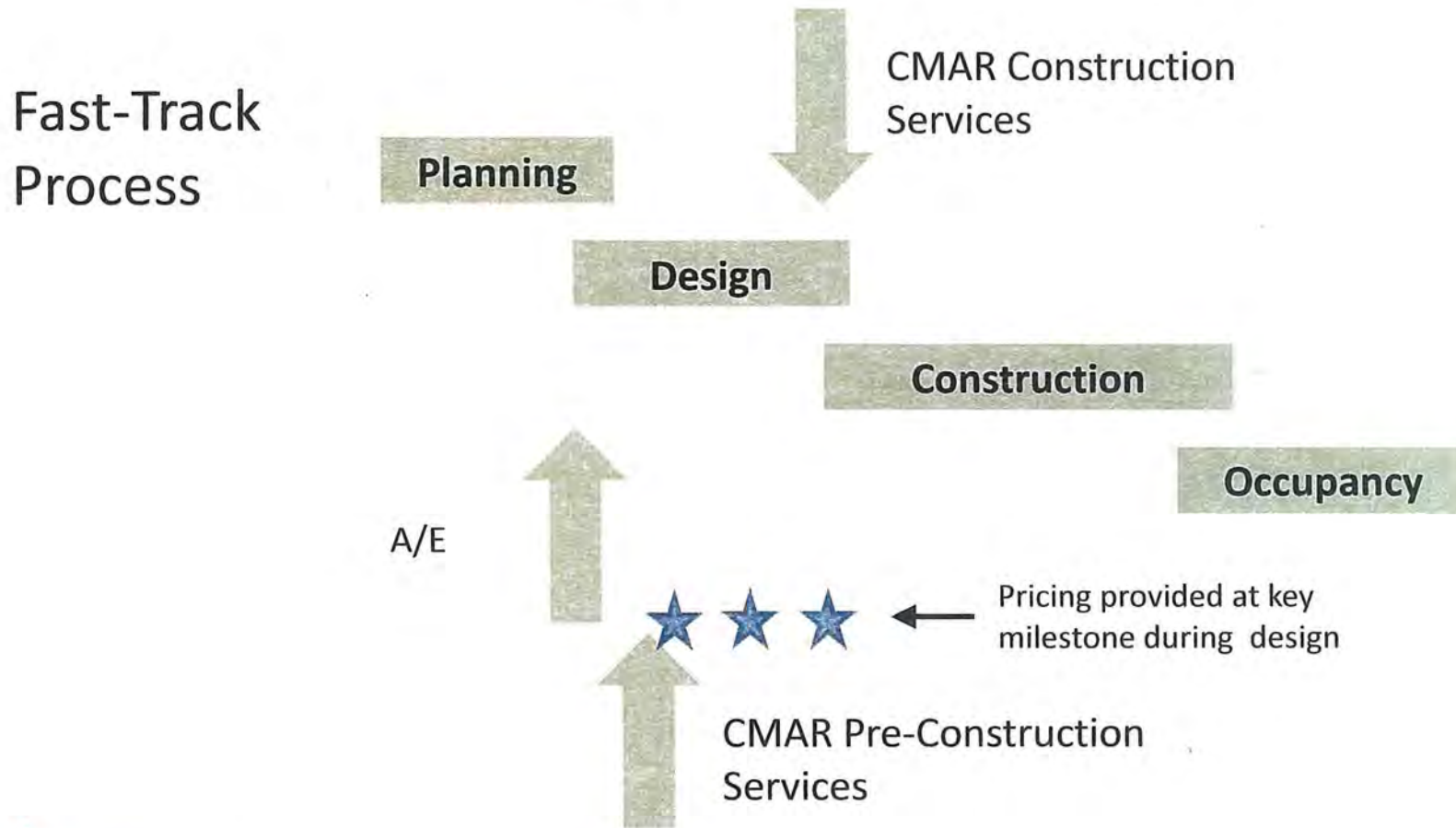
Construction Manager at Risk (CMAR)

How It Works



Construction Manager at Risk (CMAR)

How It Works



Construction Manager at Risk (CMAR)

IVGID Examples

- Incline Creek Culvert Restoration

Construction Manager at Risk (CMAR)

Advantages

- A/E and Contractor checks and balances
- Requires stamped construction drawings
- Owner control of/input on design
- Collaborative nature of this delivery method reduces time commitment required by Owner.
- Program (basis of design) can be less developed
- Architect remains Owner's agent throughout
- Speed of delivery, Fast Track process.
- Contractor input during design
- Guaranteed Maximum Price (GMP) known before start of construction. All trades are publically bid.
- "Open book" construction accounting

Construction Manager at Risk (CMAR)

Disadvantages

- Harder to evaluate bids (multiple criteria)
- Owner may be financially liable for the exclusions and inconsistencies in the contract documents.

Comparison Summary

	DBB	CM Agent	CMAR
Process	Sequential (-)	Sequential (-)	Fast Track (+)
# of Contracts	2 (+)	Many (-)	2 (+)
Speed of Delivery	Slowest (-)	Slowest (-)	Fastest (+)
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Financial Risk	On Owner (-)	On Owner (-)	On CMAR (+)
Pre-Con Services	No (-)	Yes (+)	Yes (+)
Sub Selection Process	Low Bid (-)	Low Bid (-)	QBS or BV (+)
Evaluation	Easy (+)	Easy (+)	Harder (-)
Pricing	Fixed Price + (-)	Fixed Price + (-)	GMP (+)
Accounting	Closed Book (-)	Open Book (+)	Open Book (+)

The above features are identified as an advantage or disadvantage compared to the other project delivery methods. (+) and green cell indicates an advantage; (-) and red cell indicates a disadvantage.

MEMORANDUM

TO: Board of Trustees

THROUGH: Indra Winqest
General Manager

FROM: Paul Raymore
Marketing Manager

SUBJECT: 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; Venue: Diamond Peak; Vendor: EXL Media; Contract Amount: Not-to-exceed total of \$100,000 (*consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees*)

STRATEGIC PLAN: Long Range Principle #6 - Communication

DATE: September 30, 2020

I. RECOMMENDATION

That the Board of Trustees make a motion to authorize Staff to enter into an agreement with EXL Media for 2020/21 Fiscal Year media buying services for Diamond Peak Ski Resort for a not-to-exceed total of \$100,000 (*consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees*).

II. STRATEGIC PLAN REFERENCE(S)

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

- Provide clear, concise and timely information in multiple, publicly accessible formats.
- Ensure that both internal and external communication is responsive, comprehensive and inclusive.

Review, discuss and possibly approve an item for the District to enter into an agreement for media buying services for 2020/21; Venue: Diamond Peak; Vendor: EXL Media; Contract Amount: Not-to-exceed total of \$100,000 (consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees)

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Sept. 30, 2020

III. BACKGROUND

As a component of Diamond Peak's annual communications and marketing plans, the District contracts with a media buying agency to help plan, place and negotiate rates for advertising placement. This year, we expect those channels to include print ads, digital ads, digital billboards, mobile ads and paid search campaigns. This is an essential service for the District's Marketing Staff as the research, documentation, reporting, and support received from the third party provider significantly exceeds in-house capabilities.

Given the impacts that COVID-19 will have on the ski resort's communications plans, this year's paid advertising campaigns will be focused on informative guest communication including messaging that Diamond Peak ski resort is open, customer pre-arrival expectations, product availability and capacity restrictions, and updated conditions information.

IV. BID RESULTS

The District's media buying services contract went to bid before the 2019/20 Fiscal Year, with local agency EXL Media selected to continue providing media buying services to the District. A full recap of the bid results are included in the May 22, 2019 Board Memo authorizing the District to enter into an agreement with EXL Media during the 2019/20 Fiscal Year. (See pages 263 – 295 of the May 22, 2019 Board packet.) The 2020/21 Fiscal Year would be year 2 of an agreement with EXL Media since going to bid for this service.

EXL Media is an Incline Village, Nevada based firm and has over 22 years of experience successfully handling media buys for the District. EXL Media has vast knowledge of the competitive landscape of the Lake Tahoe recreation market. Through the bidding process, they were determined to be the best qualified and capable media agency to support the District in meeting its budget objectives and will provide the level of attention, detail, and reporting that is required to ensure successful media campaigns.

V. FINANCIAL IMPACT AND BUDGET

The budget for the proposed media buying services contract is included in the Board-approved Fiscal Year 2020/21 Diamond Peak marketing budget. A total of \$208,500 (cash) and \$80,000 (trade) is included in the approved 2020/21 District Operating Budget for Diamond Peak media buying services.

Review, discuss and possibly approve an item for the District to enter into an agreement for media buying services for 2020/21; Venue: Diamond Peak; Vendor: EXL Media; Contract Amount: Not-to-exceed total of \$100,000 (consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees)

The original proposal and recommended alternate option are laid out in the following table:

BUDGET LIMITS	ORIGINAL PROPOSAL	RECOMMENDATION
DIAMOND PEAK – CASH	Up to \$166,000	Up to \$75,000
GOLF – CASH	Up to \$51,700	\$0
FACILITIES – CASH	Up to \$32,000	\$0
REC CENTER – CASH	Up to \$11,000	\$0
TENNIS – CASH	Up to \$5,000	\$0
DIAMOND PEAK – TRADE	Up to \$80,000	\$0
GOLF - TRADE	Up to \$12,000	\$0
AGENCY FEES LIMIT	Up to \$68,000	Up to \$25,000
TOTAL	Up to \$333,700 (cash) Up to \$92,000 (trade)	Up to \$100,000 (cash)

Staff to manage spending levels in accordance with District goals:

The proposed agreement for media buying services with EXL Media serves as a not-to-exceed template for Diamond Peak’s advertising plans, but does not commit the District to any particular advertising spending amount. In light of the impacts that the COVID-19 pandemic will have on the ski resort this winter, Staff will work with EXL Media to adjust advertising campaigns appropriately to align with District goals. The Marketing Manager is responsible for contract oversight.

Notes on recommended option:

- The agreement with EXL Media will be structured to pay Agency Fees based on actual hours billed (at \$125 per hour) instead of a flat fee structure agreed upon in advance, with not-to-exceed limits in place. Given this structure, should the District choose to cut back on or eliminate all paid advertising services this year, there is the potential to pay less than the not-to-exceed amount of fees listed above.
- Given the need for more control over capacity limits at the ski resort this season, the Trade Media component has been eliminated from this proposal so as not to have anonymous non-date-restricted lift ticket products available in the market this year.

Review, discuss and possibly approve an item for the District to enter into an agreement for media buying services for 2020/21; Venue: Diamond Peak; Vendor: EXL Media; Contract Amount: Not-to-exceed total of \$100,000 (consisting of not-to-exceed \$75,000 in paid media spending and not-to-exceed \$25,000 in agency fees)

-4-

Sept. 30, 2020

Staff Recommendation:

Staff recognizes the Board's desire to spend less on paid advertising during the 2020/21 Fiscal Year than previous years due to the COVID-19 pandemic. Given the uncertainty around this season due to the pandemic, and the limitations of Diamond Peak's organic communications channels, Staff recommends the Board approved a limited contract for paid advertising services to convey vital messaging around:

- Status of the ski resort (i.e. when resort is open)
- Product availability and any capacity restrictions in place
- Pre-arrival information and expectations
- Updated conditions information
- 2021-22 season pass sale information

Predicting what communications channels will work best during this COVID-19 impacted season is challenging at this time, so having the flexibility to utilize a portion of the approved marketing budget on paid advertising channels to communicate vital resort information is advisable to ensure the health and safety of our employees, customers, and local community. Staff will continue to be diligent in adjusting spending levels to be in line with District goals and changing market conditions.

V. ALTERNATIVES

Direct Staff not to enter into a media buying agreement during the Fiscal Year 2020/21, understanding that doing so will leave Diamond Peak's communications and marketing plan for this winter vulnerable as the Media Buying Contract is a key component to the overall annual marketing and communications plan.

Proposed Contract

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

THIS AGREEMENT (“Agreement”) is entered into between Incline Village General Improvement District, a political subdivision of the State of Nevada (hereinafter referred to as “District”), on the one hand; and EXL Media Corporation, a corporation (hereinafter referred to as “EXL”), on the other hand and is effective on July 1, 2020.

WITNESSETH

- a) District is the owner and operator under Special Use Permit of Diamond Peak Ski Resort, the Championship and Mountain Golf Courses, The Chateau and Aspen Grove, and the Recreation Center and Tennis Center in Incline Village, Nevada.
- b) EXL is a media buying and placement agency, located in Incline Village, Nevada, with experience in media services.
- c) District desires to retain the services of EXL to provide media services.

NOW THEREFORE, for valuable consideration, it is agreed as follows:

SECTION 1 - Agreement.

- (a) District hereby hires EXL to provide media services described herein (the “Media Services”), and EXL agrees to provide the Media Services to District. EXL will provide the Media Services to District within the timeline set between the IVGID Marketing Department and EXL. The IVGID General Manager or the IVGID Marketing Manager shall approve the final form of the Media Services for the ski resort, tennis, golf and facilities. No media services contracts will be finalized without the prior written approval by the General Manager or the IVGID Marketing Manager
- (b) District shall pay EXL a separate amount for each media service. The breakdown and total amount for the fiscal year of July 1, 2020 – June 30, 2021 is as follows:

Total contract not-to-exceed: \$100,000

- Cash Media: \$75,000
 - Diamond Peak: \$75,000
 - Golf: \$0
 - Facilities: \$0
 - Recreation Center: \$0

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

- Tennis Center: \$0
- Trade Media: \$0
 - Diamond Peak: \$0
 - Golf: \$0
- Agency Fees: billed at \$125 per hour, not to exceed \$25,000

Cash and trade budgets cover funds for media purchases from third parties. When trade is issued to a third party, IVGID services and products will be taken at full rack rate. EXL doesn't have any autonomy in discounting IVGID's services and products. Trade is to be used when possible in exchange for cash to help contribute to the overall value of the media buy.

In case additional needs arise, District will pay EXL an additional fee as agreed by both parties prior to executing the additional project. The amount will be separated in individual invoices for different District recreational facilities and shall be due upon EXL's delivery and District's acceptance of the finished Media Services. EXL will charge a fee of \$125 per hour for the development of each media plan. This fee will not surpass 40 hours or \$5,000 for each campaign and will only be charged if the media plan is not placed.

- (c) The individual obligations of District and EXL in performing this Agreement are set forth below.

SECTION 2 - EXL's Obligations.

- (a) EXL will provide District with a selection of Media Services for use by District recreational facilities for the July 1, 2020 - June 30, 2021 fiscal year. The Media Services will include, but are not limited to, at least the following:
 - 1) Radio
 - 2) Outdoor
 - 3) Television/Cable
 - 4) Digital/Internet/Mobile
 - 5) Print
 - 6) Promotions
 - 7) Specialty Media
 - 8) Outdoor Production Coordination

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

9) Advertising Performance Analytics & Tracking

- (b) EXL shall consult with District to provide District the opportunity for input on the selected Media Services. District will have final approval on all media buying and placement, and District's Marketing Manager shall sign off on all media buying budgets and plans before any placements are made on District's behalf. Media buying budgets and plans shall be evaluated and potentially adjusted at least quarterly, with District's Marketing Manager signing off on any changes.
- (c) EXL shall not exceed the total amount budgeted for media for the services described above and will not incur any costs above and beyond set budget unless additional costs are authorized by District in writing.
- (d) EXL will consider performing additional projects from the District not stated in this contract on as-needed basis and will provide estimates for each project prior to execution.
- (e) EXL will provide copies of original invoices from third party vendors attached to EXL invoice.
- (f) EXL will pay all invoices from media/vendors on behalf of District within thirty (30) days of receipt of payment from District for the same invoices. EXL agrees that any and all media/vendors shall look to EXL for payment upon proof of payment by District to EXL for invoices in question.
- (g) EXL will coordinate with and provide creative agencies selected by District Marketing Department with all creative deadlines and make sure media deadlines are met.
- (h) NonDisclosure Obligations. EXL acknowledges and agrees that during its performance under this Agreement, it may learn of, be exposed to or come into possession of certain "Confidential Information." Confidential Information is defined as information developed or owned by District or entrusted to District by others. Confidential Information includes, but is not limited to, financial information, business strategy, marketing calendars, inventory levels and best sellers, partnerships, and customer contact information. EXL agrees that it will not, directly or indirectly, (i) use such Confidential Information except as required in the normal and proper course of performing the Services defined in this Agreement or other obligations as contemplated hereunder; (ii) disclose such Confidential Information to any other person, corporation or entity; or (iii) allow a third party access to such

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

Confidential Information (except as otherwise may be required by law) without, in each case, obtaining the prior written approval of District. EXL agrees to protect all information including, but not limited to documents, electronic records, tapes and other media in which the Confidential Information is contained (the "Confidential Documents"). EXL further acknowledges and agrees that the Confidential Documents are, and shall remain, the sole and exclusive property of District. EXL shall not copy any Confidential Documents or remove any Confidential Documents, or copies thereof, from District premises, except as required by the normal and proper course of performing the services or other obligations hereunder. EXL agrees to return to District promptly upon request any and all property of District, including but not limited to the Confidential Documents and copies thereof, in EXL's possession or control.

SECTION 3 - District's Obligations.

- (a) District will provide EXL with customer research and will assist with information and strategy to complete media services.
- (b) District reserves the right to modify, reject, cancel or stop any and all plans, schedules or work in progress, and in such event, EXL shall immediately take proper steps to carry out District's instructions. In turn, District agrees to assume liability for all such commitments and to pay EXL, in accordance with the provisions of this agreement, any and all proper charges earned and incurred by EXL in connection with such work up to the time of its discontinuance, cancellation or modification. District agrees to indemnify, defend and hold harmless EXL for any claim or liability incurred by EXL under any agreement entered into by EXL for the benefit of District and which is modified by the District and pursuant to the terms hereof. IVGID understands that outdoor contracts are non-cancelable once approved. The agency fee is based upon an hourly rate of \$125 per hour as documented by EXL Media and invoiced monthly, and if the contract is cancelled by IVGID, no further agency fees will be due except those required to facilitate the return of IVGID's Confidential Information and hand off any existing media buying commitments.
- (c) District will pay EXL for the Media Services as set forth in Section 1(b) above.

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

SECTION 4 - Relationship and Responsibility.

- (a) This Agreement is for the provision of services, and is limited to the services described herein. District and EXL agree that EXL is an independent contractor providing services to District, and neither EXL nor any employee or agent hired by EXL is or shall be considered an employee or agent of District.
- (b) EXL shall be responsible for all required licenses and permits for the services as specified. EXL shall be solely responsible for all agents and employees used by EXL and for all matters relating thereto, including payment for services.
- (c) EXL shall defend, indemnify and hold District harmless from any and all matters relating to or arising from the performance of the services described herein, and from any claims against District by any agents or employees of EXL, except those claims which are determined to be the direct result of separate and independent negligence by District or its employees.
- (d) This Agreement is cancelable upon thirty (30) days' notice by either party. In such event, District shall only pay EXL for media services actually performed and completed. This agreement is for a time period of one (1) year and may be renewed upon agreement.
- (e) District agrees to indemnify, defend and hold EXL harmless against any loss and expense, including reasonable attorney's fees and court costs incurred as the result of any claim, suit or proceeding made or brought based upon the content of any advertising material prepared or placed for District by EXL, notwithstanding the fact that any such material may have been approved by District. District will have the right to defend or settle any such claim, suit, or proceeding at its own expense. District's obligation to indemnify EXL shall include any claims by third parties based upon trademark, copyright or other infringements of intellectual property rights.
- (f) EXL agrees to indemnify, defend and hold the District, its officers, directors, employees and representatives harmless, against any loss, damage, claim or expense in connection with or arising out of the breach or negligence or fault of EXL pursuant to the performance of services under this agreement or as a result of EXL's representations to third parties contrary to the scope of EXL's responsibilities hereunder.

**AGREEMENT FOR SERVICES
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT AND EXL MEDIA
CORPORATION**

SECTION 5. Miscellaneous.

- (a) This Agreement is entered into and shall be performed in Washoe County, Nevada, and venue for any action arising from this Agreement shall be limited to Washoe County, Nevada.
- (b) This Agreement and the rights and obligations of the parties hereunder may not be assigned by either party without the express prior written consent of the other party.
- (c) No provision of this agreement shall be deemed a waiver of District's sovereign immunity beyond that presently provided by Nevada law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth opposite each signature below.

EXL MEDIA CORPORATION

By: _____ Date _____
Name: Wendy Hummer
Title: President

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

By: _____ Date _____
Name: Indra Winquest
Title: District General Manager

Reviewed as to form:

By: _____ Date _____
Name: Joshua Nelson
Title: District General Counsel

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Chairman

SUBJECT: Review, discuss, and possibly approve the District General Manager Goals for Fiscal Year 2020-2021 **and** set a date for the District General Manager's Performance Evaluation

DATE: September 21, 2020

I. RECOMMENDATION

- A. The District General Manager recommends that the Board of Trustees accept the General Manager's proposed goals for Fiscal Year 2020-2021 as follows:
- Effectively manage through COVID crisis to have an outcome that is favorable to the adopted District's budget and the overall health and safety of staff and the community members at IVGID venues & Facilities;
 - Improve financial reporting by ensuring that the Popular Report on capital is issued in a timely manner, capital data sheets are updated and accurate, and provide quarterly budget updates to the Board of Trustees;
 - Conduct and complete a Public Works Performance Management and Asset Management Study;
 - Bring forward to the Board of Trustees for consideration improved District Internal Control policies and/or procedures and/or practices based on consultant feedback and/or Director of Finance input;
 - Manage transition to Enterprise Fund Accounting once consultant has rendered their recommendation and that recommendation is approved by the Board of Trustees and concurred to by the State of Nevada;
 - Work with the Board of Trustees and community to evaluate and bring forward to the Board of Trustees proposed amendments to Ordinance 7;
 - Review and recommend to the Board of Trustees punch card utilization and accounting improvements;
 - Develop and bring forward to the Board of Trustees a 2021/2022/2023 Strategic Plan for their approval; and
 - Transition to a new firm to provide legal services to the District once selected by the Board of Trustees.
- B. The Board of Trustees sets the date of the District General Manager's performance evaluation to be no later than September 30, 2021 and conducted at a meeting closest to that date but not later than that date.

II. **BACKGROUND**

General Manager Winquest's employment contract, as approved by the Board of Trustees on June 30, 2020, includes the following provisions regarding his evaluation:

3.3 In accordance with Section 7 below, the Board of Trustees shall conduct annual evaluations of General Manager's performance and the Board of Trustees shall consider the results of these performance evaluations when deciding whether to provide additional compensation. However, all salary increases and/or performance incentives shall be provided in the sole discretion of the Board of Trustees.

7.1 Annually, or at such other time as desired by the Board of Trustees, the Board of Trustees and General Manager shall meet to evaluate the performance of General Manager on a date mutually determined by both parties.

7.2 The Board of Trustees may, in its sole discretion, use any professional assistance in establishing standards, including but not limited to an agreed-upon facilitator.

7.3 Nothing in this provision shall be construed to require the Board of Trustees to grant General Manager pay increases based on the performance standards, if any, mentioned above nor to limit in any manner the discretion of the Board of Trustees to grant or not grant increases.

7.4 Nor shall anything in this Agreement be construed to require the Board of Trustees to evaluate General Manager solely upon the performance standards, if any, mentioned above, nor to limit the discretion of the Board of Trustees to evaluate General Manager as it deems necessary in the sole discretion of the Board of Trustees.

III. **COMMENTS**

District General Manager Winquest's performance evaluation must be conducted in public as provided in Nevada Revised Statutes 241.031. It is important to be mindful that it would be advantageous to have the evaluation date to be coordinated with the District's annual budget cycle.

MEMORANDUM

TO: Board of Trustees

FROM: Indra S. Winquest
District General Manager

SUBJECT: Potential Rebate to all Recreation and/or Beach Fee Rate Payers for Fiscal Year ending 2019/2020 due to COVID-19 impacts on IVGID Recreational Venues – Discussion of possible processes to issue the rebate

DATE: September 22, 2020

Discussion Points

The Board of Trustees, at their August 12, 2020 meeting, asked Staff to provide cost estimates for providing a monetary rebate of Recreation and/or Beach Fee Rate Payers for Fiscal Year 2019/2020.

Staff has identified a number of options for providing monetary refund(s) or equivalent value to property owners who were assessed Recreation and Beach Facility fees, to include:

- Credit applied on FY2021/22 Property Tax Bills via either:
 - FY2021/22 Facility Fee reduced by amount of FY2020/21 credit
 - Separate line-item on FY2021/22 bill equal to amount of credit*Cost estimate: Zero to \$1,000.*

- Refund check issued to each of the 8,200 property-owners via either:
 - Individual checks processed and mailed by IVGID Finance Dept.
 - Individual checks processed via Wells Fargo Payment Management Services*Cost Estimate: \$13,000 - \$20,000*

- District provides equivalent value of refund amount via either:
 - IVGID Certificate / IVGID Bucks*Cost estimate: \$2,500*
 - Refund amount added to existing Punch Card(s)*Cost estimate: \$10,000-\$12,000*

The following summarizes the process and estimated cost (including staff time) for each of the alternatives being evaluated:

Credit applied on FY2021/22 Property Tax Bills:

Process:

Each year, the District establishes an annual Recreation Facility Fee and Beach Facility Fee to be collected from property owners within the District through a levy placed on the property tax bill and collected on behalf of the District by the Washoe County Treasurer's Office. The District is charged \$1,000 by Washoe County for the collection and remittance of the annual Facility Fees. Should the Board elect to provide a refund or credit for a portion of the Facility Fees charged to property owners, one option to effect the refund would be to reduce the amount of the FY2021/22 Facility Fees by the amount of the refund and have this reduced amount serve as the charge for FY2021/22.

Cost:

There would be no additional cost to the District to process refunds in this manner, as the cost would be covered by the annual charge of \$1,000 already paid by the District to Washoe County.

Modified Alternative:

A modified alternative could entail providing a refund to property owners via the annual property tax bill, albeit include the refund amount as a separate line item on the property tax bill. This alternative is equivalent to the previous option with the added benefit of clearly designating the amount of the refund, separate from the FY2021/22 Facility Fee charges. *Staff is exploring whether adding an additional line item to each property tax bill would incur any additional cost; however, it is unlikely that this charge would exceed an additional \$1,000.*

Refund Check issued to each individual property owner

Process:

At Board direction, IVGID Staff could initiate a process to issue individual refund checks to each property owner who paid their FY2019/20 Facility Fee through the District's internal accounts payable system. This process would entail establishing each property owner as a "vendor" in our system and manually entering 8,200 separate invoices against which checks would be processed. Each check would, in turn, be placed in an envelope with matching mailing labels and mailed to each property owner.

Cost:

Staff has estimated the cost to the District of processing roughly 8,200 manual checks as being in the range of \$20,000. This cost includes staff time (estimated at 675 hours), supplies (checks, envelope, labels) and postage. This cost estimate may vary based on the ability of the District to utilize a bulk mailing rate, while

additional costs could also be incurred to track checks as they are cashed as well as any “stop payments” or processing of replacement checks.

Modified Alternative:

Another option for issuing individual checks to property owners would be to utilize the Payment Manager Service offered by the District’s bank (Wells Fargo). Under this option, the District would upload an electronic file to the bank with the names and addresses of each individual eligible for a refund, and the bank would process and mail the checks. An initial review of this option reveals a preliminary cost estimate of \$13,000 - \$15,000 (depending on postage rate).

Check:

Each rate payer would have to be entered into the system as a vendor and the estimate amount of time to do that process is 5 minutes per rate payer at approximately 8,200 rate payers – estimate is that it would take about a week and a half to get everyone entered into the system. The verification of rate payers would have to occur.

IVGID certificate/ IVGID bucks

Process:

Staff could print 8,200 certificates and apply a numbered label that could be scanned at each venue; the label would be unique to each certificate. The IVGID certificate (aka IVGID bucks) would include an expiration date of one year from the issuance date – it is estimated that this process would take about a week and a half. The verification of rate payers would have to occur.

Cost:

Staff estimates the cost of providing and IVGID Certificate to be approximately \$2,500, to include staff time and supplies.

Credit loaded onto a punch card (or other form of card)

Process:

If a punch card has been issued to a parcel, there is a possibility that an additional amount could be loaded onto an existing punch card through the Vermont Point-of-Sale system. If there is no punch card on the parcel, a new one could be issued with the rebate amount. Either of these processes would require the verification of rate payer.

Cost:

Staff estimates that the cost to add value to an existing Punch Card, or issue and additional punch card to be roughly \$ 8,000 -\$10,000 (mostly staff time to update individual parcel owner records in our Capstone system and manage the process).

Verification of Property Owners of Record:

Among the challenges in implementing a robust one-time refund program is that each parcel would have to be verified as to ownership on the date the fee was paid, the time period for which a refund is applied, and validating that the owner who paid the fee is the same one that would be receiving the rebate.

Additionally, if a parcel didn't pay the fee, or has an outstanding balance on their facility fee, for whatever reason, it would need to be verified so that no rebate was provided back to a property owner who is not current on their facility fee.

Other Ideas as Suggested by the Board of Trustees

MEMORANDUM

TO: Board of Trustees

THROUGH: Chair Callicrate

FROM: Sara Schmitz

SUBJECT: Discuss, potentially revise, and approve revisions to Board Policy 3.1.0

DATE: September 24, 2020

I. RECOMMENDATION

The Board makes a motion to approve the revisions to Policy 3.1.0.

II. BACKGROUND

Policy 3.1.0 was first drafted in July of 2008. Since that time, revisions have been made, however as the Board has been discussing, Policies need to be reviewed and updated on a periodic basis. This policy was last updated in 2018. Below is a brief history of the revisions:

Revision History of Policy 3.1.0

July 2008 – initial version (included in Board packet)

September 2010 – no glaringly apparent changes

January 2014 – meeting place clarification/simplification; item h, Resolutions Not In the Mainstream of the District's Normal Activity removed; .16 removed Authorization for Fund Transfers; District Venue Advisory Teams added to item .17 Advisory Committees

January 2015 – approval of bills was removed from the list of Items of Business (.5); item f changed to require contracts requiring advertising in reference NRS 332 and 338. Removed language regarding deeds, warrants, releases, receipts and documents approved to be signed by; item .14 was changed from Payment of Bills to Reports (payment of bills was removed and replaced by Reports)

March 2015 – public comment added to beginning of agenda; **approval of bills reappears** in the items of business (it was removed in the prior version with item .14); item f **now contains a typo** on the NRS number (should be 332, but it refers to 322); 08 Agenda Preparation revised to require 3 Trustees to request an agenda item (**proposed in update to Policy 3.1.0**); .9 Reconsideration revised to remove the public’s ability to request reconsideration (**proposed in update to Policy 3.1.0**); .10 Public Participation revised to urge Trustees to communicate with the public outside of Board meetings also removed the limitation of one comment per single agenda item (**proposed in update to Policy 3.1.0**); .15 Consent calendar language cleaned up;.16 Advisory Committees (and the reference to DVAT’s) was removed (**proposed in update to Policy 3.1.0**);.18 Conflict Resolution added

September 2015 – revised to change public comment periods to one at the beginning and one at end of the meetings (paragraph .10); **error on Approval of Bills was removed, however the NRS typo remains.**

April 2018 – **Error in .5 Items of Business has Approval of Bills reappear**; typo of NRS number for advertisement of contracts is fixed; Item h added Litigation (**needs revision as it doesn’t address the larger issue**).

III. BID RESULTS

Not Applicable

IV. FINANCIAL IMPACT AND BUDGET

No financial or budgetary impact.

V. ALTERNATIVES

Refine or amend the proposed revisions as deemed necessary by the Board.

VI. COMMENTS

VIII. BUSINESS IMPACT

To clarify how the Board operates.

Report

Check	Vendor	Amount	Date	Status	Cleared Date	Payment Type
774536	Wire Rope Service, Inc.	16,650.00	08/26/2020	Outstanding		Check
774509	Moss Adams LLP	18,000.00	08/26/2020	Outstanding		Check
774502	K. G. Walters Construction Co	399,726.01	08/26/2020	Outstanding		Check
774467	NV Energy	93,565.12	08/20/2020	Outstanding		Check
774460	Hutchison & Steffen LLC	25,435.50	08/20/2020	Outstanding		Check
774453	Erickson, Thorpe & Swainston, LTD	14,447.73	08/20/2020	Outstanding		Check
774430	Tate Snyder Kimsey Architects Ltd DBA TSK	29,713.75	08/13/2020	Outstanding		Check
774424	Rapid Construction, Inc	60,123.60	08/13/2020	Outstanding		Check
774402	High Sierra Patrol, Inc.	16,683.66	08/13/2020	Outstanding		Check
774388	Champion Chevrolet	43,063.25	08/13/2020	Outstanding		Check
774360	Rapid Construction, Inc	70,060.00	08/06/2020	Outstanding		Check
774346	Intermountain Electric .Inc	84,853.00	08/06/2020	Outstanding		Check
774344	Hill Brothers Chemical Company	10,937.38	08/06/2020	Outstanding		Check
774339	Eide Bailly LLP	15,000.00	08/06/2020	Outstanding		Check
774337	Cruz Construction Co., Inc.	64,446.98	08/06/2020	Outstanding		Check
774335	Color Crafters	15,650.00	08/06/2020	Outstanding		Check
3787	HercRentals	10,480.00	08/26/2020	Outstanding		EFT
3773	PQ Corporation	13,741.45	08/20/2020	Outstanding		EFT
3771	L&M Distribution, Inc.	16,425.00	08/20/2020	Outstanding		EFT
3743	Marcus G Faust, PC	10,834.00	08/13/2020	Outstanding		EFT
3718	SILegacy Floor Finishing, LLC	24,200.00	08/06/2020	Outstanding		EFT
3711	PQ Corporation	14,986.45	08/06/2020	Outstanding		EFT
3710	OpenGov, Inc.	25,754.00	08/06/2020	Outstanding		EFT
3702	Doppelmayr USA, Inc.	33,009.84	08/06/2020	Outstanding		EFT
0	AT&T	15,096.27	08/05/2020	Outstanding		Auto Pay
		1,142,882.99				

ORIGINAL VERSION



Conduct Meetings of the Board of Trustees Policy 3.1.0

POLICY. The Board of Trustees will fix the time and place of the regular meeting of the Board of Trustees of the Incline Village General Improvement District and provide the manner in which special meetings of said District may be called, designating an official mailing address, and establishing the order of business and rules for its proceedings for the Incline Village General Improvement District, Washoe County, State of Nevada.

- 0.1 Regular Meetings.** The regular meetings of the Board of Trustees of the Incline Village General Improvement District shall hereafter be held on a schedule set by the Board of Trustees.
- 0.2 Special Meetings.** Special meetings of the Board of Trustees shall be held upon call of the Chair of the Board or of a majority of the members thereof, by delivering personally or by mail or other notice to each member. Notice of all meetings shall be given in conformity with the provisions of Nevada Revised Statutes 241.020.
- 0.3 Meeting Place.** All meetings of the Board of Trustees shall be held at the regular meeting place within the District, unless they shall adjourn to or fix another place of meeting in a notice to be given thereof, or unless prevented by flood, fire or other disaster. The said regular meeting place, which shall be the principal place of business of the District, is hereby fixed and established at 893 Southwood Boulevard, Incline Village, Nevada, 89451 within the District.
- 0.4 Holidays.** In the event that any day fixed for a regular meeting of the Board shall fall upon a holiday, that meeting shall be canceled unless the meeting is rescheduled by the Board.
- 0.5 Order of Business.** The order of business at the regular meetings of said Board shall be substantially as follows:
 - Roll call
 - Approval of minutes
 - Approval of agenda
 - Approval of bills
 - Reports



Conduct Meetings of the Board of Trustees Policy 3.1.0

- Consent Calendar
- General business
- Public hearings
- General business
- Adjournment
- There will also be a public comments section on the agenda for the regular meetings; the location of "public comments" will be at the discretion of the Board Chair.
- The order of business may be revised by the General Manager upon consultation with the Chair, where necessary to accomplish the efficient conduct of a meeting.

0.6 Rules of Proceedings.

- a. Public Meetings. All meetings of the Board shall be in accordance with Nevada Revised Statutes 241, the Nevada Open Meeting Law.
- b. Quorum. A majority of the Board of Trustees shall constitute a quorum for the transaction of business.
- c. Method of Action. The Board of Trustees shall act only by ordinance, resolution, motion or contract, which, to become effective, shall be adopted by the affirmative vote of at least a majority of its members present in public meeting, unless otherwise provided by statutes.
- d. Recording Vote. Except where action shall be taken by the unanimous vote of all trustees present and voting, the ayes and noes shall be taken on all actions had and entered upon the minutes. All Trustees shall have the equal right to vote, make and second motions.
- e. Ordinances. The enacting clause of all ordinances passed by the Board shall be in these words: "Be it ordained by the Board of Trustees of the Incline Village General Improvement



Conduct Meetings of the Board of Trustees Policy 3.1.0

District, as follows:". All ordinances shall be signed by the Chair of the Board of Trustees and attested by the Secretary.

- f. Contracts. Contracts entered into by the District that are subject to the formal bid requirements of the Nevada Revised Statutes must be approved by the Board of Trustees. All contracts, deeds, warrants, releases, receipts and documents approved or awarded by the Board shall be signed in the name of the District by the Chair and countersigned by the Secretary, unless authorization to sign is given to another person by the Board. In the absence of the Chair or Secretary, another member of the Board may sign. Contracts which are not subject to the formal bid requirements of the Nevada Revised Statutes, may be authorized, approved and executed by the General Manager of the District or designee, unless otherwise ordered by the Board of Trustees.

- g. Claims. The General Manager and General Counsel, and their designees, are authorized to negotiate on behalf of IVGID, the settlement of all property damage, personal injury, or liability claims, unless otherwise ordered by the Board of Trustees. Final settlement of such claims may be authorized by the General Manager, provided the amount attributed to IVGID is less than the amount that must be approved by the Board in f. above per occurrence, including all sources of payment (insurance, risk reserve, operating funds, or working capital). For claims that exceed the amount that must be approved by the Board in f. above per occurrence, the General Manager may authorize and accept a tentative settlement. Such tentative settlement shall not be final and binding upon IVGID, unless and until approved by the Board of Trustees.

- h. Resolutions Not In the Mainstream of the District's Normal Activity. From time to time it is advisable for the Board of Trustees to issue resolutions that are not in the mainstream of the District's normal activity. It is sometimes difficult for the General Manager or Chair to know when it is appropriate to do resolutions so the following guidelines shall be applied:



Conduct Meetings of the Board of Trustees Policy 3.1.0

- Resolutions will be brought to the full board as a General Business agenda item requested by any member of the Board of Trustees or General Manager.
 - In order for the resolution to be placed on the agenda, it must be deemed pertinent to the normal area of interest or authority of IVGID or the communities it serves.
- 0.7. Robert's Rules.** In all other regards, such meetings shall be substantially conducted in conformity with Robert's Rules of Order.
- 0.8. Agenda Preparation.** The General Manager, in cooperation with the Board Chair, is responsible for preparing the agenda for each meeting. The General Manager shall schedule for consideration by the Board any matter requested to be placed on the agenda by a Trustee. If a person or party wishes to have a matter considered by the Board, a written request should be submitted to the General Manager, in advance of the meeting, allowing enough time for staff research. The amount of advance time required will be determined by the General Manager, based upon Board policy, administrative procedure, and the facts in each instance. Unless directed otherwise by the Board, the General Manager may delay consideration of an item, based upon the length of an agenda, need for coordination with other agenda items, meeting efficiency, or other considerations. In any conflict between the provisions of this paragraph and that of paragraph 0.9., paragraph 0.9. shall govern.
- 0.9. Reconsideration.** Reversal, or substantial modification, of any item by the Board of Trustees within six months of the meeting date at which the action was taken, will only be considered by the Board under the procedures established in this paragraph. After six months, the provisions of paragraph 0.8 shall be controlling. The General Manager may request reconsideration of any action of the Board, and place reconsideration of the action before the Board, if the General Manager determines that the action compromises the efficiency of operations or otherwise impairs the effective management of IVGID. A Board action may also be scheduled for



Conduct Meetings of the Board of Trustees

Policy 3.1.0

reconsideration with the concurrence of at least three Trustees, such concurrence expressed in a Board meeting or filed in the form of a request to the Clerk to the Board of Trustees, in writing. Written requests for reconsideration by any other person or party, including members of the general public, will be distributed to the Trustees but shall not be placed on the Board agenda, without the concurrence of at least three Trustees, as provided above. If the original action was taken after a public hearing, a second hearing shall be held in conjunction with any reconsideration. Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other new or old business.

- 0.10 Public Participation.** Comments shall be solicited from the public on each item scheduled for consideration by the Board. When comments from the public are solicited, the Board or Board chairperson may set a time limit on any presentation by a member of the audience. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item.

- 0.11 Officers of the Board.** The officers of the Board shall be elected as provided by Nevada Revised Statutes 318.085 and shall consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and Secretary. The term of office shall be for one (1) year or until a reorganization of the Board is required.

- 0.12 Authorization to Sign Checks.** The General Manager and the officers of the Board are hereby authorized to sign checks drawn on the various bank accounts of the District. It shall be required that at least two (2) signatures are affixed to any check drawn on such accounts. A list of checks, exceeding \$2,500, except payroll, shall be presented to the Board at each meeting for their review and approval, unless otherwise ordered by the Board.

- 0.13 Facsimile Signatures.** The banks with which the District does business are authorized and directed to honor checks drawn on the various bank accounts of the District, when bearing any two



Conduct Meetings of the Board of Trustees

Policy 3.1.0

facsimile signatures of the officers of the Board and General Manager of the District, after their manual signatures are filed with the Secretary of State, in conformance with Nevada Revised Statutes 351.030.

- 0.14 Payment of Bills.** For District obligations exceeding \$2,500 in the aggregate at any one time, a summary roll of accounts payable shall be presented to the Board at a public meeting for review and approval, prior to payment of said obligations. During any period when more than three weeks passes between regular meetings of the Board, the General Manager is hereby authorized to approve accounts payable directly, provided that the summary roll is distributed to individual Trustees at least three days in advance of the General Manager's approval. The Board hereby authorizes payment of any and all obligations aggregating less than \$2,500; and pre-payment of larger sums involving contractual obligations, payroll obligations, non-payroll employee obligations and other obligations that would be subject to penalty or loss of discount, if not paid prior to the next regular meeting of the Board, subject to reporting such pre-payments at the next regularly scheduled meeting.
- 0.15 Consent Calendar.** In preparation of agendas for regular meetings, the General Manager may schedule routine matters for consideration on a consent calendar. The consent calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "consent calendar." The General Manager shall provide the Board, in the materials for the meeting, a summary sheet of the calendar, indicating the wording of each motion included therein. When the consent calendar is considered by the Board, the Chair shall ask if the Board would like any item to be removed from the consent calendar. If any Trustee requests that the item be removed from the consent calendar, the Chair shall order that item removed. The Chair shall then accept an overall motion and vote approving all individual motions on the consent calendar, without discussion or amendment to any individual motion, as proposed by



Conduct Meetings of the Board of Trustees

Policy 3.1.0

the General Manager. If the vote is less than unanimous in the affirmative, it shall fail and all items shall be automatically removed from the consent calendar. A unanimous affirmative vote shall be recorded by the Secretary as a favorable motion and approval of each individual motion included on the calendar. All items removed from the consent calendar shall then be considered as separate items by the Board or at such other time during the meeting as the Board may designate.

- 0.16 Authorizations for Funds Transfers.** The officers of the Board and the General Manager of the District are hereby authorized to give instructions orally (including by telephone) and electronically to banks to make funds transfers. "Designated Callers" may be delegated authority from time to time by the officers of the Board or the General Manager to give oral and electronic instructions to make funds transfers. Designated Callers may only authorize funds transfers to District accounts.
- 0.17 Advisory Committees.** The Board of Trustees may from time to time establish citizen committees to advise it on policy matters of the District. All such committees shall serve at the pleasure of the Board, and the Board shall have the authority to remove any member or all members from any and all committees at any time, or to change any of the terms of office thereof. Committees shall be advisory in nature only, and shall have no authority to set policy; expend or obligate funds; hire, fire, supervise, or direct staff; or speak on behalf of the District, the Board, or its officers or employees. All committees shall conduct their business according to Roberts Rules of Order and shall conform to all provisions of the Nevada Open Meeting Law. If any Trustee shall be appointed to serve on a committee, the Trustee shall be the chair of that committee, unless other methods for selecting the chair have been approved by motion of the Board of Trustees. If more than one Trustee is appointed to serve on the committee, then the Board shall determine by motion which Trustee shall serve as chair. If a conflict arises between the provisions of this paragraph and the provisions of any other policy, resolution, rule, guideline or other document pertaining to any advisory committee,



Conduct Meetings of the Board of Trustees Policy 3.1.0

including but not limited to any such documents adopted prior hereto, the provisions of this paragraph shall prevail.

- 0.18 Legislative Matters.** The General Manager may from time to time propose positions on legislative issues, which positions shall be reviewed and approved by the Board at its regular meeting. In the event a position on a legislative issue must be established prior to the next regular Board meeting, the General Manager is hereby authorized to adopt a position on IVGID's behalf.

CURRENT VERSION



Conduct Meetings of the Board of Trustees Policy 3.1.0

POLICY. The Board of Trustees will fix the time and place of the regular meeting of the Board of Trustees of the Incline Village General Improvement District and provide the manner in which special meetings of said District may be called, designating an official mailing address, and establishing the order of business and rules for its proceedings for the Incline Village General Improvement District, Washoe County, State of Nevada.

- 0.1 Regular Meetings.** The regular meetings of the Board of Trustees of the Incline Village General Improvement District shall hereafter be held at the time and place set by the Board of Trustees.
- 0.2 Special Meetings.** Special meetings of the Board of Trustees shall be held upon call of the Chair of the Board or of at least two of the members thereof. Notice of all meetings shall be given in conformity with the provisions of Nevada Revised Statutes 241.020.
- 0.3 Meeting Place.** All meetings of the Board of Trustees shall be held within the District.
- 0.4 Holidays.** In the event that any day fixed for a regular meeting of the Board shall fall upon a holiday, that meeting shall be rescheduled by the Board.
- 0.5 Item(s) of Business.** The item(s) of business at the regular meetings of said Board may include, but are not limited to:
 - Roll call of Trustees
 - Initial Public Comment
 - Public Hearings (if any)
 - Approval of minutes
 - Approval of agenda
 - Approval of Bills
 - Reports
 - Consent Calendar*
 - General Business*
 - Final Public Comment
 - Adjournment



Conduct Meetings of the Board of Trustees Policy 3.1.0

*UNLESS OTHERWISE APPROVED BY The Board Chair, no matter shall be heard, or acted upon unless all relevant materials have been included in the Board of Trustees Meeting Packet.

0.6 Rules of Proceedings.

- a. Public Meetings. All meetings of the Board shall be in accordance with Nevada Revised Statutes 241, the Nevada Open Meeting Law.
- b. Quorum. A majority of the Board of Trustees present in person or by remote communication shall constitute a quorum for the transaction of business. In no event shall any matter be approved without the affirmative vote of three trustees.
- c. Method of Action. The Board of Trustees shall act only by motion which, to become effective, shall be adopted by the affirmative vote of at least a majority of its members present in public meeting, unless otherwise provided by statutes. In the event of only three members present, the method of action must be unanimous.
- d. Recording Vote. Except where action shall be taken by the unanimous vote of all Trustees present and voting, the yes/ayes and no/nays shall be taken on all actions had and entered upon the minutes. All Trustees shall have the equal right to vote, make and second motions. If the vote for/against any item is not unanimous, the Chair may ask the Clerk to conduct a roll call vote.
- e. Ordinances. The enacting clause of all ordinances passed by the Board shall include the word "ordinance" and be consecutively numbered. All actions to pass or revise an ordinance shall be attested by the Secretary.



Conduct Meetings of the Board of Trustees

Policy 3.1.0

- f. Contracts. Contracts entered into by the District that are required to be advertised under Nevada Revised Statutes 332 and/or 338 must be approved by the Board of Trustees. All documents approved or awarded by the Board shall be signed in the name of the District by the Chair and countersigned by the Secretary, unless authorization to sign is given to another person(s) by the Board.

Contracts, other than those covered by Nevada Revised Statutes 332.115 and which are not subject to the advertising thresholds of Nevada Revised Statutes 332 and/or 338, may be authorized, approved and executed by the General Manager of the District or designee, unless otherwise ordered by the Board of Trustees.

Contracts covered by Nevada Revised Statutes 332.115 may be authorized, approved and executed by the General Manager or his designee of the District, if it is for an amount less than the advertising threshold of Nevada Revised Statute 332. Contracts over the threshold of NRS 332.115 must be approved by the Board of Trustees.

- g. Claims. The General Manager and General Counsel, and their designees, are authorized to negotiate on behalf of IVGID, the settlement of all property damage, personal injury, or liability claims, unless otherwise ordered by the Board of Trustees. Final settlement of such claims may be authorized by the General Manager, provided the amount attributed to IVGID is less than the amount that must be approved by the Board for amounts per occurrence, including all sources of payment (insurance, risk reserve, operating funds, or working capital). For claims that exceed the amount, those must be approved by the Board, the General Manager may authorize and accept a tentative settlement, which shall not be final and binding upon IVGID, unless and until approved by the Board of Trustees.
- h. Litigation. The General Manager must obtain Board of Trustees authorization, at a public meeting, to initiate any lawsuit.



Conduct Meetings of the Board of Trustees

Policy 3.1.0

- 0.7. Robert's Rules.** Unless contrary to this rule, such meetings shall be substantially conducted in conformity with Robert's Rules of Order unless those provisions conflict with Chapter 241 of the NRS, in which case, the statutes will prevail.
- 0.8. Agenda Preparation.** The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda for each meeting. The Chair will place on the Agenda any item requested by a fellow Trustee. The General Manager shall schedule for consideration by the Board any matter requested to be placed on the agenda by any three Trustees. Unless directed otherwise by the Board, the General Manager may delay consideration of any item. In any conflict between the provisions of this paragraph and that of paragraph 0.9., paragraph 0.9. shall govern.
- 0.9. Reconsideration.** Reversal, or substantial modification, of any item by the Board of Trustees within six months of the meeting date at which the action was taken, shall only be considered as follows: the General Manager may request reconsideration of any action of the Board, and place reconsideration of the action before the Board, if the General Manager determines that the action compromises the efficiency of operations or otherwise impairs the effective management of the District. Additionally, a Board action may also be scheduled for reconsideration if at least three Trustees request same. Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other general item of business.
- 0.10. Public Participation.** Comments shall be solicited from the public during two comment periods, one at the start of the meeting and one prior to adjournment. The time limit shall be three (3) minutes for each person per comment period. No yielding of time shall be allowed.
- 0.11 Officers of the Board.** The officers of the Board shall be elected as provided by Nevada Revised Statutes 318.085 and shall consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and Secretary.



Conduct Meetings of the Board of Trustees Policy 3.1.0

The term of office shall be for one (1) year or until a reorganization of the Board is required.

- 0.12 Authorization to Sign Checks.** The General Manager and the officers of the Board are hereby authorized to sign checks drawn on the various bank accounts of the District. It shall be required that at least two (2) signatures are affixed to any check drawn on such accounts..
- 0.13 Facsimile Signatures.** The banks with which the District does business are authorized and directed to honor checks drawn on the various bank accounts of the District, when bearing any two facsimile signatures of the officers of the Board and General Manager of the District, after their manual signatures are filed with the Secretary of State, in conformance with Nevada Revised Statutes 351.030.
- 0.14 Reports.** The Board Meeting agenda may include items under Reports which are intended to inform the Board and/or the public. These reports are not actionable items rather informational in nature and substance. Should an action be required the matter shall be presented as a General Business Item.
- 0.15 Consent Calendar.** In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar." A memorandum will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section.

Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the general business section of the meeting.



Conduct Meetings of the Board of Trustees Policy 3.1.0

A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.

0.16 Advisory Committees. SECTION OMITTED

0.17 Legislative Matters. The General Manager may from time to time propose positions on legislative issues, which positions shall be reviewed and approved by the Board at its regular meeting. In the event a position on a legislative issue must be established prior to the next regular Board meeting, the General Manager is hereby authorized to adopt a position on IVGID's behalf.

0.18 Conflict Resolution. In the event that the provisions of Policy 3.1.0 conflict with any other Policy Provisions, this section shall prevail.

REDLINE VERSION



Conduct Meetings of the Board of Trustees Policy 3.1.0

POLICY. The Board of Trustees will ~~establish~~~~fix~~ the time and place of the regular meeting of the Board of Trustees of the Incline Village General Improvement District and provide the manner in which special meetings of said District may be called, designating ~~an official mailing address~~~~the meeting location~~, and establishing the order of business and rules for its proceedings for the Incline Village General Improvement District, Washoe County, State of Nevada.

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Notice and conduct of all meetings shall conform with the provisions in Nevada Revised Statutes (NRS) 241.020 and NRS 281A (Ethics In Government). Meeting minutes and transcripts of meeting with be in compliance with NRS 241.035.

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0.1 ~~0.1~~ **Regular Meetings.** The regular meeting ~~times and s-location~~ shall be set by the Board of Trustees. ~~of the Board of Trustees of the Incline Village General Improvement District shall hereafter be held at the time and place set by the Board of Trustees~~

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0.2 Special Meetings. Special meetings of the Board of Trustees shall be held upon call of the Chair of the Board or ~~of~~ at least two of the ~~Trustees~~members thereof. ~~Notice of all meetings shall be given in conformity with the provisions of Nevada Revised Statutes 241.020.~~

0.3 Meeting Place. All Board of Trustees meetings ~~of the Board of Trustees~~ shall be held within the District.

0.4 Holidays. In the event that any day fixed for a regular meeting of the Board shall fall upon a holiday, that meeting shall be rescheduled by the Board.

0.45 Item(s) of Business/Agenda Preparation.

The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda and supporting materials for each meeting. The Chair, in cooperation with the General Manager, will place on the Agenda any item requested by a fellow Trustee. If a

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Conduct Meetings of the Board of Trustees Policy 3.1.0

person or party, including the general public, wishes to have a matter considered by the Board, a written request should be submitted to the General Manager, in advance of the meeting, allowing enough time for staff research. The amount of advance time required will be determined by the General Manager, based upon Board Policy, administrative procedure, and the facts in each instance. Unless directed otherwise by the Board, the Chair and the General Manager may delay consideration of an item, based upon the length of an agenda, need for coordination with other agenda items, meeting efficiency, or other considerations.

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No matter shall be heard or acted upon without all relevant materials.

Public comment may be scheduled for individual agenda items in addition to the initial and closing public comment period at the discretion of the Chair. Unless otherwise determined, the time limit shall be three (3) minutes for each person wishing to make a public comment. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item.

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The item(s) of business at the regular meetings of said Board may include, but are not limited to:

- Pledge of Allegiance
- Roll call of Trustees
- Initial Public Comment – not to include comments on General Business items with scheduled public comment
- Approval of Agenda
- Public Hearings (if any)
- District Staff Update (if any) – once a month the General Manager is to provide a formal written report outlining the contracts/expenditures s/he approved with proper spending authority (under \$50,000 of budgeted expenditures)
- Review of the long range calendar
- Legal Counsel Update (if any)
- Reports to the Board – Reports are intended to inform the Board and/or the public

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Conduct Meetings of the Board of Trustees Policy 3.1.0

- Audit Committee (if appropriate)
- Treasurers Report (if any)
 - Payment of Bills – For District payments exceeding \$10,000 or any item of capital expenditure, in the aggregate in any one transaction, a summary of payments made shall be presented to the Board at a public meeting for review. The Board hereby authorizes payment of any and all obligations aggregating less than \$10,000 provided they are budgeted and the expenditure is approved according to District signing authority policy.
- Consent Calendar (if any)
 - In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to budget, user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar". A memorandum containing all relevant information will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section.
 - Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the General Business section of the meeting.
 - A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.
- General Business
- Approval of minutes
- Approval of agenda
- Approval of Bills

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Conduct Meetings of the Board of Trustees Policy 3.1.0

- Reports
 - Reports are intended to inform the Board and/or the public.
- ~~Consent Calendar*~~
- ~~General Business*~~
- Final Public Comment
- Adjournment

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~~*UNLESS OTHERWISE APPROVED BY The Board Chair, no matter shall be heard, or acted upon unless all relevant materials have been included in the Board of Trustees Meeting Packet.~~

0.56 Rules of Proceedings

- a. Public Meetings. All meetings of the Board shall be in accordance with ~~Nevada Revised Statutes~~ NRS 241, the Nevada Open Meeting Law.
- b. Quorum. A majority of the Board of Trustees present in person or by remote communication shall constitute a quorum for the transaction of business. In no event shall any matter be approved without the affirmative vote of three trustees.
- c. Method of Action. The Board of Trustees shall act only by motion which, to become effective, shall be adopted by the affirmative vote of at least a majority of its members, which is three (3) present in public meeting, unless otherwise provided by statutes, including but not limited to NRS 318.280 and NRS 318.350. In the event of only three members present, the method of action must be unanimous.

The District and its Board will operate according to NRS 281A, Ethics In Government. Should a conflict of interest be a concern, the Trustee will abide by NRS 281A and potentially abstain from voting. According to NRS 241.0355, an abstentions is not a vote in favor.

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Policy 3.1.0**

- d. Recording Vote. ~~Except where action shall be taken by the unanimous vote of all~~ All Trustees present and voting, ~~shall have their~~ the yes/ayes and no/nays ~~shall be~~ taken on all actions ~~taken~~ had and entered ~~into~~ upon the minutes. All Trustees shall have the equal right to vote, make and second motions. If the vote for/against any item is not unanimous, the Chair may ask the Clerk to conduct a roll call vote.
- e. Ordinances. The enacting clause of all ordinances passed by the Board shall include the word "ordinance" and be consecutively numbered. All actions to pass or revise an ordinance shall be attested by the Secretary.
- f. Contracts. ~~Contracts proposed and/or estimated to exceed \$50,000 entered into by the District that are required to be advertised under Nevada Revised Statutes 332 and/or 338~~ must be approved by the Board of Trustees. ~~The General Manager has the authority to execute contracts, not to exceed \$50,000, so long as the funds were budgeted for the specific purpose.~~ All documents approved or awarded by the Board shall be signed in the name of the District by the Chair and countersigned by the Secretary, unless authorization to sign is given to another person(s) by the Board.

~~Contracts, other than those covered by Nevada Revised Statutes 332.115 and which are not subject to the advertising thresholds of Nevada Revised Statutes 332 and/or 338, may be authorized, approved and executed by the General Manager of the District or designee, unless otherwise ordered by the Board of Trustees.~~

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~~Contracts covered by Nevada Revised Statutes 332.115 may be authorized, approved and executed by the General Manager or his designee of the District, if it is for an amount less than the advertising threshold of Nevada Revised Statute 332. Contracts over the threshold of NRS 332.115 must be approved by the Board of Trustees.~~

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Conduct Meetings of the Board of Trustees Policy 3.1.0

- g. Claims. ~~The Board of Trustees may engage The General Manager and the General Manager and General Counsel, and their designees, are authorized~~ to negotiate on behalf of IVGID, the settlement of all property damage, personal injury, or liability claims, ~~unless otherwise ordered by the Board of Trustees. Final settlement of such claims may be authorized by the General Manager, provided the amount attributed to IVGID is less than the amount that must be approved by the Board for amounts per occurrence, including all sources of payment (insurance, risk reserve, operating funds, or working capital). For claims that exceed the amount, those must be approved by the Board.~~ ~~The General Manager may authorize and~~ accept a tentative settlement, which shall not be final and binding upon IVGID, unless and until approved by the Board of Trustees.
- h. Litigation. The General Manager must obtain Board of Trustees authorization, at a public meeting, to initiate any lawsuit, appeal any decision or judgement, or retain legal counsel to defend a lawsuit.

0.67. Robert's Rules. Unless contrary to this rule, such meetings shall be substantially conducted in conformity with Robert's Rules of Order unless those provisions conflict with Chapter 241 of the NRS, in which case, the statutes will prevail.

~~**0.8. Agenda Preparation.** The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda for each meeting. The Chair will place on the Agenda any item requested by a fellow Trustee. The General Manager shall schedule for consideration by the Board any matter requested to be placed on the agenda by any three Trustees. Unless directed otherwise by the Board, the General Manager may delay consideration of any item. In any conflict between the provisions of this paragraph and that of paragraph 0.9., paragraph 0.9. shall govern.~~

0.79. Reconsideration. Reversal, or substantial modification, of any item by the Board of Trustees within six months of the meeting date at which the action was taken, shall only be considered aAs follows:

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Conduct Meetings of the Board of Trustees Policy 3.1.0

- ~~The~~ General Manager may request reconsideration of any action of the Board, and place reconsideration of the action before the Board, if the General Manager determines that the action compromises the efficiency of operations or otherwise impairs the effective management of ~~t~~The District. ~~Additionally, a~~
- ~~A~~ Board action may also be scheduled for reconsideration if at least three Trustees ~~make the~~ request ~~same~~. ~~Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other general item of business.~~
- Written requests for reconsideration by any other person or party, including members of the general public, will be distributed to the Trustees, but shall not be placed on the Board agenda, without the concurrence of at least three Trustees, as provided above.

If the original action was taken after a Public Hearing, a second Public Hearing shall be held in conjunction with any reconsideration.

Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other General Business agenda item.

~~**0.10. Public Participation.** Comments shall be solicited from the public during two comment periods, one at the start of the meeting and one prior to adjournment. The time limit shall be three (3) minutes for each person per comment period. No yielding of time shall be allowed.~~

~~**0.814 Officers of the Board.** The officers of the Board shall be elected as provided by Nevada Revised Statutes 318.085 and shall consist of a Chair of the Board, Vice Chair of the Board, Treasurer, and Secretary. The term of office shall be for one (1) year or until a reorganization of the Board is required.~~

As the first item of General Business at the first meeting of the calendar year, the Board of Trustees shall elect a Chair, Vice Chair, Treasurer, and Secretary. Each will begin their term immediately after

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Conduct Meetings of the Board of Trustees Policy 3.1.0

the election and to assume their role for the duration of the first meeting continuing until the next election.

According to NRS 318.085(1), the role of Treasurer and the Secretary may be fulfilled by someone other than a Trustee.

Should a vacancy occur, the Board of Trustees shall follow NRS 318.090(5) to fill the vacancy. The most current roster for the current Board of Trustees is located on the District's website.

~~**0.12 Authorization to Sign Checks.** The General Manager and the officers of the Board are hereby authorized to sign checks drawn on the various bank accounts of the District. It shall be required that at least two (2) signatures are affixed to any check drawn on such accounts.~~

~~**0.13 Facsimile Signatures.** The banks with which the District does business are authorized and directed to honor checks drawn on the various bank accounts of the District, when bearing any two facsimile signatures of the officers of the Board and General Manager of the District, after their manual signatures are filed with the Secretary of State, in conformance with Nevada Revised Statutes 351.030.~~

~~**0.14 Reports.** The Board Meeting agenda may include items under Reports which are intended to inform the Board and/or the public. These reports are not actionable items rather informational in nature and substance. Should an action be required the matter shall be presented as a General Business Item.~~

~~**0.15 Consent Calendar.** In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar." A memorandum will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section.~~

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Conduct Meetings of the Board of Trustees Policy 3.1.0

~~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.~~

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~~A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.~~

0.916 Advisory Committees. SECTION OMITTED

~~The Board of Trustees may from time to time establish citizen committees to advise it on policy matters of the District. All such committees shall serve at the pleasure of the Board, and the Board shall have the authority to remove any member or all members from any and all committees at any time, or to change any of the terms of office thereof. Unless otherwise provided for in the document creating such committee and as permitted by applicable law (i.e. the Audit Committee). Committees shall be advisory in nature only, and shall have no authority to set policy; expend or obligate funds; hire, fire, supervise, or direct staff; or speak on behalf of the District, the Board, or its officers or employees. All committees shall conduct their business according to Roberts Rules of Order and shall conform to all provisions of the Nevada Open Meeting Law. If any Trustee is appointed to serve on a committee, the Trustee shall be the chair of that committee, unless other methods for selecting the chair have been approved by the Board of Trustees. If more than one Trustee is appointed to serve on the committee, then the Board shall determine by motion which Trustee shall serve as chair.~~

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~~The General Manager may establish citizen advisory committees or bodies to advise the General Manager on areas of interest. These Citizen Advisory Committees are distinctively different from Board advisory committees as they are created by the General Manager to provide input. As such, they are not subject to the Nevada Open Meeting Law, but a reasonable attempt is to be made to notify members of the public of their meetings.~~

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0.107 Legislative Matters. The General Manager may from time to time propose positions on legislative issues, which positions shall be

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Conduct Meetings of the Board of Trustees Policy 3.1.0

reviewed and approved by the Board at its regular meeting. ~~In the event a position on a legislative issue must be established prior to the next regular Board meeting, the General Manager is hereby authorized to adopt a position on IVGID's behalf.~~

0.118 Conflict Resolution. In the event that the provisions of Policy 3.1.0 conflict with any other Policy Provisions, this ~~policysection~~ shall prevail.

**CHANGES
ACCEPTED
VERSION**



Conduct Meetings of the Board of Trustees

Policy 3.1.0

POLICY. The Board of Trustees will establish the time and place of the regular meeting of the Board of Trustees of the Incline Village General Improvement District and provide the manner in which special meetings of said District may be called, designating the meeting location, and establishing the order of business and rules for its proceedings for the Incline Village General Improvement District, Washoe County, State of Nevada

Notice and conduct of all meetings shall conform with the provisions in Nevada Revised Statutes (NRS) 241.020 and NRS 281A (Ethics In Government). Meeting minutes and transcripts of meeting will be in compliance with NRS 241.035.

- 0.1 Regular Meetings.** The regular meeting times and location shall be set by the Board of Trustees.
- 0.2 Special Meetings.** Special meetings of the Board of Trustees shall be held upon call of the Chair of the Board or at least two of the Trustees.
- 0.3 Meeting Place.** All Board of Trustees meetings shall be held within the District.
- 0.4 Item(s) of Business/Agenda Preparation.** The Board Chair, in cooperation with the General Manager, is responsible for preparing the agenda and supporting materials for each meeting. The Chair, in cooperation with the General Manager, will place on the Agenda any item requested by a fellow Trustee. If a person or party, including the general public, wishes to have a matter considered by the Board, a written request should be submitted to the General Manager, in advance of the meeting, allowing enough time for staff research. The amount of advance time required will be determined by the General Manager, based upon Board Policy, administrative procedure, and the facts in each instance. Unless directed otherwise by the Board, the Chair and the General Manager may delay consideration of an item, based upon the length of an agenda, need for coordination with other agenda items, meeting efficiency, or other considerations.



Conduct Meetings of the Board of Trustees

Policy 3.1.0

No matter shall be heard or acted upon without all relevant materials. Public comment may be scheduled for individual agenda items in addition to the initial and closing public comment period at the discretion of the Chair. Unless otherwise determined, the time limit shall be three (3) minutes for each person wishing to make a public comment. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item.

The item(s) of business at the regular meetings of said Board may include, but are not limited to:

- Pledge of Allegiance
- Roll call of Trustees
- Initial Public Comment – not to include comments on General Business items with scheduled public comment
- Approval of Agenda
- Public Hearings (if any)
- District Staff Update (if any) – once a month the General Manager is to provide a formal written report outlining the contracts/expenditures s/he approved with proper spending authority (under \$50,000 of budgeted expenditures)
- Review of the long range calendar
- Legal Counsel Update (if any)
- Reports to the Board – Reports are intended to inform the Board and/or the public
 - Audit Committee (if appropriate)
 - Treasurers Report (if any)
 - Payment of Bills – For District payments exceeding \$10,000 or any item of capital expenditure, in the aggregate in any one transaction, a summary of payments made shall be presented to the Board at a public meeting for review. The Board hereby authorizes payment of any and all obligations aggregating less than \$10,000 provided they are budgeted and the expenditure is approved according to District signing authority policy.
- Consent Calendar (if any)



Conduct Meetings of the Board of Trustees Policy 3.1.0

- In cooperation with the Chair, the General Manager may schedule matters for consideration on a Consent Calendar. The Consent Calendar may not include changes to budget, user rates or taxes, adoption or amendment of ordinances, or any other action which is subject to a public hearing. Each consent item shall be separately listed on the agenda, under the heading of "Consent Calendar". A memorandum containing all relevant information will be included in the packet materials for each Consent Calendar item. The memorandum should include the justification as a consent item in the Background Section.
- Any member of the Board may request the removal of a particular item from the consent calendar and that the matter shall be removed and addressed in the General Business section of the meeting.
- A unanimous affirmative vote shall be recorded as a favorable motion and approval of each individual item included on the Consent Calendar.
- General Business
- Approval of minutes
- Reports
 - Reports are intended to inform the Board and/or the public.
- Final Public Comment
- Adjournment

0.5 Rules of Proceedings.

- a. Public Meetings. All meetings of the Board shall be in accordance with NRS 241, the Nevada Open Meeting Law.
- b. Quorum. A majority of the Board of Trustees present in person or by remote communication shall constitute a quorum for the transaction of business. In no event shall any matter be approved without the affirmative vote of three trustees.
- c. Method of Action. The Board of Trustees shall act only by motion which, to become effective, shall be adopted by the affirmative vote of at least a majority of its members, which is



Conduct Meetings of the Board of Trustees

Policy 3.1.0

three (3), unless otherwise provided by statutes, including but not limited to NRS 318.280 and NRS 318.350. In the event of only three members present, the method of action must be unanimous.

The District and its Board will operate according to NRS 281A, Ethics In Government. Should a conflict of interest be a concern, the Trustee will abide by NRS 281A and potentially abstain from voting. According to NRS 241.0355, an abstention is not a vote in favor.

- d. Recording Vote. All Trustees present and voting, shall have their yes/ayes and no/nays taken on all actions taken and entered into the minutes. All Trustees shall have the equal right to vote, make and second motions. If the vote for/against any item is not unanimous, the Chair may ask the Clerk to conduct a roll call vote.
- e. Ordinances. The enacting clause of all ordinances passed by the Board shall include the word "ordinance" and be consecutively numbered. All actions to pass or revise an ordinance shall be attested by the Secretary.
- f. Contracts. Contracts proposed and/or estimated to exceed \$50,000 must be approved by the Board of Trustees. The General Manager has the authority to execute contracts, not to exceed \$50,000, so long as the funds were budgeted for the specific purpose. All documents approved or awarded by the Board shall be signed in the name of the District by the Chair and countersigned by the Secretary, unless authorization to sign is given to another person(s) by the Board.
- g. Claims. The Board of Trustees may engage the General Manager and General Counsel to negotiate on behalf of IVGID, the settlement of all property damage, personal injury, or liability claims. Final settlement of such claims must be approved by the Board. The General Manager may accept a tentative



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settlement, which shall not be final and binding upon IVGID, unless and until approved by the Board of Trustees.

- h. Litigation. The General Manager must obtain Board of Trustees authorization, at a public meeting, to initiate any lawsuit, appeal any decision or judgement, or retain legal counsel to defend a lawsuit.

0.6 Robert's Rules. Unless contrary to this rule, such meetings shall be substantially conducted in conformity with Robert's Rules of Order unless those provisions conflict with Chapter 241 of the NRS, in which case, the statutes will prevail.

0.7 Reconsideration. Reversal, or substantial modification, of any item by the Board of Trustees within six months of the meeting date at which the action was taken, shall only be considered as follows:

- The General Manager may request reconsideration of any action of the Board, and place reconsideration of the action before the Board, if the General Manager determines that the action compromises the efficiency of operations or otherwise impairs the effective management of the District.
- A Board action may also be scheduled for reconsideration if at least three Trustees make the request.
- Written requests for reconsideration by any other person or party, including members of the general public, will be distributed to the Trustees but shall not be placed on the Board agenda, without the concurrence of at least three Trustees, as provided above.

If the original action was taken after a Public Hearing, a second Public Hearing shall be held in conjunction with any reconsideration.

Once placed on the agenda under the procedure established herein, the Board may rescind, modify, reaffirm, or take no action on the item; in the same manner it would take action on any other General Business agenda item.



Conduct Meetings of the Board of Trustees Policy 3.1.0

- 0.8 Officers of the Board.** As the first item of General Business at the first meeting of the calendar year, the Board of Trustees shall elect a Chair, Vice Chair, Treasurer, and Secretary. Each will begin their term immediately after the election and to assume their role for the duration of the first meeting continuing until the next election.

According to NRS 318.085(1), the role of Treasurer and the Secretary may be fulfilled by someone other than a Trustee.

Should a vacancy occur, the Board of Trustees shall follow NRS 318.090(5) to fill the vacancy. The most current roster for the current Board of Trustees is located on the District's website.

- 0.9 Advisory Committees.** The Board of Trustees may from time to time establish citizen committees to advise it on policy matters of the District. All such committees shall serve at the pleasure of the Board, and the Board shall have the authority to remove any member or all members from any and all committees at any time, or to change any of the terms of office thereof. Unless otherwise provided for in the document creating such committee and as permitted by applicable law (i.e. the Audit Committee). Committees shall be advisory in nature only, and shall have no authority to set policy; expend or obligate funds; hire, fire, supervise, or direct staff; or speak on behalf of the District, the Board, or its officers or employees. All committees shall conduct their business according to Roberts Rules of Order and shall conform to all provisions of the Nevada Open Meeting Law. If any Trustee is appointed to serve on a committee, the Trustee shall be the chair of that committee, unless other methods for selecting the chair have been approved by the Board of Trustees. If more than one Trustee is appointed to serve on the committee, then the Board shall determine by motion which Trustee shall serve as chair.

The General Manager may establish citizen advisory committees or bodies to advise the General Manager on areas of interest. These Citizen Advisory Committees are distinctively different from Board advisory committees as they are created by the General Manager to provide input. As such, they are not subject to the Nevada Open



Conduct Meetings of the Board of Trustees Policy 3.1.0

Meeting Law, but a reasonable attempt is to be made to notify members of the public of their meetings.

- 0.10 Legislative Matters.** The General Manager may from time to time propose positions on legislative issues, which positions shall be reviewed and approved by the Board at its regular meeting.
- 0.11 Conflict Resolution.** In the event that the provisions of Policy 3.1.0 conflict with any other Policy Provisions, this policy shall prevail.

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Board Chairman

SUBJECT: Review, discuss and provide guidance to Staff on possibly adopting a Code of Conduct for the Board of Trustees and any Board Advisory Committees

DATE: September 22, 2020

Discussion Points

The Board of Trustees Chairman, at a recent legal non-meeting, asked Staff to provide information regarding a code of conduct and put that matter on a future agenda for discussion by the full Board of Trustees. Following are several reference documents from various sources.

From the IVGID Personnel Policies

2.10 Code of Conduct and Ethical Standards

Employees of the District recognize that employment with the District is a public trust. To preserve that trust, the District insists on the highest code of conduct and ethical standards. The purpose of this policy is to define and establish standards of ethical conduct that are required of public officials and employees so as to ensure their professional integrity in the performance of their duties. SB228 requires that employees hired after June 13, 2013 will be provided information prepared by Nevada Ethics Commission concerning standards under NRS 281.

The employees of the District must comply with the following provisions while performing their duties and responsibilities and/or representing themselves as an employee of the District. This list is not all-inclusive, but simply provides the basic level of conduct expected.

1. All employees will conduct themselves with honesty and integrity in the course of performing their job.
2. They will act with care and diligence in the course of their employment.
3. They will treat everyone, including coworkers, subordinates, supervisors, customers and the public, with the utmost respect and courtesy.
4. They will accept and value differences amongst each other, our customers and the public.
5. They will comply with all applicable federal, state, and local laws.

6. They will comply with any lawful and reasonable direction given by someone in the District who has authority to give the direction.
7. They will maintain appropriate confidentiality.
8. They will disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment.
9. They will be at work and on time regularly and perform their job duties in a responsible manner.
10. They will use District resources in a manner that is acceptable to the District.
11. They will not provide false or misleading information in response to a request for information that is made for official purposes in connection with their employment.
12. They will, at all times, act in a way that upholds the values and the integrity and good reputation of the District.
13. They will comply with any other conduct requirement that is prescribed by the District as well as District policies.

In addition, consistent with the provisions of NRS 281A.400 and NRS 281.230, District's officials and employees are required to comply with the following ethical standards:

1. No official or employee shall seek or accept any gift, service, favor, employment, engagement, perquisite, gratuity, or economic opportunity or advantage which would tend improperly to influence a reasonable person in his/her position to depart from the faithful and impartial discharge of his/her public duties.
2. No official or employee shall use his/her position with the District to secure or grant unwarranted privileges, preferences, exemptions, or advantages for him/herself, any member of his/her household, any business entity in which s/he has a significant pecuniary interest, or any other person.
3. No official or employee shall participate as an agent of government in the negotiation or execution of a contract between the governmental entity and any private business in which s/he has a significant pecuniary interest.
4. No official or employee shall accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of his/her duties as an official or employee.
5. If an official or employee acquires, through his/her public duties or relationships, any information which, by law or practice, is not at the time available to the public generally, s/he shall not use such information to further his/her own current or future pecuniary interests or the current or future pecuniary interests of any other person or business entity.
6. No official or employee shall suppress any governmental report or other document or information because the release of such report or information has the potential to impact his/her own pecuniary interests or those with whom s/he has a business or personal relationship.

7. No official or employee shall use governmental time, property (including monies or funds), equipment, or other facility to benefit his/her personal or financial interests.
8. No official or employee shall attempt to benefit his/her personal or financial interest(s) by influencing or intimidating a subordinate.
9. No official or employee shall seek other employment or contracts through the use of his/her official position or the influence associated thereto.
10. An official or employee shall not, in any manner, directly or indirectly, receive any commission, personal profit, or compensation of any kind resulting from any contract or other transaction in which the District is in any way interested or affected except:
 - a. A member of any board, commission, or similar body who is engaged in the profession, occupation, or business regulated by the board, commission, or body may, in the ordinary course of his/her business, bid on or enter into a contract with any governmental agency, except the board or commission of which s/he is a member, if s/he has not taken part in developing the contract plans or specifications and s/he will not be personally involved in opening, considering, or accepting offers.
 - b. A public officer or employee, other than an officer or employee described in a. above, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, s/he has not taken part in developing the contract plans or specifications, and s/he will not be personally involved in opening, considering, or accepting offers.
 - c. District employees will maintain professional conduct at all times with the Board of Trustees, other employees, the public and other agencies, and avoid any conduct that may be detrimental to the District.
 - d. Exceptions for small gifts such as food which can be shared with other staff are acceptable as are tips for tip approved positions. Recreational venues may accept promotional items that are approved by the Department Head as long as under no circumstances will favoritism be displayed for a product as a result of a supplier gift.

Violations of any of the above provisions may result in disciplinary action, up to and including termination.

Code of Ethics from POOL/PACT that was obtained from the Government Finance Officers Association.

We, the government finance officers of the United States and Canada, have a deep and abiding desire to show that we are worthy of the special trust that the communities we serve have placed in us. As a member of my government's finance office, I commit to living the following values to show that I am worthy of that trust.

Integrity and Honesty

Integrity and honesty are the foundation of which trustworthiness is built. It means people can believe what I say, I act in accordance with my deepest values, I put principle ahead of my own ego, and I do the right thing even when it is hard.

Producing Results for My Community

Public finance offices have an important job. Doing that job well honors the trust the public has placed in me.

Treating People Fairly

Local governments depend on trusting relationships. Therefore, I will treat people fairly and develop processes and procedures that are fair.

Diversity and Inclusion

Embracing diversity and fostering inclusiveness helps finance offices cultivate organizations and promote policies that reflect the communities they serve. When people feel included, they see that I am concerned for their wellbeing. That shows I am worthy of their trust.

Reliability and Consistency

When I consistently apply my standards – especially to myself – I honor my commitment to the community I serve and make it easier to do the right thing even when faced with challenging circumstances.

Excerpt from Washoe County's code regarding their audit committee

15.545 - Establishment of audit committee.

1. An audit committee is hereby established. The committee shall consist of at least three voting members and one non-voting advisory member. Voting members are appointed by the board of county commissioners.

(a) One member will be appointed from the board of county commissioners for a one-year term. An alternate member will also be selected to serve in the absence of the primary appointee.

(b) Additional members with appropriate expertise will be appointed from at-large with staggering two-year terms (for the first appointment, one member will serve for one-year and the other members will serve for two-years. Each subsequent appointment thereafter will be for two years).

(c) The county manager, or designee, will serve as a non-voting advisory member. The internal auditor will provide staff assistance to the audit committee.

2. The audit committee shall elect one member of the audit committee to be the chairperson and one member to be the vice-chairperson. It will be the responsibility of the chairperson to schedule all meetings of the committee and to provide the committee members with a written agenda for each meeting.

3. At least one voting member of the audit committee shall be a financial expert with understanding and experience in generally accepted accounting principles, financial statements, internal accounting controls, auditing of financial statements, and audit committee functions. At-large audit committee members shall be independent. They shall not accept any consulting, advisory, or other compensatory fee from the county and shall not be an affiliated person with the county or any subsidiary thereof.

4. The county manager will be responsible for ensuring that the audit committee receives appropriate and necessary briefings and training relative to internal controls, preparation of financial reports, internal audit processes, governmental regulations, and other pertinent information relative to this appointment.

5. The audit committee shall adopt a code of ethics that promotes honest and ethical conduct; full, fair, accurate, timely, and understandable disclosure in periodic reports; and compliance with applicable governmental rules and regulations.

6. The audit committee shall adopt a charter, subject to the board of county commissioner's approval, establishing the purpose, scope, organization, and responsibilities of the committee. As a minimum, the audit committee shall provide oversight for financial reporting, internal controls, and the work of the internal auditor and external auditors. The charter shall be reviewed annually and all updates shall be brought before the board of county commissioners for approval.

7. The audit committee shall meet at least four times a year or more frequently as circumstances require.

(Ord. NO. 1222, § 2; Ord. No. 1283, eff. 1-20-06)

Chapter 281A – Ethics in Government from the Nevada Revised Statutes

CHAPTER 281A - ETHICS IN GOVERNMENT GENERAL PROVISIONS

<u>NRS 281A.010</u>	Short title.
<u>NRS 281A.020</u>	Legislative findings and declarations.
<u>NRS 281A.030</u>	Definitions.
<u>NRS 281A.032</u>	“Adjudicatory hearing” defined.
<u>NRS 281A.033</u>	“Advisory opinion” defined.
<u>NRS 281A.035</u>	“Agency” defined.
<u>NRS 281A.040</u>	“Business entity” defined.
<u>NRS 281A.050</u>	“Candidate” defined.
<u>NRS 281A.060</u>	“Commission” defined.
<u>NRS 281A.065</u>	“Commitment in a private capacity” defined.
<u>NRS 281A.070</u>	“Compensation” defined.
<u>NRS 281A.080</u>	“Decision” defined.
<u>NRS 281A.081</u>	“Declaration of candidacy” defined.
<u>NRS 281A.082</u>	“Deferral agreement” defined.
<u>NRS 281A.085</u>	“Domestic partner” defined.
<u>NRS 281A.086</u>	“Domestic partnership” defined.
<u>NRS 281A.088</u>	“Ethics complaint” defined.
<u>NRS 281A.090</u>	“Executive Director” defined.
<u>NRS 281A.100</u>	“Household” defined.
<u>NRS 281A.105</u>	“Intentionally” defined.
<u>NRS 281A.115</u>	“Knowingly” defined.
<u>NRS 281A.119</u>	“Local agency” defined.
<u>NRS 281A.125</u>	“Member of a local legislative body” defined.
<u>NRS 281A.135</u>	“Opinion” defined.
<u>NRS 281A.139</u>	“Pecuniary interest” defined.
<u>NRS 281A.145</u>	“Political subdivision” defined.
<u>NRS 281A.150</u>	“Public employee” defined.
<u>NRS 281A.160</u>	“Public officer” defined.
<u>NRS 281A.161</u>	“Request for an advisory opinion” defined.
<u>NRS 281A.162</u>	“Review panel” defined.
<u>NRS 281A.163</u>	“State agency” defined.
<u>NRS 281A.165</u>	“State Legislator” or “Legislator” defined.
<u>NRS 281A.170</u>	“Willful violation” defined.
<u>NRS 281A.180</u>	Terms “public officer” and “public employee” include former public officer or employee; exceptions.
<u>NRS 281A.182</u>	Persons serving in certain positions designated as public officers or employees; applicability.

NRS 281A.185 **Abrogation of common-law privileges and immunities; exceptions.**

NRS 281A.190 **Computation of time.**

COMMISSION ON ETHICS

NRS 281A.200 **Creation; appointment, terms and qualifications of members; prohibited activities by members; vacancies.**

NRS 281A.210 **Chair; meetings; compensation; facilities.**

NRS 281A.220 **Review panels: Appointment; composition; functions; disqualification of members from participation in further proceedings in matter.**

NRS 281A.230 **Executive Director: Appointment; qualifications; classification; prohibited activities and other employment.**

NRS 281A.240 **Executive Director: Duties; employment of staff; designation of qualified person to perform duties when Executive Director unable to act on matter.**

NRS 281A.250 **Commission Counsel: Appointment; qualifications; classification; prohibited activities and other employment.**

NRS 281A.260 **Commission Counsel: Duties; legal advice; appointment or employment of other counsel by Commission under certain circumstances.**

NRS 281A.265 **Discretionary-function immunity for members and employees of Commission.**

NRS 281A.270 **Assessment for administrative costs: Determination; payment by certain cities and counties; use of proceeds; collection.**

NRS 281A.275 **Authority to apply for and accept grants, contributions, services and money.**

NRS 281A.280 **Jurisdiction; statute of limitations.**

NRS 281A.290 **Duties of Commission; inclusion of annotations of opinions of Commission in Nevada Revised Statutes.**

NRS 281A.300 **Oaths; written requests and subpoenas for participation, attendance and production of books and papers; enforcement by court for noncompliance.**

SPECIALIZED OR LOCAL ETHICS COMMITTEE

NRS 281A.350 **Establishment; functions; limitations on powers; confidentiality.**

CODE OF ETHICAL STANDARDS

NRS 281A.400 **General requirements; exceptions.**

NRS 281A.410 **Limitations on representing or counseling private persons before public agencies; request for relief from strict application of certain provisions.**

NRS 281A.420 **Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain**

types of conflicts; effect of abstention on quorum and voting requirements; exceptions.

NRS 281A.430

Contracts in which public officer or employee has interest prohibited; exceptions; request for relief from strict application of certain provisions.

ADDITIONAL REQUIREMENTS, ETHICAL STANDARDS, REMEDIES AND PENALTIES

NRS 281A.500

Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgment; contents; form; retention; penalty for willful refusal to file.

NRS 281A.510

Public officer or employee prohibited from accepting or receiving honorarium; penalty.

NRS 281A.520

Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances.

NRS 281A.540

Governmental grant, contract or lease and certain actions taken in violation of chapter are voidable; prohibited contract is void; recovery of benefit received as result of violation.

NRS 281A.550

Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; request for relief from strict application of certain provisions.

OPINIONS GENERALLY

NRS 281A.665

Opinions of Commission may include guidance to public officer or employee.

ADVISORY OPINIONS

NRS 281A.670

Applicability.

NRS 281A.675

Initiation of request for advisory opinion; purpose of request; form and contents; Commission may decline to render advisory opinion under certain circumstances.

NRS 281A.680

Rendering of advisory opinion by Commission; deadline and waiver; certain advisory opinions binding upon requester; judicial review; confidentiality and waiver.

NRS 281A.685

Confidentiality of certain materials; no duty on Commission or staff to protect confidentiality of materials not in their possession; exceptions.

NRS 281A.690

Inapplicability of Open Meeting Law to proceedings concerning request for advisory opinion; exceptions.

ETHICS COMPLAINTS AND OPINIONS

GENERAL PROVISIONS

NRS 281A.700

Applicability.

NRS 281A.705

Legal defense of state officer or employee subject to ethics complaint.

PROCEEDINGS

NRS 281A.710

Initiation of ethics complaint; form and contents; Commission may decline to render opinion under certain circumstances.

NRS 281A.715

Determination of jurisdiction and whether evidence warrants investigation; deadline and waiver; dismissal for lack of jurisdiction or insufficient evidence; initiation of investigation.

NRS 281A.720

Investigation by Executive Director; notice of investigation; opportunity to submit response; deadline and extension; purpose of response; preservation of objections and defenses.

NRS 281A.725

Completion of investigation by Executive Director; presentation of written recommendation to review panel; deadline and waiver; contents of recommendation.

NRS 281A.730

Consideration of recommendation by review panel; determination of just and sufficient cause; deadline and waiver; record of proceedings; dismissal; approval of deferral agreement; referral to Commission for further proceedings.

NRS 281A.735

Inapplicability of Open Meeting Law to proceedings of review panel.

NRS 281A.740

Deferral agreements: Development; approval; enforcement; contents; terms and conditions; monitoring and documenting compliance; proceedings for noncompliance; dismissal of matter after satisfactory compliance.

NRS 281A.745

Adjudicatory hearings: Powers and duties of Commission; deadline and waiver; procedural rights; evidence; use of telephone or video conference.

NRS 281A.750

Confidentiality of certain materials; exceptions; confidentiality of identity of certain requesters; disclosure of identity under certain circumstances.

NRS 281A.755

Confidentiality of investigative file; exceptions; discovery request for list of proposed witnesses and certain portions of investigative file; contents of investigative file.

NRS 281A.760

Inapplicability of Open Meeting Law to certain proceedings of Commission.

DISPOSITION; REMEDIES AND PENALTIES

NRS 281A.765 Opinions must include findings of fact and conclusions of law; dismissal of matter if violation not proven; authorized actions if violation proven.

NRS 281A.770 General standards for resolving ethics complaints by stipulations, agreed settlements or consent orders and for approving deferral agreements.

NRS 281A.775 Additional standards for determining whether violation is willful violation and type of penalty imposed and for approving deferral agreements.

NRS 281A.780 Letters of caution or instruction: Contents; confidentiality; effect on subsequent ethics complaints.

NRS 281A.785 Types of remedies and penalties; judicial review of certain actions of Commission; limitations on judicial review of actions of review panel.

NRS 281A.790 Additional types of remedies and penalties; duties of Commission upon finding willful violation; circumstances in which violation not deemed willful; effect of chapter upon criminal law; judicial review of certain actions of Commission; burden of proof.

GENERAL PROVISIONS

NRS 281A.010 Short title. This chapter may be cited as the Nevada Ethics in Government Law.

(Added to NRS by 1977, 1103; A 1995, 2443; 2003, 2662, 3019) — (Substituted in revision for NRS 281.411)

NRS 281A.020 Legislative findings and declarations.

1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

2. The Legislature finds and declares that:

(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.

(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

(c) In interpreting and applying the provisions of this chapter that are applicable to State Legislators, the Commission must give appropriate weight and proper deference to the public policy of this State under which State Legislators serve as “citizen Legislators” who have other occupations and business interests, who are expected to have particular philosophies and perspectives that are necessarily influenced by the life experiences of the Legislator, including, without limitation, professional, family and business experiences, and who are expected to contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted.

(d) The provisions of this chapter do not, under any circumstances, allow the Commission to exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or NRS 41.071.

(Added to NRS by 1977, 1103; A 1999, 2730; 2009, 1046) — (Substituted in revision for NRS 281.421)

NRS 281A.030 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.032 to 281A.170, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1977, 1103; A 1985, 1216, 2122; 1987, 385; 1991, 1594; 1997, 256; 1999, 2731; 2003, 926, 3385; 2003, 20th Special Session, 263; 2005, 2556; 2009, 1047; 2013, 3765; 2017, 2488; 2019, 3419)

NRS 281A.032 “Adjudicatory hearing” defined. “Adjudicatory hearing” means a hearing held by the Commission pursuant to NRS 281A.745 to receive evidence concerning an ethics complaint and render an opinion in the matter.

(Added to NRS by 2017, 2478)

NRS 281A.033 “Advisory opinion” defined. “Advisory opinion” means an advisory opinion rendered by the Commission pursuant to NRS 281A.670 to 281A.690, inclusive.

(Added to NRS by 2017, 2478)

NRS 281A.035 “Agency” defined. “Agency” means any state agency or local agency.

(Added to NRS by 2013, 3763)

NRS 281A.040 “Business entity” defined. “Business entity” means an organization or enterprise operated for economic gain, including, without limitation, a proprietorship, partnership, firm, business, company, trust, joint venture, syndicate, corporation or association.

(Added to NRS by 1985, 2120; A 2009, 1047) — (Substituted in revision for NRS 281.432)

NRS 281A.050 “Candidate” defined. “Candidate” means any person:

1. Who files a declaration of candidacy; or
2. Whose name appears on an official ballot at any election.

(Added to NRS by 1991, 1591; A 1993, 265; 2001, 1955; 2019, 3419)

NRS 281A.060 “Commission” defined. “Commission” means the Commission on Ethics.

(Added to NRS by 1985, 2120) — (Substituted in revision for NRS 281.4325)

NRS 281A.065 “Commitment in a private capacity” defined. “Commitment in a private capacity,” with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

(Added to NRS by 2013, 3763)

NRS 281A.070 “Compensation” defined. “Compensation” means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered, personally or by another.

(Added to NRS by 1991, 1591) — (Substituted in revision for NRS 281.4327)

NRS 281A.080 “Decision” defined.

1. The making of a “decision” is the exercise of governmental power to adopt laws, regulations or standards, render quasi-judicial decisions, establish executive policy or determine questions involving substantial discretion.
2. The term does not include:
 - (a) The functions of the judiciary.
 - (b) The functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or NRS 41.071.

(Added to NRS by 1985, 2121; A 2009, 1047) — (Substituted in revision for NRS 281.433)

NRS 281A.081 “Declaration of candidacy” defined. “Declaration of candidacy” has the meaning ascribed to it in NRS 293.0455.

(Added to NRS by 2019, 3419)

NRS 281A.082 “Deferral agreement” defined. “Deferral agreement” means an agreement entered into between the Executive Director and the subject of an ethics complaint pursuant to NRS 281A.740.

(Added to NRS by 2017, 2478)

NRS 281A.085 “Domestic partner” defined. “Domestic partner” means a person in a domestic partnership.

(Added to NRS by 2013, 3764)

NRS 281A.086 “Domestic partnership” defined. “Domestic partnership” means a domestic partnership as defined in NRS 122A.040.

(Added to NRS by 2013, 3764; A 2017, 295)

NRS 281A.088 “Ethics complaint” defined. “Ethics complaint” means a request for an opinion which is filed with the Commission or initiated by the Commission on its own motion pursuant to NRS 281A.710 regarding the propriety of the conduct of a public officer or employee under the statutory ethical standards set forth in this chapter.

(Added to NRS by 2017, 2478)

NRS 281A.090 “Executive Director” defined. “Executive Director” means the Executive Director appointed by the Commission pursuant to NRS 281A.230.

(Added to NRS by 1999, 2728) — (Substituted in revision for NRS 281.4333)

NRS 281A.100 “Household” defined. “Household” means an association of persons who live in the same home or dwelling and who are related by blood, adoption, marriage or domestic partnership.

(Added to NRS by 1985, 2121; A 2013, 3765) — (Substituted in revision for NRS 281.434)

NRS 281A.105 “Intentionally” defined. “Intentionally” means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

(Added to NRS by 2009, 1043)

NRS 281A.115 “Knowingly” defined. “Knowingly” imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

(Added to NRS by 2009, 1043)

NRS 281A.119 “Local agency” defined. “Local agency” means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.

(Added to NRS by 2013, 3764)

NRS 281A.125 “Member of a local legislative body” defined. “Member of a local legislative body” means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy.

(Added to NRS by 2009, 1043; A 2013, 3765)

NRS 281A.135 “Opinion” defined.

1. “Opinion” means an opinion rendered by the Commission in accordance with the provisions of this chapter.

2. The term includes, without limitation, the disposition of an ethics complaint by stipulation, agreed settlement, consent order or default as authorized by NRS 233B.121.

(Added to NRS by 2009, 1043; 2017, 2488)

NRS 281A.139 “Pecuniary interest” defined. “Pecuniary interest” means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and
2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.

(Added to NRS by 2013, 3764)

NRS 281A.145 “Political subdivision” defined. “Political subdivision” means any county, city or other local government as defined in NRS 354.474.

(Added to NRS by 2009, 1043)

NRS 281A.150 “Public employee” defined. “Public employee” means any person who:

1. Performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision; or
2. Is designated as a public employee for the purposes of this chapter pursuant to NRS 281A.182.

(Added to NRS by 1985, 2121; A 2009, 1047; 2017, 2488)

NRS 281A.160 “Public officer” defined.

1. “Public officer” means a person who is:
 - (a) Elected or appointed to a position which:
 - (1) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and
 - (2) Involves the exercise of a public power, trust or duty; or
 - (b) Designated as a public officer for the purposes of this chapter pursuant to NRS 281A.182.

2. As used in this section, “the exercise of a public power, trust or duty” means:

- (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;
- (b) The expenditure of public money; and
- (c) The administration of laws and rules of the State or any county, city or other political subdivision.

3. “Public officer” does not include:

- (a) Any justice, judge or other officer of the court system;
- (b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

4. "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

(Added to NRS by 1985, 2121; A 1987, 2093; 1999, 883; 2001, 658, 1955, 2288; 2003, 116; 2005, 2302; 2009, 1047; 2013, 3765) — (Substituted in revision for NRS 281.4365)

NRS 281A.161 "Request for an advisory opinion" defined. "Request for an advisory opinion" means a request for an advisory opinion which is filed with the Commission pursuant to NRS 281A.675 by a public officer or employee who is:

1. Seeking guidance on matters which directly relate to the propriety of his or her own past, present or future conduct as a public officer or employee under the statutory ethical standards set forth in this chapter; or

2. Requesting relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

(Added to NRS by 2017, 2478)

NRS 281A.162 "Review panel" defined. "Review panel" means a review panel appointed pursuant to NRS 281A.220.

(Added to NRS by 2017, 2478)

NRS 281A.163 "State agency" defined. "State agency" means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.

(Added to NRS by 2013, 3764)

NRS 281A.165 "State Legislator" or "Legislator" defined. "State Legislator" or "Legislator" means a member of the Senate or Assembly of the State of Nevada.

(Added to NRS by 2009, 1043)

NRS 281A.170 "Willful violation" defined. "Willful violation" means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or

2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter,

□ unless the Commission determines, after applying the factors set forth in NRS 281A.775, that the public officer's or employee's act or failure to act has not resulted in a sanctionable violation of this chapter.

(Added to NRS by 1999, 2728; A 2009, 1048; 2013, 3766; 2015, 917) —
(Substituted in revision for NRS 281.4375)

NRS 281A.180 Terms “public officer” and “public employee” include former public officer or employee; exceptions. In applying the provisions of this chapter to an alleged violation by a former public officer or employee, the use of the term “public officer” or “public employee” in this chapter must be interpreted to include the former public officer or employee, unless the commencement of proceedings against the former public officer or employee concerning the alleged violation is time-barred by the statute of limitations pursuant to NRS 281A.280.

(Added to NRS by 2009, 1044)

NRS 281A.182 Persons serving in certain positions designated as public officers or employees; applicability.

1. Any person who serves in one of the following positions is designated as a public officer solely and exclusively for the purposes of this chapter:

(a) A president of a university, state college or community college within the Nevada System of Higher Education.

(b) A superintendent of a county school district.

(c) A county manager or a city manager.

2. The provisions of subsection 1 apply to such a person regardless of whether the person serves in the position:

(a) By appointment, contract or employment;

(b) With or without compensation; or

(c) On a temporary, interim or acting basis.

3. A person who is not otherwise a public officer is designated as a public officer solely and exclusively for the purposes of this chapter if the person:

(a) Enters into a contract with any state or local agency;

(b) Is paid compensation with public money; and

(c) Serves in a position which involves the exercise of a public power, trust or duty and which ordinarily would be held or filled by a public officer.

4. A person who is not otherwise a public employee is designated as a public employee solely and exclusively for the purposes of this chapter if:

(a) The person enters into a contract with any state or local agency;

(b) The person is paid compensation with public money;

(c) The person serves in a position which involves the performance of public duties under the substantial and continuing direction and control of a public officer or supervisory public employee;

(d) The position ordinarily would be held or filled by a public employee and would require the public employee to hold a valid professional or occupational license or similar type of authorization issued by a state or local agency to perform the public duties of the position, other than a general business license or similar type of authorization;

(e) The position is entrusted with public duties of a substantial and continuing nature which ordinarily would require a public employee to avoid conflicts between

the private interests of the public employee and those of the general public whom the public employee serves; and

(f) The person occupies the position on a full-time basis or its equivalent for a substantial and continuing period of time.

5. The provisions of subsections 3 and 4 must be interpreted and applied to ensure that a person does not evade the provisions of this chapter because a state or local agency elects to use a contractual relationship instead of an employment relationship for a position which ordinarily would be held or filled by a public officer or employee.

6. If, pursuant to this section, any person is designated as a public officer or employee for the purposes of this chapter, that designation:

(a) Does not make the person a public officer or employee for the purposes of any other law or for any other purposes; and

(b) Must not be used, interpreted or applied in any manner to establish, suggest or prove that the person is a public officer or employee for the purposes of any other law or for any other purposes.

(Added to NRS by [2013, 3764](#); A [2017, 2488](#))

NRS 281A.185 Abrogation of common-law privileges and immunities; exceptions.

1. In any proceeding commenced against a public officer or employee pursuant to the authority of this chapter, including any judicial review thereof, the public officer or employee who is the subject of the proceeding may not assert, claim or raise any common-law privilege or immunity as an affirmative defense, for testimonial or evidentiary purposes or for any other purpose.

2. The provisions of this chapter are intended to abrogate common-law privileges and immunities only in a proceeding commenced pursuant to the authority of this chapter and only for the public officer or employee who is the subject of the proceeding. This abrogation of common-law privileges and immunities does not apply to or affect:

(a) Any privilege or immunity granted by the Constitution of the United States or of the State of Nevada or by [NRS 41.071, chapter 49](#) of NRS or any other statute;

(b) Any person who is not the subject of the proceeding; or

(c) Any other proceeding that is not commenced pursuant to the authority of this chapter.

(Added to NRS by [2009, 1044](#))

NRS 281A.190 Computation of time. In computing any period prescribed or allowed by this chapter:

1. If the period begins to run on the occurrence of an act or event, the day on which the act or event begins is excluded from the computation.

2. The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the

conduct of business, the period is extended to the close of business on the next business day.

(Added to NRS by 2013, 3764)

COMMISSION ON ETHICS

NRS 281A.200 Creation; appointment, terms and qualifications of members; prohibited activities by members; vacancies.

1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or employees, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. Not more than four members of the Commission may be members of the same political party. Not more than four members of the Commission may be residents of the same county.

5. None of the members of the Commission may, while the member is serving on the Commission:

(a) Hold another public office;

(b) Be actively involved in the work of any political party or political campaign;

or

(c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

6. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

(Added to NRS by 1985, 2121; A 1991, 1594; 1999, 2731; 2009, 1048; 2013, 3766) — (Substituted in revision for NRS 281.455)

NRS 281A.210 Chair; meetings; compensation; facilities.

1. The Commission shall:

(a) At its first meeting and annually thereafter elect a Chair and Vice Chair from among its members.

(b) Meet regularly at least once in each calendar quarter, unless there are no ethics complaints or requests for advisory opinions pursuant to this chapter, and at other times upon the call of the Chair.

2. Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.

3. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

(Added to NRS by 1977, 1105; A 1981, 1979; 1983, 1440; 1985, 391, 2123; 1987, 2094; 1989, 1709; 1991, 1594; 1997, 256; 1999, 2732; 2005, 2278; 2017, 2489)

NRS 281A.220 Review panels: Appointment; composition; functions; disqualification of members from participation in further proceedings in matter.

1. The Chair shall appoint one or more review panels of three members of the Commission on a rotating basis to perform the functions assigned to such review panels pursuant to this chapter.

2. The Chair and Vice Chair of the Commission may not serve together on a review panel.

3. Not more than two members of a review panel may be members of the same political party.

4. If a review panel determines that there is just and sufficient cause for the Commission to render an opinion in a matter, the members of the review panel shall not participate in any further proceedings of the Commission relating to that matter.

(Added to NRS by 1999, 2730; A 2009, 1049; 2017, 2489)

NRS 281A.230 Executive Director: Appointment; qualifications; classification; prohibited activities and other employment.

1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Executive Director must have experience in administration, investigations and law.

3. The Executive Director is in the unclassified service of the State.

4. The Executive Director shall devote the Executive Director's entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of the Executive Director's duties.

5. The Executive Director may not:

(a) Be actively involved in the work of any political party or political campaign;
or

(b) Except in pursuit of the business of the Commission, communicate directly or indirectly with a State Legislator or a member of a local legislative body on behalf of someone other than the Executive Director to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

(Added to NRS by 1999, 2728; A 2009, 1049) — (Substituted in revision for NRS 281.463)

NRS 281A.240 Executive Director; Duties; employment of staff; designation of qualified person to perform duties when Executive Director unable to act on matter.

1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive ethics complaints and requests for advisory opinions pursuant to this chapter.

(c) Gather information and conduct investigations regarding ethics complaints and requests for advisory opinions pursuant to this chapter.

(d) Submit recommendations to the review panel regarding whether there is just and sufficient cause for the Commission to render an opinion in a matter.

(e) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(f) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(g) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

- (a) The administration of the affairs of the Commission; and
- (b) The investigation of matters under the jurisdiction of the Commission.

3. If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.

(Added to NRS by 1999, 2729; A 2003, 3385; 2005, 2278; 2009, 1050; 2011, 1726; 2013, 3767; 2017, 2490)

NRS 281A.250 Commission Counsel: Appointment; qualifications; classification; prohibited activities and other employment.

1. The Commission shall appoint, within the limits of legislative appropriation, a Commission Counsel who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Commission Counsel must be an attorney who is licensed to practice law in this State.

3. The Commission Counsel is in the unclassified service of the State.

4. The Commission Counsel shall devote the Commission Counsel's entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of the Commission Counsel's duties.

5. The Commission Counsel may not:

(a) Be actively involved in the work of any political party or political campaign; or

(b) Except in pursuit of the business of the Commission, communicate directly or indirectly with a State Legislator or a member of a local legislative body on behalf of someone other than the Commission Counsel to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

(Added to NRS by 1999, 2729; A 2001, 568; 2009, 1050) — (Substituted in revision for NRS 281.464)

NRS 281A.260 Commission Counsel: Duties; legal advice; appointment or employment of other counsel by Commission under certain circumstances.

1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct. The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

(Added to NRS by 1977, 1107; A 1985, 2126; 1999, 2743; 2005, 1577; 2009, 1051; 2013, 3768) — (Substituted in revision for NRS 281.4645)

NRS 281A.265 Discretionary-function immunity for members and employees of Commission. For the purposes of NRS 41.032, the members of the Commission and employees of the Commission shall be deemed to be exercising or performing a discretionary function or duty in taking any action pursuant to the provisions of this chapter.

(Added to NRS by 2017, 2487)

NRS 281A.270 Assessment for administrative costs: Determination; payment by certain cities and counties; use of proceeds; collection.

1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Office of Finance and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature;

(c) Does not revert to the State General Fund at the end of any fiscal year; and

(d) Does not revert to a city or county if:

(1) The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or

(2) The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

(Added to NRS by 2003, 2661; A 2011, 1206; 2013, 3768) — (Substituted in revision for NRS 281.4647)

NRS 281A.275 Authority to apply for and accept grants, contributions, services and money. The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission and the Commission complies with the provisions of the State Budget Act.

(Added to NRS by 2013, 3764)

NRS 281A.280 Jurisdiction; statute of limitations.

1. Except as otherwise provided in this section, the Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee in any proceeding commenced by an ethics complaint, which is filed with the Commission or initiated by the Commission on its own motion, within 2 years after the alleged violation or reasonable discovery of the alleged violation.

2. The Commission does not have jurisdiction regarding alleged conduct by a public officer or employee or former public officer or employee for which:

(a) A complaint may be filed or, if the applicable limitations period has expired, could have been filed with the United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission; or

(b) A complaint or employment-related grievance may be filed or, if the applicable limitations period has expired, could have been filed with another appropriate agency with jurisdiction to redress alleged discrimination or harassment, including, without limitation, a state or local employee-management relations board or similar state or local agency,

□ but any bar on the Commission's jurisdiction imposed by this subsection applies only to the extent that it pertains to the alleged discrimination or harassment, and this subsection does not deprive the Commission of jurisdiction regarding the alleged conduct if such conduct is sanctionable separately or concurrently under the provisions of this chapter, irrespective of the alleged discrimination or harassment.

3. For the purposes of this section, a proceeding is commenced:

(a) On the date on which an ethics complaint is filed in the proper form with the Commission in accordance with the regulations of the Commission; or

(b) If the ethics complaint is initiated by the Commission on its own motion, on the date on which the Commission serves the public officer or employee or former public officer or employee with notice of the ethics complaint in accordance with the regulations of the Commission.

(Added to NRS by 1995, 2443; A 1997, 256; 1999, 2732; 2005, 2279; 2009, 1051; 2017, 2490)

NRS 281A.290 Duties of Commission; inclusion of annotations of opinions of Commission in Nevada Revised Statutes. The Commission shall:

1. Adopt procedural regulations that are necessary and proper to carry out the provisions of this chapter, including, without limitation:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of an ethics complaint or a request for an advisory opinion with the Commission;

(c) For the withdrawal of an ethics complaint or a request for an advisory opinion by the person who filed the ethics complaint or request;

(d) To facilitate the prompt rendition of opinions by the Commission; and

(e) For proceedings concerning an ethics complaint, to facilitate written discovery requests submitted pursuant to NRS 281A.750 and 281A.755 and the disclosure of evidence in the manner required by those sections, including, without limitation, the disclosure of evidence obtained by or on behalf of the Executive Director during the course of the investigation that affirmatively and substantively disproves any alleged violation of this chapter that is related to the ethics complaint and has been referred to the Commission for an adjudicatory hearing.

2. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500,

maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that explains the requirements of this chapter.

□ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the published opinions of the Commission.

(Added to NRS by 1977, 1105; A 1985, 2124; 1991, 1595; 1999, 2732; 2003, 3019, 3386; 2003, 20th Special Session, 265; 2011, 1726; 2013, 3769; 2017, 2491)

NRS 281A.300 Oaths; written requests and subpoenas for participation, attendance and production of books and papers; enforcement by court for noncompliance.

1. The Chair and Vice Chair of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission.

3. Upon the request of the Executive Director, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the participation of a potential witness and the production of any books and papers during the course of any investigation.

4. Upon the request of the Executive Director or the public officer or employee who is the subject of an ethics complaint, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission. A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.

5. Before issuing a subpoena to a public officer or employee who is the subject of an ethics complaint to compel his or her participation in any investigation, his or her attendance as a witness or his or her production of any books and papers, the Executive Director shall submit a written request to the public officer or employee requesting:

(a) The voluntary participation of the public officer or employee in the investigation;

(b) The voluntary attendance of the public officer or employee as a witness; or

(c) The voluntary production by the public officer or employee of any books and papers relating to the ethics complaint.

6. Each written request submitted by the Executive Director pursuant to subsection 5 must specify the time and place for the voluntary participation of the public officer or employee in the investigation, attendance of the public officer or employee as a witness or production of any books and papers, and designate with certainty the books and papers requested, if any.

7. If the public officer or employee fails or refuses to respond to the Executive Director's written request pursuant to subsection 5 to voluntarily participate or attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the written request, the Chair or, in the Chair's absence, the Vice Chair, may issue the subpoena. Failure of the public officer or employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or employee of the time limits set forth in NRS 281A.700 to 281A.790, inclusive, that apply to proceedings concerning the ethics complaint.

8. If any witness fails or refuses to participate, attend, testify or produce any books and papers as required by the subpoena, the Chair or, in the Chair's absence, the Vice Chair, may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of the participation or attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed pursuant to this section; and

(c) The witness has failed or refused to participate, attend, testify or produce the books and papers as required by the subpoena, or has failed or refused to answer questions propounded to the witness,

□ and asking for an order of the court compelling the witness to participate, attend, testify or produce the books and papers as required by the subpoena.

9. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not participated, attended, testified or produced the books or papers as required by the subpoena. A certified copy of the order must be served upon the witness.

10. If it appears to the court that the subpoena was regularly issued pursuant to this section, the court shall enter an order that the witness comply with the subpoena, at the time and place fixed in the order, and participate, attend, testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

(Added to NRS by 1991, 1591; A 1997, 257; 1999, 2733; 2003, 3387; 2005, 2279; 2009, 1052; 2013, 3769; 2017, 2492)

SPECIALIZED OR LOCAL ETHICS COMMITTEE

NRS 281A.350 Establishment; functions; limitations on powers; confidentiality.

1. Any state agency or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of financial disclosure statements by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the Secretary of State for review; and

(2) Upon review, approved by the Secretary of State. The Secretary of State shall not approve the form unless the form contains all the information required to be included in a financial disclosure statement pursuant to NRS 281.571.

2. The Secretary of State is not responsible for the costs of producing or distributing a form for filing a financial disclosure statement pursuant to the provisions of subsection 1.

3. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

(Added to NRS by 1977, 1107; A 1985, 2126; 1991, 105; 1995, 2198, 2445; 1997, 640, 641; 2011, 1727; 2013, 3781; 2015, 1726) — (Substituted in revision for NRS 281A.470)

CODE OF ETHICAL STANDARDS

NRS 281A.400 General requirements; exceptions. A code of ethical standards is hereby established to govern the conduct of public officers and employees:

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

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, "unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, for the performance of the public officer's or employee's duties as a public officer or employee.

5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further a significant pecuniary interest of the public officer or employee or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other official document because it might tend to affect unfavorably a significant pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established

a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

□ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

(Added to NRS by 1977, 1105; A 1987, 2094; 1991, 1595; 1993, 2243; 1997, 3324; 1999, 2736; 2003, 3388; 2009, 1053; 2013, 3771; 2017, 2493)

NRS 281A.410 Limitations on representing or counseling private persons before public agencies; request for relief from strict application of certain provisions. In addition to the requirements of the code of ethical standards and the other provisions of this chapter:

1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

(a) Shall not accept compensation from any private person to represent or counsel the private person on any issue pending before the agency in which that public officer or employee serves, if the agency makes decisions; and

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. Except as otherwise provided in subsection 3, a State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve.

3. A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:

(a) The member files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each local agency affected by the matter; and

(3) The provisions of this chapter.

4. For the purposes of subsection 3, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

5. Unless permitted by this section, a public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.

(Added to NRS by 1977, 1106; A 1991, 1597; 2001, 2289; 2007, 638; 2009, 1054; 2013, 3772; 2017, 2495)

NRS 281A.420 Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a significant pecuniary interest;
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410,

□ without disclosing information concerning the gift or loan, the significant pecuniary interest, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

- (a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or
- (b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
- (b) The public officer's significant pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of another person.

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the duty of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer makes a proper disclosure at the time the matter is considered and in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the

appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section, “public officer” and “public employee” do not include a State Legislator.

(Added to NRS by 1977, 1106; A 1987, 2095; 1991, 1597; 1995, 1083; 1997, 3326; 1999, 2738; 2003, 818, 1735, 3389; 2007, 3372; 2009, 1055, 1057; 2013, 3774; 2017, 2496)

NRS 281A.430 Contracts in which public officer or employee has interest prohibited; exceptions; request for relief from strict application of certain provisions.

1. Except as otherwise provided in this section and NRS 218A.970 and 332.800, a public officer or employee shall not bid on or enter into a contract between an agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with an agency, or may benefit financially or otherwise from a contract between an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee may bid on or enter into a contract with an agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding or for a solicitation are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

□ If a public officer who is authorized to bid on or enter into a contract with an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer’s interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell

goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;

(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and

(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter;

and

(3) The provisions of this chapter.

7. For the purposes of subsection 6, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

(Added to NRS by 1993, 2241; A 1995, 689; 2001, 1629; 2003, 892; 2009, 1060; 2013, 3776; 2017, 2498; 2019, 786)

ADDITIONAL REQUIREMENTS, ETHICAL STANDARDS, REMEDIES AND PENALTIES

NRS 281A.500 Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgment; contents; form; retention; penalty for willful refusal to file.

1. On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:

(a) For an appointed public officer, the appointing authority of the public officer; and

- (b) For an elected public officer of:
- (1) The county and other political subdivisions within the county except cities, the county clerk;
 - (2) The city, the city clerk;
 - (3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and
 - (4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.
2. Within 30 days after a public employee begins employment:
- (a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and
 - (b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.
3. Each public officer shall acknowledge that the public officer:
- (a) Has received, read and understands the statutory ethical standards; and
 - (b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.
4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:
- (a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.
 - (b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer swears or affirms the oath of office.
5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.
6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:
- (a) Delivered in person to the principal office of the Commission in Carson City.
 - (b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

7. If a public officer is serving in a public office and executes and files the acknowledgment for that office as required by the applicable provisions of this section, the public officer shall be deemed to have satisfied the requirements of this section for any other office held concurrently by him or her.

8. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a copy of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a printed copy of the statutory ethical standards from the Commission.

9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.

10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

11. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.785 and 281A.790; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

12. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

(Added to NRS by 1999, 2730; A 2001, 2289; 2003, 3020, 3396; 2003, 20th Special Session, 265; 2009, 1066; 2013, 3784; 2017, 2503)

NRS 281A.510 Public officer or employee prohibited from accepting or receiving honorarium; penalty.

1. A public officer or public employee shall not accept or receive an honorarium.

2. An honorarium paid on behalf of a public officer or public employee to a charitable organization from which the officer or employee does not derive any

financial benefit is deemed not to be accepted or received by the officer or employee for the purposes of this section.

3. This section does not prohibit:

(a) The receipt of payment for work performed outside the normal course of a person's public office or employment if the performance of that work is consistent with the applicable policies of the person's public employer regarding supplemental employment.

(b) The receipt of an honorarium by the spouse of a public officer or public employee if it is related to the spouse's profession or occupation.

4. As used in this section, "honorarium" means the payment of money or anything of value for an appearance or speech by the public officer or public employee in the officer's or employee's capacity as a public officer or public employee. The term does not include the payment of:

(a) The actual and necessary costs incurred by the public officer or public employee, the officer's or employee's spouse or the officer's or employee's aid for transportation and for lodging and meals while the public officer or public employee is away from the officer's or employee's residence.

(b) Compensation which would otherwise have been earned by the public officer or public employee in the normal course of the officer's or employee's public office or employment.

(c) A fee for a speech related to the officer's or employee's profession or occupation outside of the officer's or employee's public office or employment if:

(1) Other members of the profession or occupation are ordinarily compensated for such a speech; and

(2) The fee paid to the public officer or public employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the officer or employee for a comparable speech.

(d) A fee for a speech delivered to an organization of legislatures, legislators or other elected officers.

5. In addition to any other penalties provided by law, a public officer or public employee who violates the provisions of this section shall forfeit the amount of the honorarium.

(Added to NRS by 1991, 1592; A 1999, 2745; 2007, 640; 2017, 2505)

NRS 281A.520 Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances.

1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

(a) A ballot question.

(b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

(1) The public office held by the public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

(1) The public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) "Governmental entity" means:

(1) The government of this State;

(2) An agency of the government of this State;

(3) A political subdivision of this State; and

(4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

(1) A press release issued to the media by a governmental entity; or

(2) The official website of a governmental entity.

(Added to NRS by 2003, 925; A 2009, 1067; 2019, 3419)

NRS 281A.540 Governmental grant, contract or lease and certain actions taken in violation of chapter are voidable; prohibited contract is void; recovery of benefit received as result of violation.

1. In addition to any other penalties provided by law, a governmental grant, contract or lease entered into in violation of this chapter is voidable by the State, county, city or political subdivision. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of the intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.

2. In addition to any other penalties provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.

3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.

4. In addition to any other penalties provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the violation or reasonable discovery of the violation.

(Added to NRS by 1991, 1593; A 2009, 1068) — (Substituted in revision for NRS 281.557)

NRS 281A.550 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; request for relief from strict application of certain provisions.

1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility, for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

2. A former member of the Nevada Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the Nevada Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person,
□ for 1 year after the termination of the member's service on the Nevada Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:

(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The former public officer holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

(a) The best interests of the public;

(b) The continued ethical integrity of the State Government or political subdivision, as applicable; and

(c) The provisions of this chapter,

□ it may issue an advisory opinion to that effect and grant such relief.

7. For the purposes of subsection 6, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

8. The advisory opinion does not relieve the current or former public officer or employee from the strict application of any provision of NRS 281A.410.

9. For the purposes of this section:

(a) A former member of the Public Utilities Commission of Nevada, the Nevada Gaming Control Board or the Nevada Gaming Commission; or

(b) Any other former public officer or employee governed by this section,

□ is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person, even if such an agreement does not or will not become effective until after the restricted period.

10. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive Department of State Government that is exempted from the requirements of chapter 233B of NRS.

(Added to NRS by 2009, 1044; A 2015, 924; 2017, 2506)

OPINIONS GENERALLY

NRS 281A.665 Opinions of Commission may include guidance to public officer or employee. The Commission's opinions may include guidance to a public officer or employee on questions whether:

1. A conflict exists between the public officer's or employee's personal interest and the public officer's or employee's official duty.

2. The public officer's or employee's official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.

3. The conflict would materially affect the independence of the judgment of a reasonable person in the public officer's or employee's situation.

4. The public officer or employee possesses special knowledge which is an indispensable asset of the public officer's or employee's public agency and is needed by it to reach a sound decision.

5. It would be appropriate for the public officer or employee to withdraw or abstain from participation, disclose the nature of the public officer's or employee's conflicting personal interest or pursue some other designated course of action in the matter.

(Added to NRS by 1977, 1107; A 1985, 2126; 1987, 2097; 1997, 258; 2005, 2280) — (Substituted in revision for NRS 281A.460)

ADVISORY OPINIONS

NRS 281A.670 Applicability. The provisions of NRS 281A.670 to 281A.690, inclusive, apply to proceedings concerning a request for an advisory opinion.

(Added to NRS by 2017, 2479)

NRS 281A.675 Initiation of request for advisory opinion; purpose of request; form and contents; Commission may decline to render advisory opinion under certain circumstances.

1. A public officer or employee may file with the Commission a request for an advisory opinion to:

(a) Seek guidance on matters which directly relate to the propriety of his or her own past, present or future conduct as a public officer or employee under the statutory ethical standards set forth in this chapter; or

(b) Request relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

2. The request for an advisory opinion must be:

(a) Filed on a form prescribed by the Commission; and

(b) Submitted with all necessary information for the Commission to render an advisory opinion in the matter.

3. The Commission may decline to render an advisory opinion if the public officer or employee does not:

(a) Submit all necessary information for the Commission to render an advisory opinion in the matter; or

(b) Declare by oath or affirmation that he or she will testify truthfully regarding the matter.

(Added to NRS by 2017, 2479)

NRS 281A.680 Rendering of advisory opinion by Commission; deadline and waiver; certain advisory opinions binding upon requester; judicial review; confidentiality and waiver.

1. If a public officer or employee properly files a request for an advisory opinion, the Commission shall render an advisory opinion that interprets the statutory ethical standards and applies those standards to the given set of facts and circumstances. The Commission shall render the advisory opinion within 45 days after receiving the request, unless the requester waives this time limit.

2. If the advisory opinion rendered by the Commission relates to the propriety of the present or future conduct of the requester, the advisory opinion is:

(a) Binding upon the requester with regard to the future conduct of the requester; and

(b) A final decision that is subject to judicial review pursuant to NRS 233B.130.

3. If the requester seeks judicial review pursuant to NRS 233B.130, any proceedings concerning such judicial review must be confidential and held in closed court without admittance of persons other than those necessary to the proceedings, unless the requester waives this right to confidential proceedings.

(Added to NRS by 2017, 2479)

NRS 281A.685 Confidentiality of certain materials; no duty on Commission or staff to protect confidentiality of materials not in their possession; exceptions.

1. Except as otherwise provided in this section, the following materials are confidential and are not public records pursuant to chapter 239 of NRS:

(a) A request for an advisory opinion;

(b) The advisory opinion rendered by the Commission in response to the request;

(c) Any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request; and

(d) Any information, communications, records, documents or other materials in the possession of the requester of the advisory opinion that are related to the request and, if disclosed by the requester, would reveal the existence, nature or content of the request or the advisory opinion.

2. The provisions of subsection 1 do not create or impose any duty on the Commission or its staff to protect or defend against the disclosure of any materials not in the possession of the Commission or its staff, regardless of whether the materials are related to the request.

3. The provisions of subsection 1 do not apply to any materials in the possession of the Commission or its staff that are related to the request if the requester of the advisory opinion:

(a) Acts in contravention of the advisory opinion, in which case the Commission may disclose the request, the advisory opinion and any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request;

(b) Authorizes the Commission, in writing, to make the request, the advisory opinion or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request publicly available; or

(c) Voluntarily discloses, in any manner, the request, the advisory opinion or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request, except to:

(1) The public body, agency or employer of the requester or the legal counsel of the requester;

(2) Any person to whom the Commission authorizes the requester to make such a disclosure; or

(3) Any person to whom the requester makes such a disclosure for the purposes of judicial review pursuant to NRS 281A.680.

(Added to NRS by 2017, 2479)

NRS 281A.690 Inapplicability of Open Meeting Law to proceedings concerning request for advisory opinion; exceptions.

1. Except as otherwise provided in this section, the provisions of chapter 241 of NRS do not apply to:

(a) Any meeting or hearing held by the Commission to receive information or evidence concerning a request for an advisory opinion; and

(b) Any deliberations or actions of the Commission on such information or evidence.

2. The public officer or employee who files the request for an advisory opinion may also file a request with the Commission to hold a public meeting or hearing regarding the request for an advisory opinion.

(Added to NRS by 2017, 2480)

ETHICS COMPLAINTS AND OPINIONS

General Provisions

NRS 281A.700 Applicability. The provisions of NRS 281A.700 to 281A.790, inclusive, apply to proceedings concerning an ethics complaint.

(Added to NRS by 2017, 2480)

NRS 281A.705 Legal defense of state officer or employee subject to ethics complaint.

1. If an ethics complaint is filed with or initiated by the Commission concerning a present or former state officer or employee, unless the state officer or employee retains his or her legal counsel or the Attorney General tenders the defense of the state officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to defend the state officer or employee, the Attorney General shall defend the state officer or employee or employ special counsel to defend the state officer or employee in any proceeding relating to the ethics complaint if:

(a) The state officer or employee submits a written request for defense in the manner provided in NRS 41.0339; and

(b) Based on the facts and allegations known to the Attorney General, the Attorney General determines that the act or omission on which the alleged violation is based:

(1) Appears to be within the course and scope of public duty or employment of the state officer or employee; and

(2) Appears to have been performed or omitted in good faith.

2. The Attorney General shall create a written record setting forth the basis for the Attorney General's determination of whether to defend the state officer or

employee pursuant to paragraph (b) of subsection 1. The written record is not admissible in evidence at trial or in any other judicial or administrative proceeding in which the state officer or employee is a party, except in connection with an application to withdraw as the attorney of record.

(Added to NRS by 2005, 2556; A 2017, 2500) — (Substituted in revision for NRS 281A.450)

Proceedings

NRS 281A.710 Initiation of ethics complaint; form and contents; Commission may decline to render opinion under certain circumstances.

1. Except as otherwise provided in this section and NRS 281A.280, the Commission may render an opinion that interprets the statutory ethical standards and applies those standards to a given set of facts and circumstances regarding the propriety of the conduct of a public officer or employee if an ethics complaint is:

(a) Filed by a specialized or local ethics committee established pursuant to NRS 281A.350.

(b) Filed by any person, except a person who is incarcerated in a correctional facility in this State or any other jurisdiction.

(c) Initiated by the Commission on its own motion, except the Commission shall not initiate such an ethics complaint based solely upon an anonymous complaint.

2. An ethics complaint filed by a person must be:

(a) Verified under oath and filed on a form prescribed by the Commission; and

(b) Submitted with sufficient evidence to support the allegations in order for the Commission to make a determination of whether it has jurisdiction in the matter and whether an investigation is warranted in the matter pursuant to NRS 281A.715 and 281A.720.

3. The Commission may decline to render an opinion if the person who files the ethics complaint does not submit all necessary evidence in the matter.

(Added to NRS by 2017, 2480)

NRS 281A.715 Determination of jurisdiction and whether evidence warrants investigation; deadline and waiver; dismissal for lack of jurisdiction or insufficient evidence; initiation of investigation.

1. Based on the evidence submitted with an ethics complaint filed with the Commission pursuant to NRS 281A.710, the Commission shall determine whether it has jurisdiction in the matter and whether an investigation is warranted in the matter. The Commission shall make its determination within 45 days after receiving the ethics complaint, unless the public officer or employee who is the subject of the ethics complaint waives this time limit.

2. If the Commission determines that it does not have jurisdiction in the matter, the Commission shall dismiss the matter.

3. If the Commission determines that it has jurisdiction in the matter but the evidence submitted with the ethics complaint is not sufficient to warrant an

investigation in the matter, the Commission shall dismiss the matter, with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

4. If the Commission determines that it has jurisdiction in the matter and the evidence submitted with the ethics complaint is sufficient to warrant an investigation in the matter, the Commission may direct the Executive Director to investigate the ethics complaint pursuant to NRS 281A.720.

(Added to NRS by 2017, 2481)

NRS 281A.720 Investigation by Executive Director; notice of investigation; opportunity to submit response; deadline and extension; purpose of response; preservation of objections and defenses.

1. If the Commission directs the Executive Director to investigate an ethics complaint pursuant to NRS 281A.715 or if the Commission initiates an ethics complaint on its own motion pursuant to NRS 281A.710, the Executive Director shall investigate the facts and circumstances relating to the ethics complaint to determine whether the Executive Director believes that there is just and sufficient cause for the Commission to render an opinion in the matter in order to present a written recommendation to the review panel pursuant to NRS 281A.725.

2. The Executive Director shall provide notice of the investigation pursuant to this section to the public officer or employee who is the subject of the ethics complaint and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee in the ethics complaint. The response must be submitted within 30 days after the date on which the public officer or employee receives the notice of the investigation pursuant to this section, unless the Executive Director grants an extension.

3. The purpose of the response submitted pursuant to this section is to provide the Executive Director and the review panel with any information relevant to the ethics complaint which the public officer or employee believes may assist:

(a) The Executive Director in performing his or her investigation and other functions pursuant to this section and NRS 281A.725; and

(b) The review panel in performing its review and other functions pursuant to NRS 281A.730.

4. The public officer or employee is not required in the response submitted pursuant to this section or in any proceedings before the review panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee, and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceedings before the review panel.

(Added to NRS by 2017, 2481)

NRS 281A.725 Completion of investigation by Executive Director; presentation of written recommendation to review panel; deadline and waiver; contents of recommendation.

1. Except as otherwise provided in this subsection, the Executive Director shall complete the investigation required by NRS 281A.720 and present a written recommendation to the review panel within 70 days after the Commission directs the Executive Director to investigate the ethics complaint or after the Commission initiates the ethics complaint on its own motion, as applicable. The public officer or employee who is the subject of the ethics complaint may waive this time limit.

2. The recommendation must:

(a) Set forth the factual and legal basis for the recommendation;

(b) State whether the Executive Director believes that there is just and sufficient cause for the Commission to render an opinion in the matter; and

(c) If the Executive Director believes that a disposition of the matter without an adjudicatory hearing is appropriate under the facts and circumstances, state any suggested disposition that is consistent with the provisions of this chapter, including, without limitation, whether the Executive Director believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement.

(Added to NRS by 2017, 2482)

NRS 281A.730 Consideration of recommendation by review panel; determination of just and sufficient cause; deadline and waiver; record of proceedings; dismissal; approval of deferral agreement; referral to Commission for further proceedings.

1. Except as otherwise provided in this section, the review panel shall determine whether there is just and sufficient cause for the Commission to render an opinion in the matter within 15 days after the Executive Director provides the review panel with the recommendation required by NRS 281A.725. The public officer or employee who is the subject of the ethics complaint may waive this time limit.

2. The review panel shall cause a record of its proceedings to be kept.

3. The review panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations as required by NRS 281A.720.

4. If the review panel determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, it shall dismiss the matter, with or without prejudice, and with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

5. If the review panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement, the review panel may:

(a) Approve a deferral agreement proposed by the Executive Director and the public officer or employee instead of referring the ethics complaint to the Commission for further proceedings in the matter; or

(b) Authorize the Executive Director and the public officer or employee to develop such a deferral agreement and may thereafter approve such a deferral agreement instead of referring the ethics complaint to the Commission for further proceedings in the matter.

6. If the review panel does not approve a deferral agreement pursuant to subsection 5 or if the public officer or employee declines to enter into such a deferral agreement, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.

7. If the review panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter and reasonably believes that the conduct at issue may not be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.

(Added to NRS by 2017, 2482)

NRS 281A.735 Inapplicability of Open Meeting Law to proceedings of review panel. The provisions of chapter 241 of NRS do not apply to:

1. Any meeting or hearing held by the review panel to receive information or evidence concerning an ethics complaint; and

2. Any deliberations or actions of the review panel on such information or evidence.

(Added to NRS by 2017, 2483)

NRS 281A.740 Deferral agreements: Development; approval; enforcement; contents; terms and conditions; monitoring and documenting compliance; proceedings for noncompliance; dismissal of matter after satisfactory compliance.

1. In proceedings concerning an ethics complaint, the Executive Director and the public officer or employee who is the subject of the ethics complaint may develop a deferral agreement to defer further proceedings in the matter under the terms and conditions of the deferral agreement.

2. A deferral agreement does not become effective unless approved by the review panel pursuant to NRS 281A.730. If the review panel approves a deferral agreement, the Commission shall enforce the terms and conditions of the deferral agreement.

3. A deferral agreement must:

(a) Specify the training or other corrective action to be completed by or imposed upon the public officer or employee;

(b) Specify any other terms and conditions, consistent with the provisions of this chapter, to be imposed upon the public officer or employee; and

(c) Provide that the Commission may vacate the deferral agreement and conduct further proceedings in the matter if the Commission finds that the public officer or employee has failed to comply with any terms and conditions of the deferral agreement.

4. The imposition of training or other corrective action and the imposition of any other terms and conditions in a deferral agreement is without prejudice to any other disposition of the matter, consistent with this chapter, that may be ordered by the Commission if it vacates the deferral agreement and conducts further proceedings in the matter and finds that the public officer or employee has violated any provision of this chapter.

5. The Executive Director shall monitor the compliance of the public officer or employee who is the subject of a deferral agreement and may require the public officer or employee to document his or her compliance with the deferral agreement.

6. The Executive Director shall:

(a) Inform the Commission of any alleged failure of the public officer or employee to comply with the deferral agreement;

(b) Give the public officer or employee written notice of any alleged failure to comply with the deferral agreement; and

(c) Allow the public officer or employee not less than 15 days to respond to such a notice.

7. Within 60 days after the date on which the public officer or employee responds or was entitled to respond to the written notice of any alleged failure to comply with the deferral agreement, the Commission shall determine whether the public officer or employee failed to comply with the deferral agreement, unless the public officer or employee waives this time limit.

8. If the Commission determines that the public officer or employee failed to comply with the deferral agreement, the Commission may take any action it deems appropriate, consistent with the terms and conditions of the deferral agreement and the provisions of this chapter, including, without limitation, vacating the deferral agreement and conducting further proceedings in the matter.

9. If the public officer or employee who is the subject of the deferral agreement complies in a satisfactory manner with the deferral agreement, the Commission shall dismiss the matter.

(Added to NRS by 2017, 2483)

NRS 281A.745 Adjudicatory hearings: Powers and duties of Commission; deadline and waiver; procedural rights; evidence; use of telephone or video conference.

1. If the review panel refers an ethics complaint to the Commission for further proceedings in the matter pursuant to NRS 281A.730 or if the Commission vacates a deferral agreement and conducts further proceedings in the matter pursuant to NRS 281A.740, the Commission shall hold an adjudicatory hearing and render an opinion in the matter within 60 days after the date on which the review panel refers the ethics complaint to the Commission or the Commission vacates the deferral agreement, as appropriate, unless the public officer or employee who is the subject of the ethics complaint waives this time limit.

2. If the Commission holds an adjudicatory hearing to receive evidence concerning an ethics complaint, the Commission shall:

(a) Notify the public officer or employee who is the subject of the ethics complaint of the date, time and place of the hearing;

(b) Allow the public officer or employee to be represented by legal counsel; and

(c) Allow the public officer or employee to hear the evidence presented to the Commission and to respond and present evidence on his or her own behalf.

3. Unless the public officer or employee agrees to a shorter time, an adjudicatory hearing may not be held less than 10 days after the date on which the notice of the hearing is given to the public officer or employee.

4. For good cause shown, the Commission may take testimony from a person by telephone or video conference at an adjudicatory hearing or at any other proceedings concerning the ethics complaint.

(Added to NRS by 2017, 2484)

NRS 281A.750 Confidentiality of certain materials; exceptions; confidentiality of identity of certain requesters; disclosure of identity under certain circumstances.

1. Except as otherwise provided in this section and NRS 281A.755, all information, communications, records, documents or other materials in the possession of the Commission, the review panel or their staff that are related to an ethics complaint are confidential and are not public records pursuant to chapter 239 of NRS until:

(a) The review panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter and serves written notice of its determination on the public officer or employee who is the subject of the ethics complaint; or

(b) The public officer or employee who is the subject of the ethics complaint authorizes the Commission, in writing, to make the information, communications, records, documents or other materials that are related to the ethics complaint publicly available,

whichever occurs first.

2. Except as otherwise provided in subsection 3, if a person who files an ethics complaint asks that his or her identity as the requester be kept confidential, the Commission:

(a) Shall keep the identity of the requester confidential if he or she is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the ethics complaint.

(b) May keep the identity of the requester confidential if he or she offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of his or her identity will subject the requester or a member of his or her household to a bona fide threat of physical force or violence.

3. If the Commission keeps the identity of the requester confidential, the Commission shall not render an opinion in the matter unless there is sufficient evidence without the testimony of the requester to consider the propriety of the conduct of the public officer or employee who is the subject of the ethics complaint.

If the Executive Director intends to present the testimony of the requester as evidence for consideration by the Commission at the adjudicatory hearing or in rendering an opinion in the matter and the public officer or employee who is the subject of the ethics complaint submits a written discovery request to the Commission pursuant to NRS 281A.755, the Commission shall disclose the name of the requester only as a proposed witness within a reasonable time before the adjudicatory hearing on the matter.

(Added to NRS by 2017, 2484)

NRS 281A.755 Confidentiality of investigative file; exceptions; discovery request for list of proposed witnesses and certain portions of investigative file; contents of investigative file.

1. Except as otherwise provided in this section, the investigative file related to an ethics complaint is confidential and is not a public record pursuant to chapter 239 of NRS.

2. At any time after being served with written notice of the determination of the review panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, the public officer or employee who is the subject of the ethics complaint may submit a written discovery request to the Commission for a list of proposed witnesses and a copy of any portion of the investigative file that the Executive Director intends to present as evidence for consideration by the Commission at the adjudicatory hearing or in rendering an opinion in the matter.

3. Any portion of the investigative file which the Executive Director presents as evidence for consideration by the Commission at the adjudicatory hearing or in rendering an opinion in the matter becomes a public record and must be open for inspection pursuant to chapter 239 of NRS.

4. For the purposes of this section:

(a) The investigative file includes, without limitation:

(1) Any response concerning the ethics complaint prepared by the public officer or employee pursuant to NRS 281A.720 and submitted to the Executive Director and the review panel during the course of the investigation and any proceedings before the review panel;

(2) Any recommendation concerning the ethics complaint prepared by the Executive Director pursuant to NRS 281A.725 and submitted to the review panel during the course of the investigation and any proceedings before the review panel; and

(3) Any other information provided to or obtained by or on behalf of the Executive Director through any form of communication during the course of the investigation and any proceedings before the review panel and any records, documents or other materials created or maintained during the course of the investigation and any proceedings before the review panel which relate to the public officer or employee who is the subject of the ethics complaint, including,

without limitation, a transcript, regardless of whether such information, records, documents or other materials are obtained pursuant to a subpoena.

(b) The investigative file does not include any deferral agreement.

(Added to NRS by 2017, 2485)

NRS 281A.760 Inapplicability of Open Meeting Law to certain proceedings of Commission. The provisions of chapter 241 of NRS do not apply to:

1. Any meeting or hearing held by the Commission to receive information or evidence concerning an ethics complaint; and

2. Any deliberations of the Commission on such information or evidence.

(Added to NRS by 2017, 2486)

Disposition; Remedies and Penalties

NRS 281A.765 Opinions must include findings of fact and conclusions of law; dismissal of matter if violation not proven; authorized actions if violation proven.

1. If the Commission renders an opinion in proceedings concerning an ethics complaint, the opinion must include findings of fact and conclusions of law.

2. If, in proceedings concerning an ethics complaint, the Commission determines that a violation of this chapter:

(a) Has not been proven, the Commission shall dismiss the matter, with or without prejudice, and with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

(b) Has been proven, the Commission may take any action authorized by this chapter.

(Added to NRS by 2017, 2486)

NRS 281A.770 General standards for resolving ethics complaints by stipulations, agreed settlements or consent orders and for approving deferral agreements. In any matter in which the Commission disposes of an ethics complaint by stipulation, agreed settlement or consent order or in which the review panel approves a deferral agreement, the Commission or the review panel, as appropriate, shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

(Added to NRS by 2013, 3764; A 2017, 2500) — (Substituted in revision for NRS 281A.465)

NRS 281A.775 Additional standards for determining whether violation is willful violation and type of penalty imposed and for approving deferral agreements.

1. The Commission, in determining whether a violation of this chapter is a willful violation and, if so, the penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.785 or 281A.790, or the review panel, in determining whether to approve a deferral agreement regarding an alleged violation, shall consider, without limitation:

(a) The seriousness of the violation or alleged violation, including, without limitation, the nature, circumstances, extent and gravity of the violation or alleged violation;

(b) The number and history of previous warnings, letters of caution or instruction, deferral agreements or violations or alleged violations of the provisions of this chapter relating to the public officer or employee;

(c) The cost to conduct the investigation and any meetings, hearings or other proceedings relating to the violation or alleged violation;

(d) Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation or alleged violation, any attempts to rectify the violation or alleged violation before any ethics complaint is filed and any cooperation by the public officer or employee in resolving the ethics complaint;

(e) Any restitution or reimbursement paid to parties affected by the violation or alleged violation;

(f) The extent of any financial gain resulting from the violation or alleged violation; and

(g) Any other matter justice may require.

2. The factors set forth in this section are not exclusive or exhaustive, and the Commission or the review panel, as appropriate, may consider other factors in the disposition of the matter if they bear a reasonable relationship to the determination of the severity of the violation or alleged violation.

3. In applying the factors set forth in this section, the Commission or the review panel, as appropriate, shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

(Added to NRS by 2013, 3765; A 2015, 921; 2017, 2500) — (Substituted in revision for NRS 281A.475)

NRS 281A.780 Letters of caution or instruction: Contents; confidentiality; effect on subsequent ethics complaints.

1. In proceedings concerning an ethics complaint, the Commission or the review panel, as appropriate, may issue a letter of caution or instruction to the public officer or employee who is the subject of the ethics complaint to caution or instruct the public officer or employee regarding the propriety of his or her conduct under the statutory ethical standards set forth in this chapter.

2. If the Commission or the review panel issues a letter of caution or instruction to the public officer or employee, the letter:

(a) Is confidential and is not a public record pursuant to chapter 239 of NRS.

(b) May be considered in deciding the appropriate action to be taken on any subsequent ethics complaint involving the public officer or employee, unless the letter is not relevant to the issues presented by the subsequent ethics complaint.

(Added to NRS by 2017, 2486)

NRS 281A.785 Types of remedies and penalties; judicial review of certain actions of Commission; limitations on judicial review of actions of review panel.

1. Except as otherwise provided in this section, in proceedings concerning an ethics complaint, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may, in addition to any other penalty provided by law and in accordance with the provisions of NRS 281A.775:

(a) Require the public officer or employee who is the subject of the ethics complaint to:

(1) Comply in all respects with the provisions of this chapter for a specified period without being the subject of another ethics complaint arising from an alleged violation of this chapter by the public officer or employee which occurs during the specified period and for which the review panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

(2) Attend and complete training.

(3) Follow a remedial course of action.

(4) Issue a public apology.

(5) Comply with conditions or limitations on future conduct.

(b) Publicly admonish, reprimand or censure the public officer or employee.

(c) Take any combination of such actions or any other reasonable action that the Commission or the review panel, as appropriate, determines will remedy the violation or alleged violation or deter similar violations or conduct.

2. In carrying out the provisions of subsection 1, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may publicly:

(a) Admonish a public officer or employee if it is determined that the public officer or employee has violated any provision of this chapter, but the violation is not willful, or if such an admonishment is imposed as part of the terms and conditions of a deferral agreement. An admonishment is a written expression of disapproval of the conduct of the public officer or employee.

(b) Reprimand a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter, but there is no evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law, or if such a reprimand is imposed as part of the terms and conditions of a deferral agreement. A reprimand is a severe written reproof for the conduct of the public officer or employee.

(c) Censure a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter and there is evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law or there are no substantial mitigating factors pursuant to NRS 281A.775 for the willful violation, or if such a censure is imposed as part of the terms and conditions of a deferral agreement. A censure is a formal written condemnation of the conduct of the public officer or employee.

3. Any action taken by the Commission pursuant to this section is a final decision for the purposes of judicial review pursuant to NRS 233B.130. Any action taken by the review panel pursuant to this chapter, including, without limitation,

any action relating to a deferral agreement, is not a final decision for the purposes of judicial review pursuant to NRS 233B.130.

(Added to NRS by 2017, 2486)

NRS 281A.790 Additional types of remedies and penalties; duties of Commission upon finding willful violation; circumstances in which violation not deemed willful; effect of chapter upon criminal law; judicial review of certain actions of Commission; burden of proof.

1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.775, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, if any person prevents, interferes with or attempts to prevent or interfere with any investigation or proceedings pursuant to this chapter or the discovery of a violation of this chapter, the Commission may, upon its own motion or upon the motion of the current or former public officer or employee who is the subject of the investigation or proceedings:

(a) Impose on the person committing such an act a civil penalty not to exceed \$5,000; and

(b) If appropriate under the facts and circumstances, assess against the person committing such an act an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the current or former public officer or employee as a result of the act.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President Pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker Pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

□ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. Notwithstanding any other provision of this chapter, any act or failure to act by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of this chapter if the public officer or employee establishes by sufficient evidence that:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and

(b) The advice of the legal counsel was:

(1) Provided to the public officer or employee before the public officer or employee acted or failed to act; and

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee would not be contrary to the provisions of this chapter as interpreted by the Commission.

6. In addition to any other penalties provided by law, if a public employee commits a willful violation of this chapter or fails to complete a period of compliance imposed by the Commission pursuant to NRS 281A.785 or by the review panel as part of the terms and conditions of a deferral agreement, the public employee is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

(Added to NRS by 1977, 1108; A 1987, 2097; 1991, 1600; 1993, 2244; 1995, 2446; 1997, 258, 3330, 3333; 1999, 2564, 2743; 2001, 199; 2003, 3394; 2005, 1577, 2281; 2007, 639; 2009, 1064; 2013, 3782; 2015, 922; 2017, 2501) — (Substituted in revision for NRS 281A.480)

Other Ideas as Suggested by the Board of Trustees

As other ideas come up, Staff is open to researching them.

MEMORANDUM

TO: Board of Trustees

THROUGH: Chair Callicrate

FROM: Sara Schmitz

SUBJECT: Discuss, potentially revise, and approve revisions to the Trustee Handbook

DATE: September 24, 2020

I. RECOMMENDATION

The Board makes a motion to approve the revisions to the Trustee Handbook.

II. BACKGROUND

The Trustee Handbook was recently revised. However, at the time of the revision, the Board requested further updates to be made with updates to Policy 3.1. Since the Board is also reviewing the updates to Policy 3.1, the requested revisions to the Trustee Handbook have been made.

The bulk of the revisions to the Trustee Handbook is the removal of text describing activities related to the conduct of meetings. As requested by the Board, by having all of the language related to the conduct of meetings contained in Policy 3.1 and not in the Trustee Handbook, it eliminates redundancy as well as the future need to make revisions to two documents.

Other updates to the document include language recommendations from our legal counsel as well as further refinements to various roles on the Board of Trustees and clarifications in the area of District Operations.

III. BID RESULTS

Not Applicable

IV. FINANCIAL IMPACT AND BUDGET

No financial or budgetary impact.

V. ALTERNATIVES

Refine or amend the proposed revisions as deemed necessary by the Board.

VI. BUSINESS IMPACT

To clarify the role of a Trustee and related activities.

CURRENT VERSION



Board of Trustees Member Handbook



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Legal Basis for General Improvement District

Nevada Revised Statutes (NRS) 318 governs general improvement districts. Under this statute, there is a specific section, section 318.080, which defines the responsibilities of the Board of Trustees.

Board of Trustees

Role of the Board

Goals, priorities and courses of action are determined independently for each general improvement district in response to the particular needs and concerns of their district. The Board of Trustees meeting agenda is set by the District General Manager and Chair of the Board of Trustees. Each member of the Board of Trustees is always welcome to submit items for discussion and should make such requests through the Chair. The Chair will consider the request and, if deemed appropriate for the agenda of an upcoming meeting, provide the item to the General Manager for inclusion. The Board of Trustees has a specific policy on the conduct of their meetings; Policy 3.1.0. It should be read by each member of the Board of Trustees and kept as an easy and quick reference.

Issues that the Incline Village General Improvement District Board of Trustees deals with, on a regular basis, are as follows:

Contract Awards	Ordinance Adoption	Policy and Procedure Adoption
Reports	Budget Approval	Partnership Agreements
Resolution Adoption	Strategic Planning	Union Contract Approval

The meetings of the Board of Trustees should be viewed as an open forum and an opportunity for the public to query Incline Village General Improvement District Staff or the Board of Trustees about the issues facing their community. The Board of Trustees has incorporated a Meet and Greet session into their last meeting of the month which is held for thirty (30) minutes prior to the beginning of the meeting. Members of the public are encouraged to attend this informal session and chat with the various members of the Board and Staff regarding their concerns, ideas, or comments.

The Board of Trustees has the statutory authority and responsibility to make the final decisions on District matters. The Incline Village General Improvement District Staff has the responsibility to provide expert opinion and advice to the Board of Trustees to assist them in making decisions and also has the responsibility to implement and carry out the items passed by the Board of Trustees.

One very important role for the Board of Trustees is to provide a forum where citizens from the community can express their views, issues and concerns. It is these views, issues and concerns that give invaluable information to the Incline Village General Improvement District. As such, the Board of Trustees should focus its effort on providing the best atmosphere in its meetings to draw this needed information from local citizens. Additionally, the Board of Trustees should ensure that the information discussed during the meetings is accurate and given to the appropriate Incline Village General Improvement District staff member in a timely manner.



Powers of the Board

The powers of the Board of Trustees are listed in NRS 318.

Organization of the Board

The Board of Trustees is decided by the constituents in the voting districts of Incline Village and Crystal Bay. Elections of each Trustee are to a four-year term with elections occurring in even calendar years. The Board of Trustees, at either its last meeting in the current calendar year or the first meeting in the new calendar year, determines a Chair, Vice Chair, Treasurer, and Secretary for the calendar year. These positions are held for one calendar year. Should a vacancy occur, the Board of Trustees shall follow NRS 318.090, paragraph 5, to fill the vacancy. The most current roster for the current Board of Trustees is located on the District's website ivgid.org.

The following summarized roles reflect both the socially expected behavior and the function of the Board of Trustees members. All members of the Board of Trustees are expected to follow the roles of the Board of Trustees members (Role of All Trustees shown below) in addition to the special roles as designated by their elected position.

Role of All Trustees

- Identify issues and concerns in the community through the Board meetings.
- Review minutes, financial reports, memos and other documentation regarding the issues on which the Board is researching.
- Study and give counsel on the identified public issues.
- Represent the views of the constituents by communicating the range of options regarding the issues of concern.
- Regularly attend meetings and notify Board Chair, Board members and District Staff, well in advance, of forecasted absences from Board meetings whenever possible.
- Maintain good communications with the District General Manager and Staff.
- Prepare and file the required annual financial disclosure report.
- Respectfully execute the duties as a Trustee using ordinary diligence and not taking unfair advantage of the position as a Trustee.
- Respectfully recognize that along with the tremendous responsibility, goes a lot of power.

Detailed Role of the Chair

- Serve as spokesperson for the Board of Trustees and District.
- Facilitate meetings to be productive by engaging Trustees to openly discuss issues, share in equal participation, and ensure all Trustees have a chance to express their thoughts and opinions on an issue.
- Foster a public forum that allows for a diversity of opinions to be expressed.
- Execute District commitments as deemed necessary.
- Respectfully execute the duties as Board of Trustees Chair by not taking unfair advantage of the position as Chair.



Detailed Role of the Vice Chair

- During the absence of the Chair, serve as spokesperson for the Board of Trustees and District.
- During the absence of the Chair, facilitate meetings as described above.
- Assist the Chair in facilitation of the meetings on an as needed basis.
- Respectfully execute the duties as Board of Trustees Vice Chair by not taking unfair advantage of the position as Vice Chair.

Detailed Role of the Secretary

- Execute District commitments as deemed necessary.
- Respectfully execute the duties as Board of Trustees Secretary by not taking unfair advantage of the position as Secretary.

Detailed Role of the Treasurer

- Working with the Director of Finance to review and support the financial responsibilities of the District.
- Participate and support the District's Finance and Accounting team with respect to various committees, i.e. Audit Committee.
- Respectfully execute the duties as Board of Trustees Treasurer by not taking unfair advantage of the position as Treasurer.

Appointments to Other Organizations

Nevada League of Cities

Currently, the Board of Trustees has one appointed member to the Nevada League of Cities; please visit their website for more information on this organization.

Washoe County Debt Management Commission

Currently, there is one elected General Improvement District representative to the Washoe County Debt Management Commission; please visit their website for more information on this organization.

Other Committees or Commissions

As deemed necessary and appropriate, the Board of Trustees may from time to time make appointments and/or ask a member of the Board of Trustees to serve on requested committees and commissions.

Responsibilities of Trustees

The Board of Trustees has the statutory authority and responsibility to make the final decisions on District matters. The Incline Village General Improvement District Staff has the responsibility to provide expert opinion and advice to the Board of Trustees to assist them in making decisions and has the responsibility to implement and carry out the items passed by the Board of Trustees.



One very important role for the Board of Trustees is to provide a forum where citizens from the community can express their views, issues and concerns. It is these views, issues and concerns that give invaluable information to the Incline Village General Improvement District. As such, the Board of Trustees should focus its effort on providing the best atmosphere in its meetings to draw this needed information from local citizens. Additionally, the Board of Trustees should ensure that the information discussed during the meetings is accurate and given to the appropriate Incline Village General Improvement District staff member in a timely manner.

Compensation

In accordance with NRS 318.085, subparagraph 5, each Trustee shall receive compensation, if the budget is adequate and a majority of the members of the Board of Trustees vote in favor of such compensation. This compensation is paid on the same schedule as District staff which is every other week of each calendar month. The compensation for the Trustees is limited by Nevada Revised Statute. On April 12, 2006, the Board of Trustees voted unanimously to increase the yearly compensation to \$9,000 per year effective January 1, 2007 as provided by NRS 318 and adopted by the State of Nevada Legislature in its 2005 session.

Benefits

Each Trustee will be issued, by the District's Recreation Center staff, a Recreation Photo Identification Card identifying the Trustee as a Category 1 employee. This benefit is for the Trustee only and not applicable to your spouse or dependents. Following is a list of the various discounts, available to the Trustees, for our venues:

- Board of Trustees will have their own category. They will no longer part of Category 1 Recreational Privileges.
- Will be able to visit each venue one time per week without charge.
- No employee discount dependent privileges.
- Food and beverage discount same as resident – 10% discount.
- Merchandise discount same as resident – 20% discount.
- Trustees can expense a business lunch following the District expense procedures when conducting District business.

Liability

With respect to the potential liability of individual Trustees, Incline Village General Improvement District treats each Trustee just as it would one of its employees. As long as Trustee activities fall within the course and scope of the duties as a Trustee, Incline Village General Improvement District will defend and indemnify pursuant to requirements of Section 41 of the Nevada Revised Statutes. On June 13, 1968, the Board of Trustees adopted Policy and Procedure Number 098, Resolution Number 495, which supports this position.

- ◆ Incline Village General Improvement District considers Trustees' actions within the course and scope of the public duty assumed as a Trustee to be equivalent of that of an employee. If a civil action is brought against you alleging an act or omission related to such service, it is the position of Incline Village General Improvement District, pursuant to NRS Section 41.0339, you may request a defense and Incline Village General Improvement District shall provide a defense and, if appropriate, indemnification.
- ◆ NRS Section 41.0339 requires that you, within 15 days after service of a summons and complaint, request in writing a defense by the official attorney. For Incline Village



General Improvement District, the official attorney is the District General Counsel. The District General Counsel contact information is available from the District Clerk or the General Manager.

- ◆ If per chance you are injured while within the course and scope of the public duty you have assumed, you will be treated as an employee and covered by the Incline Village General Improvement District workers' compensation system. In order to access the workers' compensation system, you would need to contact the Incline Village General Improvement District Risk Manager, advise of the injury, and follow the procedures adopted by the Incline Village General Improvement District for its employees. You can obtain a copy of those procedures from the Incline Village General Improvement District Risk Manager.
- ◆ If you are involved in an accident or an incident, while within the course and scope of your duties as a Trustee, which results in property damage or injury to any person, you must contact the Incline Village General Improvement District Risk Manager within three working days.

Tools Provided

The Incline Village General Improvement District issues to each Trustee, for their use in doing District business (which excludes personal use), business cards.

Budget and Finance

The Incline Village General Improvement District Board of Trustees is a cost center and has a separate budget for its expenses. The Board Chair is responsible for the administration of this budget supported by the District Clerk and other members of the District team.

Travel on District Business and other purchases

When a Trustee wishes to make a purchase, go to a conference, or expend funds in any manner which will require reimbursement, the Trustee must have the expenditure approved, prior to it being made, by the Board Chair. If the Board Chair is unavailable, then the Board Vice Chair shall assume the responsibility. The Trustee making the expenditure shall be bound by the District policy and procedures and will be required to complete all the necessary form(s) for reimbursement. The District Clerk is available to the Board of Trustees at all times to assist them in this process, therefore the necessary forms are not included in this handbook. Following is a short list of items for which the Trustee might request reimbursement:

- ◆ Travel to conferences, seminars
- ◆ Reimbursement for business dinners
- ◆ Wireless Internet connection equipment within their residences
- ◆ Operating supplies
- ◆ Employee recognition
- ◆ Personal car mileage when on District business

Upon completion of travel, the Trustee will be expected to complete an expense report that will be submitted to the Board of Trustees Treasurer for review and approval. Following this review and approval, the Board of Trustees Treasurer will give the expense report to the District Clerk who will submit it to the District's Accounting Department for reimbursement processing. The Trustee submitting the expense report will be promptly notified when his/her reimbursement is



ready for their pickup. Should the Board Treasurer be the one making the trip, then the Board Chair will authorize the travel request and subsequent expense report.

Relationship to General Manager

The General Manager is the primary contact for policy and procedure and is the only direct employee, by contract (available upon request to the District Clerk), of the Board of Trustees.

Relationship to District Staff

All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss areas in the sphere of influence.

The General Manager is the Board's representative to Staff. When a Trustee has a question on a matter coming before them, the Trustee may communicate directly with the Staff member who is presenting the matter to the Board to get clarification. The Board of Trustees is not permitted to micromanage Staff and Staff issues that arise must be directed to the General Manager.

Staff Support

The Incline Village General Improvement District provides the primary administrative assistance to the Board of Trustees. An individual is designated as the District Clerk and is available to any member of the Board of Trustees to assist them with travel arrangements, find documents, do research, etc. All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss areas in the sphere of influence. The General Manager is the primary contact for policy and procedure and is the only direct employee, by contract of the Board of Trustees. Job descriptions for both the General Manager and the District Clerk are available upon request.

Field Trips Outside of the District Venues and Group Participation

Field trips outside of the District venues for the entire Board of Trustees need to be well organized and adequately posted so as to comply with the Nevada Open Meeting Law requirements. Field trips can be at the suggestion of the Board of Trustees, members of the Staff and/or members of the public. The District Staff will take on the responsibility for organizing the field, and when applicable and deemed reasonable, providing transportation to and from the field trip site. District Staff may or may not accompany Board of Trustees on the field trip.

Meeting Requirements

Nevada Open Meeting Law

State law requires that meetings of public bodies must be open and public. Boards of Trustees fall within the definition of public bodies. The Nevada Open Meeting Law Manual is available online and via request of the District Clerk.

Posting of Agendas and/or Notices

The written agenda of a Board of Trustees meeting must be posted at the place of the meeting and at a minimum of three other separate, prominent (i.e. open to public view) places within the jurisdiction of the Board of Trustees. The agenda must be posted no later than 9:00 a.m. three



working days before the meeting. For example, if the Board of Trustees meets on a Wednesday, the agenda must be posted no later than 9:00 a.m. on the Friday preceding the meeting. Saturdays, Sundays and holidays may not be counted in calculating three working days. The District Clerk takes care of this agenda posting and all locations, where the agenda are posted, are listed on the bottom of each agenda. On notices, the locations may or may not be noted however it is assumed they will be posted in the same locations as an agenda.

Certification of Posting

The Incline Village General Improvement District Staff will certify that the Board of Trustees agendas were correctly posted according to the Nevada Open Meeting Law prior to the Board of Trustees meeting. This certification is included on each agenda and/or notice.

Meeting Minutes

The Nevada Open Meeting Law also requires that a public body keep written minutes of meetings. These minutes must include:

- The date, time and place of the meeting.
- Those members who are in attendance and those who are absent.
- The substance of all matters proposed, discussed or decided. In addition, at the request of any member, the minutes must reflect each member's issues and concerns on any matter. If a vote is taken, the minutes must reflect each member's vote on any matter.
- The substance of remarks made by members of the general public who address the body if so requested by that person.
- Any other information which any member of the body requests be included in the minutes.

Citizens may request to receive copies of the Board of Trustees minutes (and agendas) through the District Clerk. Such a request should be made in writing (or through e-mail) to the District Clerk. Citizens can request to receive mailing of Board of Trustees agenda packets by e-mail and/or U.S. Postal Service and the agendas by e-mail and/or U.S. Postal Service. Distribution of these items to those requesting and the Board of Trustees is in accordance with the Open Meeting Law.

The law provides that the minutes are public records and have permanent value. The minutes must be retained by the public body for five years, and then may be transferred for archival preservation. The Incline Village General Improvement District is the public body designated to retain these records. ***The minutes must be available for public inspection within 30 working days after adjournment of the meeting.*** Meetings may be recorded on audio/video tapes in addition to the written minutes. If so, the entire meeting must be recorded. The recording of the meeting must also be made available for the public inspection. The audio tape must also be retained by the public body for two years.



Meeting Protocol

Attendance

A majority for the IVGID Board of Trustees is three (3) members out of the five (5) member Board. When an item is brought before the Board, and there are three (3) members present, the item must be unanimously approved by the three (3) members present otherwise the item fails. It is each Board member's responsibility to notify the District Clerk and/or General Manager of his/her absence, from a Board meeting, in a sufficient amount of time (one month's notice is preferred) to allow for the proper planning of agenda items.

Schedule

The Board of Trustees meeting schedule is set via policy. Currently, the Board of Trustees meets on the second and last Wednesday of each month however that schedule may change from time to time. Typically, the meetings for the months of November and December are reduced to one meeting per month so as to allow the Board of Trustees and District staff to spend time with their families over the holidays.

The meetings take place at the Chateau located at 955 Fairview Boulevard in Incline Village. This building can be set up to accommodate approximately 250 members of the public and has built in audio recording equipment to facilitate our compliance with NRS statutes for audio recordings. The District also uses Livestream to broadcast its meetings however it is a complimentary item versus an NRS/Open Meeting Law requirement.

Agendizing and Removal from Agenda

Board members may request, to the Board Chair, that an item be added to the agenda. If the requested item is not to be included, an explanation should be provided to the Trustee and some type of accommodation is made. This request must be made in sufficient time to allow the item to be properly described on the agenda. All backup materials required to allow sufficient discussion of the Board item must be provided to the District Clerk in sufficient time to allow it to be included in the Board packet for both the Board's review and the general public. As an example, when the Board meeting is on the last Wednesday of the month, that meeting agenda will be posted on the Friday prior to the meeting. The District Staff and Board of Trustees reviews, as an agendized item, the Long Range Calendar which includes all the dates of when materials are required.

A Board member, at the time of the approval of the agenda during the Board meeting, may request that an item be moved from the Consent Calendar to General Business to allow for more detailed discussion, may ask that an item located on the agenda be deferred to a later time, and may ask that the position of an agenda item(s) be relocated. It is suggested that Board Members discuss their wishes prior to the Board meeting with the Board Chair so that the Board Chair is not surprised by their requests and understands the reasons behind such requests.

District Staff, at the time of the approval of the agenda during the Board meeting, is represented by the District's General Manager and as such the District General Manager will make the request to move, delay or defer any agenda items. Generally speaking, the District General Manager will only take such action when new information has been received at the last moment or the situation has changed such that the recommendation needs to be reconsidered.



Staff Role at Meetings

Senior Staff and Directors typically attend all Board of Trustees public meetings. Their presence is in support of the Board of Trustees, their agenda items and to respond to questions directed to them, at the discretion of the Board of Trustees, by the general public. These employees are exempt employees and thus no overtime costs are incurred for these individuals to be present at these meetings.

Agenda Notebooks

It is District Staff's responsibility to provide the Board of Trustees with a detailed packet for information supporting those items on the agenda. Each Trustee will be provided, typically no later than the Friday preceding the Wednesday meeting, a notebook of information supporting each agenda item as applicable. This information may also be supplied, upon request by individual Trustee, electronically i.e. in PDF format. On that same Friday, the requesting members of the public shall be mailed their packet. This process can be delayed to the Monday preceding the Wednesday meeting in event of an emergency (i.e. weather, machine failure, etc.). It is each Trustee's responsibility to ensure that they have read the materials prepared for them so that they come to each meeting prepared to discuss the items on the agenda. If they have any question or concern about the materials provided on an agenda item, they are encouraged to ask questions of the District Staff, starting with the General Manager, **prior** to the meeting. The thorough understanding of each matter on the agenda allows the Board of Trustees meeting to proceed in a timely and orderly manner.

Typically, the agenda will include various reports made by Staff or a Trustee which are relevant to those members in attendance and/or the general public, Consent Calendar items which are items that the District Staff deems as being typical, routine and non-controversial, and General Business items which are items that the Staff would like to have dialogue with the Board of Trustees or get feedback from a multitude of sources. Occasionally, a public hearing is incorporated into an agenda for the purpose of providing a time certain period of public comment on a particular topic or topics. When a public hearing is held, there are additional requirements which District Staff will fulfill.

The Board of Trustees meeting agenda is provided to the local newspaper at its request. Typically before each meeting, the District's Communication Coordinator issues a brief overview of the meeting via press release or other format.

Techniques and Tips

Agenda Tips

- The agenda should be concise, but inclusive enough to clearly identify the agenda items and allow discussion of that item.
- Posting of the agendas should be in substantial compliance with the Open Meeting Law.
- Mailing of the agendas should also be in substantial compliance with the Open Meeting Law. If the agendas are mailed within the required time frame, the intent of the law has been met. Incline Village General Improvement District is not responsible for mail delivery.
- Notes on contents of the agenda:



- *Correspondence.* Correspondence is included in the Board packet if it is received in time for its inclusion. Correspondence received after production of the Board packet is verbally noted as received and then included in the following Board packet.
- *Public Comments.* The Board of Trustees has adopted an advisory statement which is included on each agenda.

Minutes Tips

- The minutes should reflect what happened at the meeting.
- The minutes belong to the Board of Trustees and are not open to comment from the audience under the section of the agenda to approve the minutes. Comments to the minutes can be made under "Public Comments".
- The minutes should be approved in total, not as a portion. If a portion of the minutes are questioned, the entire set of minutes should not be approved until the questionable section is clarified.
- Corrections to the minutes of the past meeting are made at the current meeting; the corrections will be reflected in the current meeting's set of minutes and approved at the following meeting.
- The official (approved) minutes are on file in the Incline Village General Improvement District office and are available for public review.
- Correspondence received can be noted in the minutes, but need not be included in the contents of the minutes.
- Information commenting on an item on the agenda of a past meeting *cannot* be submitted for inclusion in the minutes after the minutes of that meeting have been approved.

Meeting Tips

Since the official business of the Board of Trustees can be conducted only at a meeting, it is important to make sure that the Board of Trustees meeting is structured to encourage public participation. If the Board of Trustees meeting is long, complicated and focused only on Board of Trustees members, then the meetings will eventually lose public participation. The following are some guidelines to follow to help ensure smooth meetings:

- Start on time.
- End at a reasonable hour.
- Follow the agenda (It is a violation of the Open Meeting Law to discuss items not appearing on the agenda.)
- Encourage the public to participate.
- Wait for recognition from the Chair before speaking.
- Ensure no one person dominates the discussion.
- Actively listen.
- Do your homework (prepare) before the meeting.
- Don't hold unnecessary meetings.
- Do not take or make matters or comments on a personal level.

Ways to Stimulate Community Participation

- Send random letters inviting community members to meetings.
- Hold regular meetings.
- Make agendas easily available.
- Invite residents to get together before community issues are considered.



- Send thank you notes to people who provide input and suggestions.
- Request community groups to designate a representative to attend meetings.
- Make meetings comfortable rather than intimidating (i.e. less formal).
- Make meetings interesting and don't drift or bog down (i.e. keep meetings short and to the point).

Meeting Room Environment

In addition to these guidelines, the meeting room environment is also crucial to a smooth meeting. Here are some items to check:

1. Room size is adequate for anticipated crowd.
2. Temperature set at comfortable level.
3. Enough seats and agendas available.
4. Adequate lighting and sound system.

Advocacy Roles

Incline Village General Improvement District Board of Trustees meetings should provide a forum that encourages candid and frank sharing of citizen concerns and issues. It is especially important that Board of Trustees meetings be conducted to allow a "neutral playing field" so all present feel comfortable sharing all sides of any issue. Board of Trustees members, in conducting a meeting, must be careful to avoid giving any perception that the meeting or sharing will be slanted or limited to the detriment of full and open sharing.

Any Trustee who is personally or financially affected by a particular issue or project being discussed should:

1. Disclose, as part of the record, his/her involvement with the issue or project and, if applicable, any financial relationship or involvement relating to or resulting from the project or issue to determine participation or withdrawal; or
2. If chairing the meeting, temporarily release Chair to the Vice Chair.
3. If it is determined that there is no conflict, since participation of an elected official is favored, then the member shall participate in all matters of the issue.
4. Should a Board of Trustee member wish more information, the District General Counsel can make available relevant conflict material(s).

A Board of Trustees member may also choose, under the above circumstances, to recuse him/herself from the Board and participate from the audience as a private citizen on the particular project or issue.

No Trustee may represent the Board of Trustees in other proceedings, orally or in writing, as advocating a particular position unless the specific topic under consideration was discussed and/or voted upon by the Board of Trustees. In making any representation, the Trustees must be careful to report on the issues and concerns - both pro and con - as presented to the Board of Trustees, in addition to any vote result.

Representation and Communication

Two equally important responsibilities of a Trustee are representation and communication.



As a Trustee, you can make unique and special contributions through the Board of Trustees participation because often times your personal well-being is deeply intertwined with that of your community. It is up to you to understand and fairly represent the views of your Incline Village and Crystal Bay constituents. You should be active in the community, have good rapport with and support from your constituents, and "keep your ear to the ground". You should be aware of the total range of viewpoints and use good judgment in providing issues and areas of concern to Incline Village General Improvement District. This is a big responsibility and can take considerable time and effort.

An equally important responsibility is developing and maintaining good communication with the Incline Village General Improvement District General Manager and Staff - particularly with the General Manager. With good communication, you will play an important part in making the District responsive to the needs of Incline Village and Crystal Bay.

Issue Management

Issue management is a tool to help you identify issues of concern that affect you and your constituents. Once you have identified these issues, then you can let the appropriate people know about the issues in a timely fashion. This ensures that you and your constituent's concerns become part of the policy-making process of the District. Developing issue management skills is an important aspect of the Board of Trustees membership. It allows you to use informally gathered information to better advise and relay concerns to the District Staff. This information allows for the Trustees to anticipate issues before they become disruptive and to become part of the process to resolve those issues. Protection of community interests, increased productivity, fewer delays and reduced costs are all benefits of early issue detection and resolution by the Trustees.

Five steps to help you manage and resolve issues are:

1. **Identify issues:**
Talk with your constituents about their problems or needs. Use your knowledge of the community to understand how this problem or need affects the community. Share this information with the Board membership so that later all of you will be able to gauge if proposed solutions will solve the problem or satisfy the need.
2. **Communicate:**
Find other people affected by this problem or need in order to hear their views. Seek out the places where people in the community meet to share ideas or to pursue common interests (e.g. the local market, the day care center, the Recreation Center, etc.) Make sure you have a good understanding of the problem or need.
3. **Separate themes and ground issues:**
Try to find the real issue(s) behind the problem or need. In issue management, this is known as separating issues from themes. Frequently, people complain about a problem (e.g. government is not listening to me) which hides their real need or issue (e.g. why has my road not been graded in two years?). Once you have identified the real issue, check with other people who share this problem/need to make sure you have put your thumb on the real issue (this is known as grounding the issue).



4. Develop options:
Work with the appropriate people from the community and District staff to develop different ways to resolve the issue(s). After you develop these options, make sure you once again check with the people who have the problem/need to ensure that the proposed solution will indeed satisfy their problem/need.
5. Implement and evaluate:
Work with your community and District Staff to implement the preferred option. Make sure you and the community is part of the process to resolve the issue. Afterwards, take the time to identify things that went well and those that need work to better prepare yourself for the next time.

Issues that are non-operational in nature that could affect the District will be given to the Chair who will address and disseminate to all members of the Board of Trustees and the District General Counsel. An example would be a complaint against a Trustee or a complaint regarding a District policy. If the issue involves the Chair, the Vice Chair and the District General Counsel will be informed.

District Operations

Management Overview

The Incline Village General Improvement District is managed by the General Manager who is hired and is the only contract employee of the Board of Trustees. The employment contract of the General Manager is available upon request to the District Clerk. Each year, the General Manager is given a performance evaluation by the Board of Trustees. Effective October, 2005, this performance evaluation is conducted in open, public session.

The General Manager is responsible for the District staff which consists of approximately 110 full time year round employees and 300 seasonal and part-time employees depending upon the season. There are Directors (Director of Public Works, Director of Human Resources, Director of Finance, Director of Community Services, and Parks and Recreation Director), Communications Coordinator, and one District Clerk which are direct reports to the General Manager. The General Manager is also responsible for the District General Counsel which is a contract position and does not reside in the District offices.

The following identifies the authorities delegated to the General Manager through various District documents:

1. Strategic Planning, **Policy 1.1.0**, 0.1 Initiate the Strategic Planning Process
2. Conduct Meetings of the Board of Trustees, **Policy 3.1.0**, 0.6 Rules of Proceedings, f. Contracts, g. Claims; 0.8 Agenda Preparation, 0.9 Reconsideration, 0.12 Authorization to Sign Checks, 0.13 Facsimile Signatures, 0.15 Consent Calendar and 0.17 Legislative Matters
3. **Policy Resolution No. 103** (Resolution 1475) Establishing a Policy for the Granting of Easement Across District Property
4. **Policy Resolution No. 105** (Resolution 1480) Adopting a Personnel Management Policy
5. **Policy Resolution No. 110** (Resolution 1493) Policy Statement on Community Relations Expenditures



6. **Policy Resolution No. 111** (Resolution 1494) Policy Statement on Collection of Delinquent Special Assessments
7. **Policy Resolution No. 113** (Resolution 1517) Use of Trademark by Private Businesses and Persons
8. **Policy Resolution No. 115** (Resolution 1527) Use of IVGID Boardroom
9. **Policy Resolution No. 116** (Resolution 1538) Establishing Penalty and Interest Charges on Delinquent Accounts and Collection Thereof
10. **Policy Resolution No. 120** (Resolution 1575) Group Use of Beaches
11. **Policy Resolution No. 121** (Resolution 1581) Adopting Policy and Procedure For the Settlement of Lawsuits and Related Claims
12. **Policy Resolution No. 127** (Resolution No. 1619) Complimentary Recreation Privileges
13. **Policy Resolution No. 129** (Resolution No. 1632) Relinquishment and Acquisition of Utility Easements and Encroachment Agreements
14. **Policy Resolution No. 132** (Resolution No. 1701) Fundraising/Donation Activities at IVGD Facilities
15. **Policy Resolution No. 134** (Resolution No. (not issued) Policy Governing Service of Alcoholic Beverages at IVGID Facilities
16. **Policy Resolution No. 135** (Resolution No. 1760) Temporary Dog Park at Village Green
17. **Policy Resolution No. 136** (Resolution No. (not required) Policy concerning access to District Property and the Use of District Facilities for Expression
18. **Policy Resolution No. 137** (Resolution No. 1801) Policy for the Provision of Records to the Public
19. **Policy Resolution No. 138** (Resolution No. 1849) Naming/Dedication of IVGID Facilities and Acknowledging Important Local Persons, Events or History
20. **Ordinances:**
 - a. 1 – Solid Waste
 - b. 2 – Sewer
 - c. 3 – Water
 - d. 7 – Recreation Pass
21. **Golf Complimentary Privilege Policy**

Facility/Venue Overview

The Incline Village General Improvement District owns and operates several recreational and event venues within the community. They are the Recreation Center, Incline Beach, Ski Beach, Burnt Cedar Beach, Hermit Beach, Diamond Peak Ski Resort, Mountain Golf Course, Championship Golf Course, Aspen Grove, Treatment Plant, Chateau, Skateboard Park, and various pump stations.

Included within the Nevada Revised Statutes are two chapters which are relevant to two of our venues - Chapter 455A: Skier Safety and Chapter 455B: Recreational Parks.

The main office of Incline Village General Improvement District is located at 893 Southwood Boulevard. The General Manager, Director of Human Resources, Director of Finance, Director of Community Services, and the District Clerk all have their offices in this building.

The Board of Trustees has an individual mail receptacle located within the main office where District Staff places materials for each Trustee.



Vision Statement

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

Mission Statement

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

Value Statement

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

District Mantra

One District • One Team

Ordinances

The Incline Village General Improvement District has four ordinances that govern the community. They are:

Ordinance 1: An ordinance regulating solid waste and the collection of garbage, rubbish, waste matter and refuse, and the collection, removal and disposal thereof

Ordinance 2: An ordinance establishing rates, rules and regulations for sewer service

Ordinance 4: An ordinance establishing rates, rules and regulations for water service

Ordinance 7: An ordinance establishing rates, rules and regulations for recreation passes and recreation punch cards

The Public Works Department also enforces landscaping requirements, which are a subset to Ordinance 4, Article 18.

The Tahoe Regional Planning Agency (TRPA) governs the noise within our community. Chapter 23 of their regulations is what the Incline Village General Improvement District follows with respect to noise. When our community members have a concern, regarding noise, the District staff references this regulation and suggest that the community member telephone the Washoe County Sheriff for assistance.

Policies and Practices

During Fiscal Year 2007/2008, the Board of Trustees adopted a strategy, in parallel with the Government Finance Officers Association, of having policy statements and accompanying practices. Each policy statement is presented to the Board of Trustees for the adoption. The District's website has these items included on it.



Resolutions

The District Clerk of the Incline Village General Improvement District maintains the Resolution Log for the District. Currently, the District has a list of over 1,800 resolutions. Resolutions are issued for a myriad of reasons; adoption of a seal (Resolution 2), addition of powers (Resolution 185), dedication of the Administration Building (Resolution 1740), Approval of the Recreation Standby and Service Charges (Resolution 1741) as examples.

As time progresses, technology advances take place, and, in general, operating situations change, the District Staff amends resolutions to fit these changes. These amendments and new resolutions come before the Board of Trustees for ratification and support.

Strategic Management Plan

The Incline Village General Improvement District has a Strategic Plan. It is a living document that is revised and refined with changing conditions, acquisitions, industry practices, etc. It is under the direction of the General Manager that this plan is followed. A copy of the Strategic Plan for the Incline Village General Improvement District is on its website.

Websites

The Incline Village General Improvement District has a host of interconnected websites (golfincline.com; diamondpeak.com; insideivgid.org; ivgid.org; etc.) for its different venues and departments. The home website, for the District, is yourtahoeplace.com. At this website, the Trustees and community will find a multitude of useful information including contact information, District calendar and various links. Each Trustee has a photograph and contact information located at this website. This allows the community to have 24-hour access to the Trustees, via e-mail, and for our new residents and visitors. Trustees are required to annually file a financial disclosure statement which is available at the Nevada Secretary of State website.

Document Retention

The District maintains a multitude of documents in retention in accordance with its approved, by the State of Nevada, document retention schedule. One of the primary locations, accessed by the District Clerk and other selected key District Staff, is IVGID Archives. At this network server location, the Board of Trustees agendas, minutes and agenda packets are scanned and kept. The audio tapes of the Board of Trustees meetings and other public meetings are kept by the District Clerk in a secured cabinet at the Administrative offices. The tapes are destroyed in accordance with the document retention schedule. Another location, administered by members of the Finance, Accounting and Information Technology team, is the parcel master files.

Intranet

The Incline Village General Improvement District, in July of 2005, launched an intranet which is an internal website for District employees only. This website can be accessed, using internal District computers by using the web address of www.insideivgid.com. This intranet is an intuitive tool where District Staff can access forms, calendars, telephone directories, etc. Its expansion is dependent upon the need of information for the District Staff and it is administered by the Information Technology team.



Recreation and Beach Fees

The recreation and beach fees are used to support the various recreational venues available to the property owners and residents of Incline Village/Crystal Bay community which is annually charged and billed on the Washoe County property tax bills. Billing the recreation and beach fees, on the Washoe County property tax bill, is a cost effective method to keep the cost of administrating the recreation and beach fees down. Each fiscal year, a Recreation and Beach Fee table is prepared. There are approximately 8,222 billable parcels/units within Incline Village and Crystal Bay.

Purchasing

Nevada Revised Statutes Chapters 332 and 338 discusses, in detail, the requirements for local government purchasing.

Budgets – Operating

Each year, Staff prepares a detailed calendar outlining all operating and capital tasks and important milestones to be met by Staff and the Board during the budget process. The budget process can begin as early as November and it is statutorily required to conclude by the end of May. The Board of Trustees takes an active role in the budget process and is asked to attend several Board budget workshops to ensure the Board of Trustees understands all aspects of the budget process. These budget workshops are typically held on the first Thursday meeting and additional workshops are scheduled, as needed, by the Board and Staff. This occurs during the last meeting of the month when the Board of Trustees and Staff review the Long Range Calendar. While it is rare, occasionally Saturday meetings are convened. All meetings are all held in accordance with the Open Meeting Law and the public is invited to attend. In May, the Board of Trustees must hold public hearings for the (1) operating and capital budget and (2) proposed recreation and beach fee. Later on, in the same meeting, the Board adopts the applicable fiscal year operating and capital budget as well as adopting the recreation and beach fees.

Budgets – Capital Improvement

The Incline Village General Improvement District Capital Improvement Plan (CIP) is an important planning tool that is used to link the District's physical development planning with fiscal planning. The CIP lists the projects needed to preserve the significant investment the District already has in infrastructure, as well as improvements needed to spur community economic growth and development.

The CIP document is a policy guide and is not intended to replace future District budget decisions. The District has in place a CIP Review Team which reviews the recommendations and requests for CIP Projects made by department/division staff.

There are two general categories for CIP projects:

1. small improvement projects and major maintenance needs which compete for revenue in the annual budget cycle; and
2. major projects requiring the expenditure of public funds (above annual operating expenses) for the purchase, construction or replacement of physical infrastructure in our community.



A CIP project can include the following:

- **Land:** land, easements and rights-of-way
- **Structures:** feasibility studies, construction costs, architectural, engineering, legal and related expenses; major renovation or additions
- **Equipment:** equipment to serve a new facility or replaces existing equipment in facilities (e.g. furniture, fleet vehicles, library books or computer systems)
- **Other Expenditures:** cost-sharing arrangements between the District and outside parties; purchase of water rights, etc.

The Trustees are involved in the CIP process as they review the data sheets submitted as part of the budget process.

Holiday Schedule

The District Staff enjoys eleven holidays each year - New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day, Family Day (the day after Thanksgiving) and Christmas Day.

Employee Meetings

All Employee meetings are held twice each year – typically December and August. These meetings celebrate the achievements of the District employees.

Safety Week

Safety Week is generally held the third week of October and is comprised of each employee conducting area safety checklists, watching videos and participating in other related events. This program is lead by the District Safety Officer who is supported by the Safety Committee members.

Venue Seasonal Operating Dates

Diamond Peak Ski Resort opening is weather dependent but generally opens early in December.

The Championship and Mountain Golf Courses openings are also weather dependent but generally they open late May with the Mountain Golf Course opening one week after the opening of the Championship Golf Course.

The Tennis Center opens early May and closes mid-October.

The Recreation Center is open year round.

Policies and Procedures

The Incline Village General Improvement District has policy and procedures in effect. Policies and procedures are those items which have a District wide effect on general business practices. These are located on the District website under "Resources".

REDLINE VERSION



Board of Trustees Member Handbook



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Legal Basis for General Improvement District

Nevada Revised Statutes (NRS) [Chapter 318](#) governs ~~general~~ [General Improvement Districts](#). Under this statute, there are specific sections, [section 318.080](#), et seq., which defines the responsibilities of the Board of Trustees.

Board of Trustees

Role of the Board

The Board of Trustees is responsible, in accordance with NRS, [other applicable law](#), District Policies, Practices, Ordinances, and Resolutions to provide oversight over the District's financial reports and the systems of internal controls. Additionally, it works with District management to set goals, priorities and courses of action in response to the particular needs and concerns of the district. The Board of Trustees meeting agenda is set by [the](#) Chair of the Board of Trustees ~~according to Policy 3.1. Each member of the Board of Trustees is always welcome to submit items for discussion and should make such requests through the Chair, in cooperation with the General Manager. The Chair will place on the Agenda any item requested by a fellow Trustee. The Board of Trustees has a specific policy on the conduct of their meetings; Policy 3.1.0.8. This policy handbook~~ should be read by each member of the Board of Trustees and kept as an easy and quick reference. ~~In the event of any inconsistency between this handbook, NRS, and IVGID policies, NRS and then IVGID policies shall control.~~

Issues that the Incline Village General Improvement District Board of Trustees deals with, on a regular basis, are as follows:

Contract Awards	Ordinance Adoption	Policy and Procedure Adoption
Reports	Budget Approval	Partnership Agreements
Resolution Adoption	Strategic Planning	Union Contract Approval
Financial Reporting	Internal Controls	

The purpose of Board of Trustees meetings is to conduct its business in a public forum in accordance with [the Nevada Open Meeting Law \(NRS Ch. 241\)](#). The public comment portion of the meetings provide an opportunity for the public to give input to the Board of Trustees about agenda items as well as any other issues facing their community. The Board of Trustees conducts periodic community forums allowing open communication and interaction with community members. Members of the public are encouraged to attend these informal sessions to chat with the various members of the Board and Staff regarding their concerns, ideas, or comments.

One very important role for the Board of Trustees is to provide a forum where citizens from the community can express their views, issues and concerns. It is these views, issues and concerns which give invaluable information to the Incline Village General Improvement District. The Board of Trustees should focus its effort on providing the best atmosphere in its meetings to draw this needed information from local citizens.

The Board of Trustees has the statutory authority and responsibility to make the final decisions on District matters. The Incline Village General Improvement District Staff has the responsibility to provide opinion and advice to the Board of Trustees to assist them in making decisions and also the responsibility to implement the items passed by the Board of Trustees.

Onboarding A New Trustee



Below is an outline of the tasks to be completed once your term begins:

1. Obtain and review the following informational packets provided by the District:
 - a. Interpreting Local Government Financial Statements
 - b. Internal Control by Stephen Gauthier
 - c. Audit Committees by Stephen Gauthier
2. Obtain a District Email address and appropriate training and waiver forms.
3. Participate in Ethics, Governance Effectiveness, and Open Meeting Law training.
4. Meet with the Director of Human Resources to sign appropriate paperwork.
5. Write a short biography for inclusion on the IVGID website.

Additionally, **all** trustees must file a financial disclosure statement (FDS) with the Secretary of State no later than January 15 of each year. **Newly appointed** trustees must file FDS no later than 30 days after appointment.

Powers of the Board

The powers of the Board of Trustees are listed in NRS 318.

Organization of the Board

The Board of Trustees is elected by the constituents in the voting districts of Incline Village and Crystal Bay. Elections of each Trustee are to a four-year term with elections occurring in even calendar years.

Election of Officers

~~If there are no new incoming Board members, the Board of Trustees shall elect a Chair, Vice Chair, Treasurer, and Secretary for the calendar year. According to NRS, the role of Treasurer and the Secretary as the last action item of the last meeting in the current calendar year, effective January 1 of the new year. Otherwise, the election shall occur as the first action item of the first meeting of the new board in the new calendar year, effective immediately. According to NRS 318.085(1), the role of Treasurer and the Secretary may be fulfilled by someone other than a Trustee. These positions are held for one calendar year. Should a vacancy occur, the Board of Trustees shall follow NRS 318.090(5) to fill the vacancy. The most current roster for the current Board of Trustees is located on the District's website ivgid.org.~~

The following summarized roles reflect both the socially expected behavior and function of Board of Trustees members. All members of the Board of Trustees are expected to follow the roles of the Board (Role of All Trustees shown below) in addition to the special roles as designated by their elected positions.

Role of All Trustees

- Be familiar with and uphold NRS 318 and other applicable provisions of the NRS.
- Be familiar with and uphold District Policies, Practices, Resolutions and Ordinances.
- Fulfill your fiduciary responsibility to the community through proper oversight.
- Ensure projects and initiatives are aligned with the priorities of the community.
- Identify issues and concerns in the community through Board meetings.



- Review minutes, financial reports, memos and other documentation regarding the issues on which the Board is researching.
- Study and give counsel on identified public issues.
- Represent the views of the constituents by communicating the range of options regarding issues of concern.
- Regularly attend meetings and whenever possible, notify the Board Chair, Board members and District Staff, well in advance, of forecasted absences from Board meetings.
- Maintain good communications with the District General Manager and Staff.
- Prepare and file the required annual financial disclosure report.
- Respectfully execute the duties as a Trustee using ordinary diligence, and do not take unfair advantage of your position as a Trustee.
- Recognize that on occasion, a Trustee might be provided with confidential, privileged, or sensitive District information and it is essential you treat it as such.

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Detailed Role of the Chair

- Work with fellow Trustees and the General Manager to formulate and prepare the Board of Trustee meeting agendas and ensure all relevant materials are contained in Board Packets.
- Oversee the hiring, direction, and release of District Legal Counsel.
- Review and approve the payment of all legal expenses.
- Ensure meetings are scheduled, prepared for, and conducted in accordance with Nevada's Open Meeting Laws.
- Uphold Board Policy, Practices, and Resolutions.
- Serve as spokesperson for the Board of Trustees and the District as authorized by the Board of Trustees.
- Facilitate meetings to be productive by engaging Trustees to openly discuss issues, share in equal participation, and ensure all Trustees have a chance to express their thoughts and opinions on an issue.
- Foster a public forum which allows for a diversity of opinions to be expressed.
- Execute District commitments as deemed necessary.
- Respectfully execute the duties as Board of Trustees Chair by not taking unfair advantage of the position as Chair.

Commented [JN1]: Please disregard if this is not correct but most agencies require Bd approval for official statements/positions.

Detailed Role of the Vice Chair

- Uphold Board Policy, Practices, and Resolutions.
- During the absence of the Chair, serve as spokesperson for the Board of Trustees and the District.
- During the absence of the Chair, facilitate meetings as described above.
- Assist the Chair in facilitation of the meetings on an as needed basis.
- Respectfully execute the duties as Board of Trustees Vice Chair by not taking unfair advantage of the position as Vice Chair.

Detailed Role of the Secretary

- Review and if acceptable, sign contracts.
- Uphold Board Policy, Practices, and Resolutions.
- Ensure the accuracy of Board meeting minutes (NRS 318.085)
- Execute District commitments as deemed necessary.



- Respectfully execute the duties as Board of Trustees Secretary by not taking unfair advantage of the position as Secretary.

Detailed Role of the Treasurer

- Work with the Director of Finance to review financial reports of the District.
- Produce a monthly Treasurer's report.
- Participate and support the District's Finance and Accounting team with respect to various committees, i.e. the Audit Committee.
- Respectfully execute the duties as Board of Trustees Treasurer by not taking unfair advantage of the position as Treasurer.

Appointments to Other Organizations

Nevada League of Cities

Currently, the Board of Trustees has one appointed member to the Nevada League of Cities; please visit their website for more information on this organization.

Washoe County Debt Management Commission

Currently, there is one elected General Improvement District representative to the Washoe County Debt Management Commission; please visit their website for more information on this organization.

Washoe County Citizens Advisory Board (CAB)

Other Committees or Commissions

As deemed necessary and appropriate, the Board of Trustees may from time to time make appointments and/or ask a member of the Board of Trustees to serve on requested committees and commissions.

Responsibilities of Trustees

Duties for which a Trustee may be responsible include:

- Issuance of ~~ing~~ bonds
- Reviewing and approving ~~ing of~~ budgets
- Reviewing and approving ~~ing~~ the Comprehensive Annual Financial Report (CAFR)
- Oversight of the development, refinement and adherence to District internal controls
- Refinement of Board and District Policies, Practices, Resolutions, and Ordinances as needed
- Defining the role and annual goals and objectives of the District General Manager
- Selection of ~~ing~~ the contracted legal counsel
- Prioritization of ~~ing of~~ capital improvement projects
- Review and approval of ~~ing the~~ allocation of rates and fees for recreation and utility services
- Reviewing District financial reports and the adherence to budget
- Selection or appointed as a committee member (i.e. Audit Committee, GM Advisory Committee)



- [Participation in the interviewing and hiring process\(es\) for senior management positions](#)

~~The Board of Trustees has the statutory authority and responsibility to make the final decision on District matters. The Incline Village General Improvement District Staff has the responsibility to provide expert opinion and advice to the Board of Trustees to assist them in making decisions and the responsibility to implement and carry out items passed by the Board of Trustees.~~

~~Additionally, the Board of Trustees should ensure that the information discussed during its meetings is accurate and given to the appropriate Incline Village General Improvement District staff member in a timely manner.~~

Compensation

In accordance with NRS 318.085(5), each Trustee may receive compensation, if the budget is adequate and a majority of the members of the Board of Trustees vote in favor of such compensation. This compensation is payable monthly. The compensation for the Trustees is limited by NRS 318.085(5) and 281A.400.

Privileges

If a Trustee does not have a District Picture Pass, one will be issued at their request. Venue privileges are applicable to the Trustee only. They are not applicable to spouses, partners, or dependents. Following is a list of possible privileges available to the Trustees:

- Will have no employee discount or dependent privileges.
- Will have no food and beverage discount other than the same as a picture pass/punch card holder – 10% discount.
- Will have no merchandise discount other than the same as a picture pass/punch card holder – 20% discount.

Benefits

Trustees have the option to purchase District health and dental insurance plans for themselves and/or allowable family members at the same out-of-pocket-cost the District incurs.

Liability

With respect to the potential liability of individual Trustees, Incline Village General Improvement District treats each Trustee just as it would one of its employees. As long as Trustee activities fall within the course and scope of duties as a Trustee, Incline Village General Improvement District will defend and indemnify the trustee pursuant to NRS 41.0305, et seq. and Policy and Procedure Number 098, Resolution Number 495.

- ◆ Incline Village General Improvement District considers Trustees' actions within the course and scope of the public duty assumed as a Trustee to be equivalent of that of an employee. If a civil action is brought against you alleging an act or omission related to such service, it is the position of Incline Village General Improvement District, pursuant to NRS 41.0339, you may request a defense and Incline Village General Improvement District shall provide a defense and, if appropriate, indemnification.
- ◆ NRS 41.0339 requires that, within 15 days after service upon you of a summons and complaint, you request in writing a legal defense by the official attorney for the Incline



Village General Improvement District. The official attorney for the Incline Village General Improvement District is the District General Counsel. The District General Counsel contact information is available from the District Clerk or the General Manager.

- ◆ If per chance you are injured while within the course and scope of the public duty you have assumed, you will be treated as an employee and covered by the Incline Village General Improvement District's workers' compensation system. In order to access the workers' compensation system, you will need to contact the Incline Village General Improvement District Risk Manager, advise of the injury, and follow the procedures adopted by the Incline Village General Improvement District for its employees. You can obtain a copy of those procedures from the Incline Village General Improvement District Risk Manager.
- ◆ If you are involved in an accident or an incident, while within the course and scope of your duties as a Trustee, which results in property damage or injury to any person, you must contact the Incline Village General Improvement District Risk Manager within three (3) working days.



Tools Provided

The Incline Village General Improvement District issues to each Trustee, for his/her use in doing District business (which excludes personal use), business cards.

Budget and Finance

The Incline Village General Improvement District Board of Trustees is a cost center and has a separate budget for its expenses. The Board Chair is responsible for administration of this budget supported by the District Clerk and other members of the District team.

Travel on District Business and Other Purchases

When a Trustee wishes to make a purchase, go to a conference, or expend District funds in any manner which will require reimbursement, the Trustee must have the expenditure approved in writing, by the Board Chair prior to it being made. If the Trustee is the Board Chair, then he/she must have the expenditure approved in writing by two (2) other Trustees, prior to it being made. If the Board Chair is unavailable, then the Board Vice Chair shall assume the responsibility. The Trustee making the expenditure shall be bound by the District policy and procedures and will be required to complete all the necessary form(s) for reimbursement. The District Clerk is available to the Board of Trustees at all times to assist them in this process, therefore the necessary forms are not included in this handbook. Following is a short list of items for which the Trustee might request reimbursement:

- ◆ Travel to conferences, seminars
- ◆ Personal meals when on District business
- ◆ Operating supplies
- ◆ Personal car mileage when on District business

Upon completion of travel and incurring other reimbursable purchases, the Trustee shall complete an expense [and trip](#) report which will be submitted to the Board of Trustees ~~Treasurer~~ for review and written approval [by the Board Chair](#). Following this review and approval, the Board of Trustees Treasurer will give the expense report to the District Clerk who will submit it to the District's Accounting Department for reimbursement processing. The Trustee submitting the expense report will be promptly notified when his/her reimbursement is ready for their pickup. Should the Board Treasurer be the one seeking reimbursement, the Board Chair will be the one to authorize the travel request and expense report.

Relationship to General Manager

The General Manager is the primary contact for policy and procedure and is the only direct employee, by contract (available upon request to the District Clerk), of the Board of Trustees.

Relationship to District Staff

All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss and district matters.

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The General Manager is the Board's representative to Staff. When a Trustee has a question on a matter coming before them, the Trustee may communicate directly with the Staff member who is presenting the matter to the Board to get clarification, or otherwise.

Staff Support

The Incline Village General Improvement District provides the primary administrative assistance to the Board of Trustees. An individual is designated as the District Clerk, and he/she is available to any member of the Board of Trustees to assist him/her with travel arrangements, to find documents, do research, etc. All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss any district matters. The General Manager is the primary contact for policy and procedure. Job descriptions for both the General Manager and the District Clerk are available upon request.

Field Trips Outside of District Venues and Group Participation

Field trips outside of District venues for the entire Board of Trustees need to be well organized and adequately posted to comply with Nevada Open Meeting Law requirements. Field trips can be at the suggestion of the Board of Trustees, members of the Staff and/or members of the public. District Staff will take on the responsibility for organizing the field trip, and when applicable and deemed reasonable, providing transportation to and from the field trip site. District Staff may or may not accompany Board of Trustees members on the field trip.

Meeting Requirements

Nevada Open Meeting Law

~~State law requires that meetings of public bodies must be open and public. Boards of Trustees fall within the definition of public bodies. The Nevada Open Meeting Law Manual is available online and via request of the District Clerk.~~

Posting of Agendas and/or Notices

~~The written agenda of a Board of Trustees meeting must be posted at the place of the meeting and at a minimum of three (3) other separate, prominent (i.e. open to public view) places within the jurisdiction of the Board of Trustees. The agenda must be posted no later than 9:00 a.m. three (3) working days before the meeting. For example, if the Board of Trustees meets on a Wednesday, the agenda must be posted no later than 9:00 a.m. on the Friday preceding the meeting. Saturdays, Sundays and holidays may not be counted in calculating the three (3) working days requirement. The District Clerk takes care of this agenda posting and all locations, where the agenda is posted, are listed on the bottom of each agenda. On notices, the locations may or may not be noted, however it is to be assumed they will be posted at the same locations as an agenda.~~

Certification of Posting

~~The Incline Village General Improvement District Staff will certify that Board of Trustees agendas were correctly posted according to the Nevada Open Meeting Law prior to the Board of Trustees meeting. This certification is included on each agenda and/or notice.~~



Meeting Minutes

The Nevada Open Meeting Law also requires that a public body keep written minutes of its meetings. These minutes must include:

- The date, time and place of the meeting.
- Those members who are in attendance and those who are absent.
- The substance of all matters proposed, discussed or decided. In addition, at the request of any Board member, the minutes must reflect each member's issues and concerns on any matter. If a vote is taken, the minutes must reflect each member's vote on any matter.
- The substance of remarks made by members of the general public who address the body if so requested by that person.
- Written remarks made by members of the general public they request be attached to the minutes.
- Any other information which any member of the body requests be included in the minutes.

Citizens may request to receive copies of the Board of Trustees minutes (and agendas) through the District Clerk. Such requests should be made in writing (or through e-mail) to the District Clerk. Citizens can request to receive mailing of Board of Trustees agenda packets by e-mail and/or U.S. Postal Service, and the agendas by e-mail and/or U.S. Postal Service. Distribution of these items to those requesting and the Board of Trustees shall be in accordance with the Open Meeting Law.

The law provides that the minutes of Board meetings are public records and have permanent value. The minutes must be retained by the public body for five (5) years, and then may be transferred for archival preservation. The Incline Village General Improvement District is the public body designated to retain these records. **The minutes must be available for public inspection within thirty (30) working days after adjournment of the meeting.** Meetings may be recorded on audio/video tapes in addition to written minutes. If so, the entire meeting must be recorded. The recording of the meeting must also be made available for public inspection. The audio tape must also be retained by the public body for two (2) years.

Meeting Protocol

Attendance

A majority for the IVGID Board of Trustees is three (3) members out of the five (5) member Board. When an item is brought before the Board, there shall be a minimum of three (3) members to constitute a quorum. Once there is a quorum, the item can be approved by a simple majority unless the NRS provides for a greater number, otherwise the item fails. It is each Board member's responsibility to notify the District Clerk and/or General Manager of his/her absence, from a Board meeting, in a sufficient amount of time (one month's notice is preferred) to allow for the proper planning of agenda items.

Schedule

The Board of Trustees meeting schedule is set via policy. Currently, the Board of Trustees meets twice a month. However, that schedule may change from time to time. Typically, the meetings for



the months of November and December are reduced to one (1) meeting per month so as to allow the Board of Trustees and District staff to spend time with their families over the holidays.

Meetings take place at the Chateau located at 955 Fairview Boulevard in Incline Village. This building can be set up to accommodate approximately 250 members of the public, and has built in audio recording equipment to facilitate our compliance with NRS statutes for audio recordings. The District also uses Livestream to broadcast its meetings, however, it is a complimentary item versus an NRS/Open Meeting Law requirement.

Agendizing and Removal From Agenda

Board members may request, to the Board Chair or General Manager, that an item be added to the agenda. This request must be made in sufficient time to allow the item to be properly described on the agenda. All backup materials required to allow sufficient discussion by the Board item must be provided to the District Clerk in sufficient time to allow it to be included in the Board packet for both the Board's and the general public's review. As an example, when the Board meeting is on the last Wednesday of the month, the agenda for that meeting will be posted on the Friday prior to the meeting. District Staff and Board of Trustees reviews, as an agendized item, the Long Range Calendar which includes all dates of when Board packet materials are required.

A Board member, at the time of approval of the agenda during the Board meeting, may request that an item on the agenda be moved from the Consent Calendar to General Business to allow for discussion, be deferred to a later time, or that the position of an agenda item(s) be relocated. It is suggested that Board Members discuss their wishes with the Board Chair prior to the Board meeting so that the Board Chair is not surprised by their requests.

District Staff, at the time of the approval of the agenda during the Board meeting, is represented by the District's General Manager and as such, the District General Manager will make the request to move, delay or defer any agenda item(s). Generally speaking, the District General Manager will only take such action when new information has been received at the last moment or the situation has changed such that staff's recommendation needs to be reconsidered.

Staff Role at Meetings

Senior Staff and Venue Managers typically attend all Board of Trustees public meetings. Their presence is in support of the Board of Trustees, their agenda items and to respond to questions directed to them, and at the discretion of the Board of Trustees, by the general public.

Agenda Notebooks

It is District Staff's responsibility to provide the Board of Trustees with a detailed packet for information supporting those items on the agenda. Each Trustee will be provided, typically no later than the Friday preceding the Wednesday meeting, a notebook of information supporting each agenda item as applicable. This information may also be supplied, upon request by an individual Trustee, electronically (i.e. in PDF format). On that same Friday, the requesting members of the public shall either be made available for their physical pick-up or postal mailed, as the case maybe. This process can be delayed to the Monday preceding the Wednesday meeting in event of an emergency (i.e. weather, machine failure, etc.). It is each Trustee's responsibility to ensure that he/she has read the materials prepared for them so that they come to each meeting prepared to discuss the items on the agenda. If a Trustee has any question or concern about the materials provided on an agenda item, he/she is encouraged to ask questions



of District Staff, prior to the meeting, starting with the General Manager. A thorough understanding of each matter on the agenda allows the Board of Trustees meeting to proceed in a timely and orderly manner.

Typically, the agenda will include various reports made by Staff or a Trustee which are relevant to those members in attendance and/or the general public, Consent Calendar items which are items District Staff deem as being typical, routine and non-controversial, and General Business items which Staff would like to have dialogue with the Board of Trustees or get feedback from a multitude of sources. Occasionally, a public hearing is incorporated into an agenda for the purpose of providing a time certain period of public comment on a particular topic or topics. When a public hearing is held, there are additional requirements which District Staff will fulfill.

Techniques and Tips

Agenda Tips

- ~~The agenda should be clear and complete so as to identify each agenda item and allow discussion of each.~~
- ~~Posting of the agendas should be in substantial compliance with the Open Meeting Law.~~
- ~~Mailing of the agenda should also be in substantial compliance with the Open Meeting Law. If agendas are mailed within the required time frame, the intent of the law has been met. Incline Village General Improvement District is not responsible for mail delivery.~~
- ~~Notes on contents of the agenda:
 - * ~~Correspondence. Correspondence shall be included in the Board packet if it is received in time for its inclusion. Correspondence received after production of the Board packet is verbally noted as received and will be included in the following Board packet.~~~~

Minutes Tips

- ~~The minutes should accurately reflect what happens at a meeting.~~
- ~~The minutes belong to the Board of Trustees.~~
- ~~The minutes should be approved in total, not as to a portion. If a portion of the minutes are questioned, the entire set of minutes should not be approved until the questionable section is clarified.~~
- ~~Corrections to the minutes of the past meeting are made at the current meeting; the corrections will be reflected in the current meeting's set of minutes.~~
- ~~The official (approved) minutes are on file in the Incline Village General Improvement District office, and they are available for public review.~~
- ~~Correspondence received can be noted in the minutes, but need not be included in the contents of the minutes.~~
- ~~Members of the public are encouraged to submit their public comments in writing so that they can be attached to the applicable meeting minutes.~~

Meeting Tips

Since the official business of the Board of Trustees can be conducted only at a meeting, it is important to make sure the Board of Trustees meeting is structured to encourage public participation. If the Board of Trustees meeting is long, complicated and focused only on Board of Trustees members, meetings will eventually lose public participation. The following are some guidelines to follow to help ensure smooth meetings:



- Start on time.
- End at a reasonable hour.
- Follow the agenda (It is a violation of the Open Meeting Law to discuss items not appearing on the agenda.)
- Encourage the public to participate.
- Wait for recognition from the Chair before speaking.
- Ensure no one person dominates the discussion.
- Actively listen.
- Do your homework (prepare) before the meeting.
- Don't hold unnecessary meetings.
- Do not take or make matters or comments on a personal level.

Ways to Stimulate Community Participation

- Send random letters inviting community members to meetings.
- Hold regular meetings.
- Make agendas easily available.
- Invite residents to get together before community issues are considered.
- Send thank you notes to people who provide input and suggestions.
- Request community groups to designate a representative to attend meetings.
- Make meetings comfortable rather than intimidating (i.e. less formal).
- Make meetings interesting and don't drift or bog down (i.e. keep meetings short and to the point).

Meeting Room Environment

In addition to these guidelines, the meeting room environment is also crucial to a smooth meeting. Here are some items to check:

1. Room size is adequate for anticipated crowd.
2. Temperature is set at a comfortable level.
3. Enough seats and agendas are available.
4. Adequate lighting and sound system are adequate.

Advocacy Roles

Incline Village General Improvement District Board of Trustees meetings should provide a forum that encourages candid and frank sharing of citizen concerns and issues. It is especially important that Board of Trustees meetings be conducted to allow a "neutral playing field" so all present feel comfortable sharing all sides of any issue. Board of Trustees members, in conducting a meeting, must be careful to avoid giving any perception that the meeting or sharing will be slanted or limited to the detriment of full and open sharing.

Any Trustee who is personally or financially affected by a particular issue or project being discussed should:

1. Disclose, as part of the record, his/her involvement with the issue or project and, if applicable, any financial relationship or involvement relating to or resulting from the project or issue to determine participation or withdrawal; or
2. If chairing the meeting, temporarily release the Chair to the Vice Chair.



3. ~~If it is determined that there is no conflict, since participation of an elected official is favored, the member shall participate in all matters of the issue.~~
4. ~~Should a Board of Trustee member wish more information, the District General Counsel can make available relevant conflict material(s).~~

~~A Board of Trustees member may also choose, under the above circumstances, to recuse him/herself from the meeting and participate from the audience as a private citizen on the particular project or issue subject to any applicable NRS requirements.~~

~~No Trustee may represent the Board of Trustees in other proceedings, orally or in writing, as advocating a particular position unless the specific topic under consideration was discussed and/or voted upon by the Board of Trustees as a whole. In making any representation, the Trustees must be careful to report on the issues and concerns – both pro and con – as presented to the Board of Trustees, in addition to any vote result.~~

Representation and Communication

~~Two equally important responsibilities of a Trustee are representation and communication.~~

~~As a Trustee, you can make unique and special contributions through the Board of Trustees participation because often times your personal well-being is deeply intertwined with that of your community. It is up to you to understand and fairly represent the views of your Incline Village and Crystal Bay constituents. You should be active in the community, have good rapport with and support from your constituents, and "keep your ear to the ground". You should be aware of the total range of viewpoints and use good judgment in providing issues and areas of concern to Incline Village General Improvement District. This is a big responsibility and can take considerable time and effort.~~

~~An equally important responsibility is developing and maintaining good communication with the Incline Village General Improvement District General Manager and Staff – particularly with the General Manager. With good communication, you will play an important part in making the District responsive to the needs of Incline Village and Crystal Bay.~~

Issue Management

~~Issue management is a tool to help you identify issues of concern that affect you and your constituents. Once you have identified these issues, you can let the appropriate people know in a timely fashion. This ensures that you and your constituent's concerns become part of the policy-making process of the District. Developing issue management skills is an important aspect of the Board of Trustees membership. It allows you to use informally gathered information to better advise and relay concerns to District Staff. This information allows for the Trustees to anticipate issues before they become disruptive, and to become part of the process to resolve those issues. Protection of community interests, increased productivity, fewer delays and reduced costs are all benefits of early issue detection and resolution by the Trustees.~~

~~Five steps to help you manage and resolve issues are:~~

1. ~~Identify issues:
Talk with your constituents about their problems or needs. Use your knowledge of the community to understand how their problem or need affects the community. Share this~~



information with the Board so that later all of you will be able to gauge if proposed solutions solve the problem or satisfy the need.

- 2. **Communicate:**
Find other people affected by this problem or need in order to hear their views. Seek out the places where people in the community meet to share ideas or pursue common interests (e.g. the local market, the day care center, the Recreation Center, etc.). Make sure you have a good understanding of the problem or need.
- 3. **Separate themes and ground issues:**
Try to find the real issue(s) behind the problem or need. In issue management, this is known as separating issues from themes. Frequently, people complain about a problem (e.g. government is not listening to me) which hides their real need or issue (e.g. why has my road not been graded in two years?). Once you have identified the real issue, check with other people who share this problem/need to make sure you have put your thumb on the real issue (this is known as grounding the issue).
- 4. **Develop options:**
Work with the appropriate people from the community and District staff to develop different ways to resolve the issue(s). After you develop these options, make sure you once again check with the people who have the problem/need to ensure that the proposed solution will indeed satisfy their problem/need.
- 5. **Implement and evaluate:**
Work your community and District Staff to implement the preferred option. Make sure you and the community are part of the process to resolve the issue. Afterwards, take the time to identify things that went well and those that need work to better prepare yourself for the next time.

Issues that are non-operational in nature that could affect the District will be given to the Chair who will address and disseminate to all members of the Board of Trustees and the District General Counsel. An example would be a complaint against a Trustee or a complaint regarding a District policy. If the issue involves the Chair, the Vice Chair and the District General Counsel will be informed.

District Operations

Management Overview

The Incline Village General Improvement District is managed by the General Manager who is the only contract employee of the Board of Trustees. The employment contract of the General Manager is available upon request to the District Clerk. Each year, the General Manager is given a performance evaluation by the Board of Trustees. Effective October, 2005, this performance evaluation was conducted in open, public session.

The General Manager is responsible for the District staff which consists of approximately 110 year round full time and part time year round employees, along with 300 seasonal employees depending upon the season. There are Directors (Director of Public Works, Director of Human Resources, Director of Finance, Director of Community Services, and Parks and Recreation Director), Communications Coordinator, and one District Clerk which are direct reports to the

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~~General Manager. The General Manager is also responsible for the District General Counsel which is a contract position and not located in the District offices.~~

The following identifies the authorities delegated to the General Manager through various District documents:

1. Strategic Planning, **Policy 1.1.0**, 0.1 Initiate the Strategic Planning Process
2. ~~Conduct Meetings of the Board of Trustees, **Policy 3.1.0**, 0.6 Rules of Proceedings, f. Contracts, g. Claims; 0.8 Agenda Preparation, 0.9 Reconsideration, 0.12 Authorization to Sign Checks, 0.13 Facsimile Signatures, 0.15 Consent Calendar and 0.17 Legislative Matters~~
3. **Policy Resolution No. 103** (Resolution 1475) Establishing Policy for the Granting of Easements Across District Property
4. **Policy Resolution No. 105** (Resolution 1480) Adopting a Personnel Management Policy
5. **Policy Resolution No. 110** (Resolution 1493) Policy Statement on Community Relations Expenditures
6. **Policy Resolution No. 111** (Resolution 1494) Policy Statement on Collection of Delinquent Special Assessments
7. **Policy Resolution No. 113** (Resolution 1517) Use of Trademark by Private Businesses and Persons
8. **Policy Resolution No. 115** (Resolution 1527) Use of IVGID Boardroom
9. **Policy Resolution No. 116** (Resolution 1538) Establishing Penalty and Interest Charges on Delinquent Accounts and Collection Thereof
10. **Policy Resolution No. 120** (Resolution 1575) Group Use of Beaches
11. **Policy Resolution No. 121** (Resolution 1581) Adopting Policy and Procedure For the Settlement of Lawsuits and Related Claims
12. **Policy Resolution No. 127** (Resolution No. 1619) Complimentary Recreation Privileges
13. **Policy Resolution No. 129** (Resolution No. 1632) Relinquishment and Acquisition of Utility Easements and Encroachment Agreements
14. **Policy Resolution No. 132** (Resolution No. 1701) Fundraising/Donation Activities at IVGD Facilities
15. **Policy Resolution No. 134** (Resolution No. (not issued) Policy Governing Service of Alcoholic Beverages at IVGID Facilities
16. **Policy Resolution No. 135** (Resolution No. 1760) Temporary Dog Park at Village Green
17. **Policy Resolution No. 136** (Resolution No. (not required) Policy concerning access to District Property and the Use of District Facilities for Expression
18. **Policy Resolution No. 137** (Resolution No. 1801) Policy for the Provision of Records to the Public
19. **Policy Resolution No. 138** (Resolution No. 1849) Naming/Dedication of IVGID Facilities and Acknowledging Important Local Persons, Events or History
20. **Ordinances:**
 - a. 1 – Solid Waste
 - b. 2 – Sewer
 - c. 3 – Water
 - d. 7 – Recreation Pass
21. **Golf Complimentary Privilege Policy.**
22. [Policy Resolution No. 139 \(Resolution No. 1876\) A Resolution for No Smoking, except in designated areas, at all District-Owned and Operated Facilities](#)

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Facility/Venue Overview



The Incline Village General Improvement District owns and operates several recreational and event venues within the community. They are the Recreation Center, Tennis Center, Incline Beach, Ski Beach, Burnt Cedar Beach, Hermit Beach, Diamond Peak Ski Resort, Mountain Golf Course, Championship Golf Course, Aspen Grove, Disc Golf Course, Bocce Ball Courts, Effluent Treatment Plant, Chateau, Skateboard Park, Mountain Bike Pump Track and various pump stations.

Included within the Nevada Revised Statutes are two chapters which are relevant to two of our venues - Chapter 455A: Skier Safety and Chapter 455B: Recreational Parks.

The main office of Incline Village General Improvement District is located at 893 Southwood Boulevard. ~~The General Manager, Director of Human Resources, Director of Finance, Director of Community Services, and District Clerk all have their offices in this building.~~

The Board of Trustees has an individual mail receptacle located within the main office where District Staff places materials for each Trustee.

Vision Statement

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

Mission Statement

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

Value Statement

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

District Mantra

One District • One Team

Ordinances

The Incline Village General Improvement District has four ordinances that govern the community. They are:

- Ordinance 1: An ordinance regulating solid waste and the collection of garbage, rubbish, waste matter and refuse, and the collection, removal and disposal thereof
- Ordinance 2: An ordinance establishing rates, rules and regulations for sewer service
- Ordinance 4: An ordinance establishing rates, rules and regulations for water service
- Ordinance 7: An ordinance establishing rates, rules and regulations for recreation passes and recreation punch cards



The Public Works Department also enforces landscaping requirements, which are a subset to Ordinance 4, Article 18.

The Tahoe Regional Planning Agency (TRPA) governs the noise within our community. Chapter 23 of their regulations is what the Incline Village General Improvement District follows with respect to noise. When our community members have a concern, regarding noise, District staff references this regulation and suggest that the community member telephone the Washoe County Sheriff for assistance.

Policies and Practices

During Fiscal Year 2007/2008, the Board of Trustees adopted a strategy, in parallel with the Government Finance Officers Association, of having policy statements and accompanying practices. Each policy statement is presented to the Board of Trustees for its adoption. The District's website has these items included on it.

Resolutions

The District Clerk of the Incline Village General Improvement District maintains the Resolution Log for the District. Currently, the District has a list of close to 1,900 resolutions. Resolutions are issued for a myriad of reasons; adoption of a seal (Resolution 2), addition of powers (Resolution 185), dedication of the Administration Building (Resolution 1740), Approval of the Recreation Standby and Service Charges (Resolution 1741) all being examples.

As time progresses, technology advances take place, and, in general, operating situations change, the District Staff amends resolutions to fit these changes. These amendments and new resolutions come before the Board of Trustees for ratification and support.

Strategic Management Plan

The Incline Village General Improvement District has a Strategic Plan. It is a living document that is revised and refined with changing conditions, acquisitions, industry practices, etc. It is under the direction of the General Manager that this plan is followed. A copy of the Strategic Plan for the Incline Village General Improvement District is located on its website.

Websites

The Incline Village General Improvement District has a host of interconnected websites (golfincline.com; diamondpeak.com; insideivgid.org; ivgid.org; etc.) for its different venues and departments. The home website, for the District, is yourtahoeplace.com. At this website, Trustees and the community will find a multitude of useful information including contact information, District calendar, and various links. Each Trustee has a photograph and contact information. This allows everyone to have 24-hour access to the Trustees, via e-mail.

Document Retention

The District maintains a multitude of documents in retention in accordance with its document retention schedule. One of the primary locations, accessed by the District Clerk and other selected key District Staff, is IVGID Archives. At this network server location, Board of Trustees agendas, minutes and agenda packets are scanned and kept. Audio recording of the Board of Trustees meetings and other public meetings are kept by the District Clerk at the Administrative offices, in



digital format. Another location, administered by members of the Finance, Accounting and Information Technology team, is the parcel master files.

Intranet

~~In July of 2005, the Incline Village General Improvement District launched an intranet which is an internal website for District employees only. This website can be accessed, using internal District computers, by using the web address of www.insideivgid.com. This intranet is an intuitive tool where District Staff can access forms, calendars, telephone directories, etc. Its expansion is dependent upon the need of information for District Staff, and it is administered by the Information Technology team.~~

Recreation and Beach Fees

Recreation and beach fees are used to financially support the various recreational venues available to property owners and residents of Incline Village/Crystal Bay. These fees annually charged and billed on Washoe County property tax bills. Each fiscal year, a Recreation and Beach Fee table is prepared. There are approximately 8,203 billable parcels/dwelling units within Incline Village and Crystal Bay.

Purchasing

Nevada Revised Statutes Chapters 332 and 338 discuss, in detail, the requirements for local government purchasing.

Budgets – Operating

Each year, Staff prepare a detailed calendar outlining all operating and capital tasks and important milestones to be met by Staff and the Board during the budget process. The budget process can begin as early as November, and it is statutorily required to conclude by the end of May. The Board of Trustees takes an active role in the budget process and is asked to attend several Board budget workshops to ensure members understand all aspects of the budget process. ~~These workshops are typically held on the first Thursday meeting, and additional workshops are scheduled by the Board and Staff as needed. While it is rare, occasionally Saturday meetings are convened.~~ All meetings are held in accordance with the Open Meeting Law, and the public is invited to attend. In May, the Board of Trustees must hold public hearings for the (1) operating and capital budgets and (2) proposed recreation and beach facility fees. Later on, in the same meeting, the Board generally adopts applicable fiscal year operating and capital budgets as well as recreation and beach facility fees.

Budgets – Capital Improvement

The Incline Village General Improvement District Capital Improvement Plan (CIP) is an important planning tool that is used to link the District's physical development planning with fiscal planning. The CIP lists the projects needed to preserve the significant investment the District already has made in infrastructure, as well as improvements needed to spur community economic growth and development.

The CIP document is a policy guide and is not intended to replace future District budget decisions. The District has in place a CIP Review Team which reviews the recommendations and requests for CIP Projects made by department/division staff.



There are two general categories for CIP projects:

1. Small improvement projects and major maintenance needs which compete for revenue in the annual budget cycle; and,
2. Major projects requiring the expenditure of public funds (above annual operating expenses) for the purchase, construction or replacement of physical infrastructure in our community.

A CIP project can include the following:

- **Land:** land, easements and rights-of-way
- **Structures:** feasibility studies, construction costs, architectural, engineering, legal and related expenses; major renovation or additions
- **Equipment:** equipment to serve a new facility or replaces existing equipment in facilities (e.g. furniture, fleet vehicles, library books or computer systems)
- **Other Expenditures:** cost-sharing arrangements between the District and outside parties; purchase of water rights, etc.

The Trustees are involved in the CIP process as they review the data sheets submitted as part of the budget process.

~~Holiday Schedule~~

~~District Staff enjoy eleven (11) holidays each year — New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day, Family Day (the day after Thanksgiving) and Christmas Day.~~

~~Employee Meetings~~

~~All Employee meetings are held twice each year — typically December and August. These meetings celebrate the achievements of the District employees.~~

~~Safety Week~~

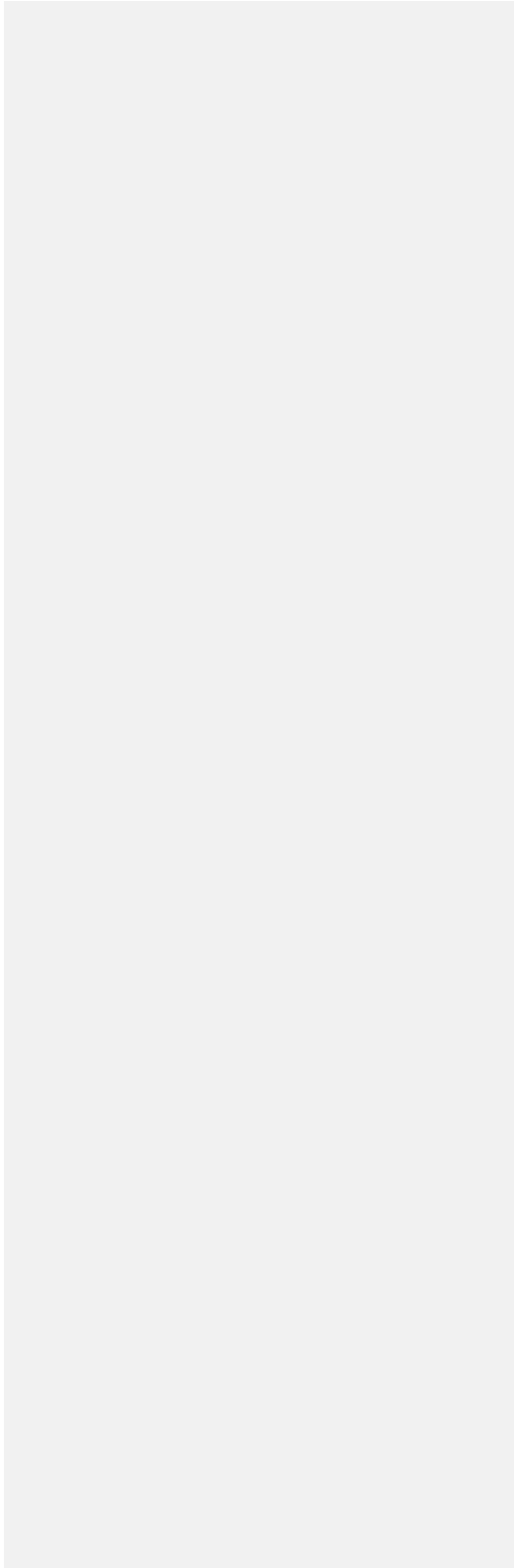
~~Safety Week is generally held the third week of October, and it consists of each employee conducting area safety checklists, watching videos and participating in other related events. This program is led by the District Safety Officer who is supported by Safety Committee members.~~

~~Venue Seasonal Operating Dates~~

~~Diamond Peak Ski Resort opening is weather dependent but generally opens early in December. The Championship and Mountain Golf Course openings are also weather dependent but generally take place in late May, with the Mountain Golf Course opening one week after the Championship Golf Course.~~

~~The Tennis Center opens early May and closes mid-October.~~

~~The Recreation Center is open year round.~~





~~Policies, and Procedures~~ Practices, Resolutions and Ordinances

The Incline Village General Improvement District has ~~policy and procedures~~ [Policies, Practices, Resolutions and Ordinances](#) in effect. ~~Policies and procedures are those items which have a District wide effect on general business practices.~~ These are located on the District website under "Resources".

**CHANGES
ACCEPTED
VERSION**



Board of Trustees Member Handbook



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Legal Basis for General Improvement District

Nevada Revised Statutes (NRS) Chapter 318 governs General Improvement Districts. Under this statute, there are specific sections, section 318.080, et seq., which defines the responsibilities of the Board of Trustees.

Board of Trustees

Role of the Board

The Board of Trustees is responsible, in accordance with NRS, other applicable law, District Policies, Practices, Ordinances, and Resolutions to provide oversight over the District's financial reports and the systems of internal controls. Additionally, it works with District management to set goals, priorities and courses of action in response to the particular needs and concerns of the district. The Board of Trustees meeting agenda is set by the Chair of the Board of Trustees according to Policy 3.1. This handbook should be read by each member of the Board of Trustees and kept as an easy and quick reference. In the event of any inconsistency between this handbook, NRS, and IVGID policies, NRS and then IVGID policies shall control.

Issues that the Incline Village General Improvement District Board of Trustees deals with, on a regular basis, are as follows:

Contract Awards	Ordinance Adoption	Policy and Procedure Adoption
Reports	Budget Approval	Partnership Agreements
Resolution Adoption	Strategic Planning	Union Contract Approval
Financial Reporting	Internal Controls	

The purpose of Board of Trustees meetings is to conduct its business in a public forum in accordance with the Nevada Open Meeting Law (NRS Ch. 241). The public comment portion of the meetings provide an opportunity for the public to give input to the Board of Trustees about agenda items as well as any other issues facing their community. The Board of Trustees conducts periodic community forums allowing open communication and interaction with community members. Members of the public are encouraged to attend these informal sessions to chat with the various members of the Board and Staff regarding their concerns, ideas, or comments.

One very important role for the Board of Trustees is to provide a forum where citizens from the community can express their views, issues and concerns. It is these views, issues and concerns which give invaluable information to the Incline Village General Improvement District. The Board of Trustees should focus its effort on providing the best atmosphere in its meetings to draw this needed information from local citizens.

The Board of Trustees has the statutory authority and responsibility to make the final decisions on District matters. The Incline Village General Improvement District Staff has the responsibility to provide opinion and advice to the Board of Trustees to assist them in making decisions and also the responsibility to implement the items passed by the Board of Trustees.

Onboarding A New Trustee

Below is an outline of the tasks to be completed once your term begins:

1. Obtain and review the following informational packets provided by the District:

- a. Interpreting Local Government Financial Statements
- b. Internal Control by Stephen Gauthier
- c. Audit Committees by Stephen Gauthier
2. Obtain a District Email address and appropriate training and waiver forms.
3. Participate in Ethics, Governance Effectiveness, and Open Meeting Law training.
4. Meet with the Director of Human Resources to sign appropriate paperwork.
5. Write a short biography for inclusion on the IVGID website.

Additionally, **all** trustees must file a financial disclosure statement (FDS) with the Secretary of State no later than January 15 of each year. **Newly appointed** trustees must file FDS no later than 30 days after appointment.

Powers of the Board

The powers of the Board of Trustees are listed in NRS 318.

Organization of the Board

The Board of Trustees is elected by the constituents in the voting districts of Incline Village and Crystal Bay. Elections of each Trustee are to a four-year term with elections occurring in even calendar years.

The following summarized roles reflect both the socially expected behavior and function of Board of Trustees members. All members of the Board of Trustees are expected to follow the roles of the Board (Role of All Trustees shown below) in addition to the special roles as designated by their elected positions.

Role of All Trustees

- Be familiar with and uphold NRS 318 and other applicable provisions of the NRS.
- Be familiar with and uphold District Policies, Practices, Resolutions and Ordinances.
- Fulfill your fiduciary responsibility to the community through proper oversight.
- Ensure projects and initiatives are aligned with the priorities of the community.
- Identify issues and concerns in the community through Board meetings.
- Review minutes, financial reports, memos and other documentation regarding the issues on which the Board is researching.
- Study and give counsel on identified public issues.
- Represent the views of the constituents by communicating the range of options regarding issues of concern.
- Regularly attend meetings and whenever possible, notify the Board Chair, Board members and District Staff, well in advance, of forecasted absences from Board meetings.
- Maintain good communications with the District General Manager and Staff.
- Prepare and file the required annual financial disclosure report.
- Respectfully execute the duties as a Trustee using ordinary diligence, and do not take unfair advantage of your position as a Trustee.
- Recognize that on occasion, a Trustee might be provided with confidential, privileged, or sensitive District information and it is essential you treat it as such.

Detailed Role of the Chair

- Work with fellow Trustees and the General Manager to formulate and prepare the Board of Trustee meeting agendas and ensure all relevant materials are contained in Board Packets.
- Oversee the hiring, direction, and release of District Legal Counsel.
- Review and approve the payment of all legal expenses.
- Ensure meetings are scheduled, prepared for, and conducted in accordance with Nevada Open Meeting Law.
- Uphold Board Policy, Practices, and Resolutions.
- Serve as spokesperson for the Board of Trustees and the District as authorized by the Board of Trustees.
- Facilitate meetings to be productive by engaging Trustees to openly discuss issues, share in equal participation, and ensure all Trustees have a chance to express their thoughts and opinions on an issue.
- Foster a public forum which allows for a diversity of opinions to be expressed.
- Execute District commitments as deemed necessary.
- Respectfully execute the duties as Board of Trustees Chair by not taking unfair advantage of the position as Chair.

Detailed Role of the Vice Chair

- Uphold Board Policy, Practices, and Resolutions.
- During the absence of the Chair, serve as spokesperson for the Board of Trustees and the District.
- During the absence of the Chair, facilitate meetings as described above.
- Assist the Chair in facilitation of the meetings on an as needed basis.
- Respectfully execute the duties as Board of Trustees Vice Chair by not taking unfair advantage of the position as Vice Chair.

Detailed Role of the Secretary

- Review and if acceptable, sign contracts.
- Uphold Board Policy, Practices, and Resolutions.
- Ensure the accuracy of Board meeting minutes (NRS 318.085)
- Execute District commitments as deemed necessary.
- Respectfully execute the duties as Board of Trustees Secretary by not taking unfair advantage of the position as Secretary.

Detailed Role of the Treasurer

- Work with the Director of Finance to review financial reports of the District.
- Produce a monthly Treasurer's report.
- Participate and support the District's Finance and Accounting team with respect to various committees, i.e. the Audit Committee.
- Respectfully execute the duties as Board of Trustees Treasurer by not taking unfair advantage of the position as Treasurer.

Appointments to Other Organizations

Nevada League of Cities



Currently, the Board of Trustees has one appointed member to the Nevada League of Cities; please visit their website for more information on this organization.

Washoe County Debt Management Commission

Currently, there is one elected General Improvement District representative to the Washoe County Debt Management Commission; please visit their website for more information on this organization.

Washoe County Citizens Advisory Board (CAB)

Other Committees or Commissions

As deemed necessary and appropriate, the Board of Trustees may from time to time make appointments and/or ask a member of the Board of Trustees to serve on requested committees and commissions.

Responsibilities of Trustees

Duties for which a Trustee may be responsible include:

- Issuance of bonds
- Review and approval of budgets
- Review and approval of the Comprehensive Annual Financial Report (CAFR)
- Oversight of the development, refinement and adherence to District internal controls
- Refinement of Board and District Policies, Practices, Resolutions, and Ordinances as needed
- Define the role and annual goals and objectives of the District General Manager
- Selection of the contracted legal counsel
- Prioritization of capital improvement projects
- Review and approval of the allocation of rates and fees for recreation and utility services
- Review District financial reports and the adherence to budget
- Selection or appointed as a committee member (i.e. Audit Committee, GM Advisory Committee)
- Participation in the interviewing and hiring process(es) for senior management positions

Compensation

In accordance with NRS 318.085(5), each Trustee may receive compensation, if the budget is adequate and a majority of the members of the Board of Trustees vote in favor of such compensation. This compensation is payable monthly. The compensation for the Trustees is limited by NRS 318.085(5) and 281A.400.

Privileges

If a Trustee does not have a District Picture Pass, one will be issued at their request. Venue privileges are applicable to the Trustee only. They are not applicable to spouses, partners, or dependents. Following is a list of possible privileges available to the Trustees:

- Will have no employee discount or dependent privileges.

- Will have no food and beverage discount other than the same as a picture pass/punch card holder – 10% discount.
- Will have no merchandise discount other than the same as a picture pass/punch card holder – 20% discount.

Benefits

Trustees have the option to purchase District health and dental insurance plans for themselves and/or allowable family members at the same out-of-pocket-cost the District incurs.

Liability

With respect to the potential liability of individual Trustees, Incline Village General Improvement District treats each Trustee just as it would one of its employees. As long as Trustee activities fall within the course and scope of duties as a Trustee, Incline Village General Improvement District will defend and indemnify the trustee pursuant to NRS 41.0305, et seq. and Policy and Procedure Number 098, Resolution Number 495.

- ◆ Incline Village General Improvement District considers Trustees' actions within the course and scope of the public duty assumed as a Trustee to be equivalent of that of an employee. If a civil action is brought against you alleging an act or omission related to such service, it is the position of Incline Village General Improvement District, pursuant to NRS 41.0339, you may request a defense and Incline Village General Improvement District shall provide a defense and, if appropriate, indemnification.
- ◆ NRS 41.0339 requires that, within 15 days after service upon you of a summons and complaint, you request in writing a legal defense by the official attorney for the Incline Village General Improvement District. The official attorney for the Incline Village General Improvement District is the District General Counsel. The District General Counsel contact information is available from the District Clerk or the General Manager.
- ◆ If per chance you are injured while within the course and scope of the public duty you have assumed, you will be treated as an employee and covered by the Incline Village General Improvement District's workers' compensation system. In order to access the workers' compensation system, you will need to contact the Incline Village General Improvement District Risk Manager, advise of the injury, and follow the procedures adopted by the Incline Village General Improvement District for its employees. You can obtain a copy of those procedures from the Incline Village General Improvement District Risk Manager.
- ◆ If you are involved in an accident or an incident, while within the course and scope of your duties as a Trustee, which results in property damage or injury to any person, you must contact the Incline Village General Improvement District Risk Manager within three (3) working days.

Tools Provided

The Incline Village General Improvement District issues to each Trustee, for his/her use in doing District business (which excludes personal use), business cards.

Budget and Finance



The Incline Village General Improvement District Board of Trustees is a cost center and has a separate budget for its expenses. The Board Chair is responsible for administration of this budget supported by the District Clerk and other members of the District team.

Travel on District Business and Other Purchases

When a Trustee wishes to make a purchase, go to a conference, or expend District funds in any manner which will require reimbursement, the Trustee must have the expenditure approved in writing, by the Board Chair prior to it being made. If the Trustee is the Board Chair, then he/she must have the expenditure approved in writing by two (2) other Trustees, prior to it being made. If the Board Chair is unavailable, then the Board Vice Chair shall assume the responsibility. The Trustee making the expenditure shall be bound by the District policy and procedures and will be required to complete all the necessary form(s) for reimbursement. The District Clerk is available to the Board of Trustees at all times to assist them in this process, therefore the necessary forms are not included in this handbook. Following is a short list of items for which the Trustee might request reimbursement:

- ◆ Travel to conferences, seminars
- ◆ Personal meals when on District business
- ◆ Operating supplies
- ◆ Personal car mileage when on District business

Upon completion of travel and incurring other reimbursable purchases, the Trustee shall complete an expense and trip report which will be submitted to the Board of Trustees for review and written approval by the Board Chair. Following this review and approval, the Board of Trustees Treasurer will give the expense report to the District Clerk who will submit it to the District's Accounting Department for reimbursement processing. The Trustee submitting the expense report will be promptly notified when his/her reimbursement is ready for their pickup. Should the Board Treasurer be the one seeking reimbursement, the Board Chair will be the one to authorize the travel request and expense report.

Relationship to General Manager

The General Manager is the primary contact for policy and procedure and is the only direct employee, by contract (available upon request to the District Clerk), of the Board of Trustees.

Relationship to District Staff

All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss and district matters.

The General Manager is the Board's representative to Staff. When a Trustee has a question on a matter coming before them, the Trustee may communicate directly with the Staff member who is presenting the matter to the Board to get clarification, or otherwise.

Staff Support

The Incline Village General Improvement District provides the primary administrative assistance to the Board of Trustees. An individual is designated as the District Clerk, and he/she is available to any member of the Board of Trustees to assist him/her with travel arrangements, to find



documents, do research, etc. All Staff members of the Incline Village General Improvement District are available to any Trustee to discuss any district matters. The General Manager is the primary contact for policy and procedure. Job descriptions for both the General Manager and the District Clerk are available upon request.

Field Trips Outside of District Venues and Group Participation

Field trips outside of District venues for the entire Board of Trustees need to be well organized and adequately posted to comply with Nevada Open Meeting Law requirements. Field trips can be at the suggestion of the Board of Trustees, members of the Staff and/or members of the public. District Staff will take on the responsibility for organizing the field trip, and when applicable and deemed reasonable, providing transportation to and from the field trip site. District Staff may or may not accompany Board of Trustees members on the field trip.

District Operations

Management Overview

The Incline Village General Improvement District is managed by the General Manager who is the only contract employee of the Board of Trustees. The employment contract of the General Manager is available upon request to the District Clerk. Each year, the General Manager is given a performance evaluation by the Board of Trustees. Effective October 2005, this performance evaluation was conducted in open, public session.

The General Manager is responsible for the District staff which consists of year round full time and part time employees along with seasonal employees.

The following identifies the authorities delegated to the General Manager through various District documents:

1. Strategic Planning, **Policy 1.1.0**, 0.1 Initiate the Strategic Planning Process
- 2.
3. **Policy Resolution No. 103** (Resolution 1475) Establishing Policy for the Granting of Easements Across District Property
4. **Policy Resolution No. 105** (Resolution 1480) Adopting a Personnel Management Policy
5. **Policy Resolution No. 110** (Resolution 1493) Policy Statement on Community Relations Expenditures
6. **Policy Resolution No. 111** (Resolution 1494) Policy Statement on Collection of Delinquent Special Assessments
7. **Policy Resolution No. 113** (Resolution 1517) Use of Trademark by Private Businesses and Persons
8. **Policy Resolution No. 115** (Resolution 1527) Use of IVGID Boardroom
9. **Policy Resolution No. 116** (Resolution 1538) Establishing Penalty and Interest Charges on Delinquent Accounts and Collection Thereof
10. **Policy Resolution No. 120** (Resolution 1575) Group Use of Beaches
11. **Policy Resolution No. 121** (Resolution 1581) Adopting Policy and Procedure For the Settlement of Lawsuits and Related Claims
12. **Policy Resolution No. 127** (Resolution No. 1619) Complimentary Recreation Privileges
13. **Policy Resolution No. 129** (Resolution No. 1632) Relinquishment and Acquisition of Utility Easements and Encroachment Agreements

14. **Policy Resolution No. 132** (Resolution No. 1701) Fundraising/Donation Activities at IVGD Facilities
15. **Policy Resolution No. 134** (Resolution No. (not issued) Policy Governing Service of Alcoholic Beverages at IVGID Facilities
16. **Policy Resolution No. 135** (Resolution No. 1760) Temporary Dog Park at Village Green
17. **Policy Resolution No. 136** (Resolution No. (not required) Policy concerning access to District Property and the Use of District Facilities for Expression
18. **Policy Resolution No. 137** (Resolution No. 1801) Policy for the Provision of Records to the Public
19. **Policy Resolution No. 138** (Resolution No. 1849) Naming/Dedication of IVGID Facilities and Acknowledging Important Local Persons, Events or History
20. **Ordinances:**
 - a. 1 – Solid Waste
 - b. 2 – Sewer
 - c. 3 – Water
 - d. 7 – Recreation Pass
21. **Golf Complimentary Privilege Policy.**
22. **Policy Resolution No. 139** (Resolution No. 1876) A Resolution for No Smoking, except in designated areas, at all District-Owned and Operated Facilities

Facility/Venue Overview

The Incline Village General Improvement District owns and operates several recreational and event venues within the community. They are the Recreation Center, Tennis Center, Incline Beach, Ski Beach, Burnt Cedar Beach, Hermit Beach, Diamond Peak Ski Resort, Mountain Golf Course, Championship Golf Course, Aspen Grove, Disc Golf Course, Bocce Ball Courts, Effluent Treatment Plant, Chateau, Skateboard Park, Mountain Bike Pump Track and various pump stations.

Included within the Nevada Revised Statutes are two chapters which are relevant to two of our venues - Chapter 455A: Skier Safety and Chapter 455B: Recreational Parks.

The main office of Incline Village General Improvement District is located at 893 Southwood Boulevard.

The Board of Trustees has an individual mail receptacle located within the main office where District Staff places materials for each Trustee.

Vision Statement

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

Mission Statement

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

Value Statement



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

District Mantra

One District • One Team

Ordinances

The Incline Village General Improvement District has four ordinances that govern the community. They are:

- Ordinance 1: An ordinance regulating solid waste and the collection of garbage, rubbish, waste matter and refuse, and the collection, removal and disposal thereof
- Ordinance 2: An ordinance establishing rates, rules and regulations for sewer service
- Ordinance 4: An ordinance establishing rates, rules and regulations for water service
- Ordinance 7: An ordinance establishing rates, rules and regulations for recreation passes and recreation punch cards

The Public Works Department also enforces landscaping requirements, which are a subset to Ordinance 4, Article 18.

The Tahoe Regional Planning Agency (TRPA) governs the noise within our community. Chapter 23 of their regulations is what the Incline Village General Improvement District follows with respect to noise. When our community members have a concern, regarding noise, District staff references this regulation and suggest that the community member telephone the Washoe County Sheriff for assistance.

Policies and Practices

During Fiscal Year 2007/2008, the Board of Trustees adopted a strategy, in parallel with the Government Finance Officers Association, of having policy statements and accompanying practices. Each policy statement is presented to the Board of Trustees for its adoption. The District's website has these items included on it.

Resolutions

The District Clerk of the Incline Village General Improvement District maintains the Resolution Log for the District. Currently, the District has a list of close to 1,900 resolutions. Resolutions are issued for a myriad of reasons; adoption of a seal (Resolution 2), addition of powers (Resolution 185), dedication of the Administration Building (Resolution 1740), Approval of the Recreation Standby and Service Charges (Resolution 1741) all being examples.

As time progresses, technology advances take place, and, in general, operating situations change, the District Staff amends resolutions to fit these changes. These amendments and new resolutions come before the Board of Trustees for ratification and support.

Strategic Management Plan



The Incline Village General Improvement District has a Strategic Plan. It is a living document that is revised and refined with changing conditions, acquisitions, industry practices, etc. It is under the direction of the General Manager that this plan is followed. A copy of the Strategic Plan for the Incline Village General Improvement District is located on its website.

Websites

The Incline Village General Improvement District has a host of interconnected websites (golfincline.com; diamondpeak.com; insideivgid.org; ivgid.org; etc.) for its different venues and departments. The home website, for the District, is yourtahoeplace.com. At this website, Trustees and the community will find a multitude of useful information including contact information, District calendar, and various links. Each Trustee has a photograph and contact information. This allows everyone to have 24-hour access to the Trustees, via e-mail.

Document Retention

The District maintains a multitude of documents in retention in accordance with its document retention schedule. One of the primary locations, accessed by the District Clerk and other selected key District Staff, is IVGID Archives. At this network server location, Board of Trustees agendas, minutes and agenda packets are scanned and kept. Audio recording of the Board of Trustees meetings and other public meetings are kept by the District Clerk at the Administrative offices, in digital format. Another location, administered by members of the Finance, Accounting and Information Technology team, is the parcel master files.

Recreation and Beach Fees

Recreation and beach fees are used to financially support the various recreational venues available to property owners and residents of Incline Village/Crystal Bay. These fees annually charged and billed on Washoe County property tax bills. Each fiscal year, a Recreation and Beach Fee table is prepared. There are approximately 8,203 billable parcels/dwelling units within Incline Village and Crystal Bay.

Purchasing

Nevada Revised Statutes Chapters 332 and 338 discuss, in detail, the requirements for local government purchasing.

Budgets – Operating

Each year, Staff prepare a detailed calendar outlining all operating and capital tasks and important milestones to be met by Staff and the Board during the budget process. The budget process can begin as early as November, and it is statutorily required to conclude by the end of May. The Board of Trustees takes an active role in the budget process and is asked to attend several Board budget workshops to ensure members understand all aspects of the budget process. All meetings are held in accordance with the Open Meeting Law, and the public is invited to attend. In May, the Board of Trustees must hold public hearings for the (1) operating and capital budgets and (2) proposed recreation and beach facility fees. Later on, in the same meeting, the Board generally adopts applicable fiscal year operating and capital budgets as well as recreation and beach facility fees.

Budgets – Capital Improvement

The Incline Village General Improvement District Capital Improvement Plan (CIP) is an important planning tool that is used to link the District's physical development planning with fiscal planning. The CIP lists the projects needed to preserve the significant investment the District already has made in infrastructure, as well as improvements needed to spur community economic growth and development.

The CIP document is a policy guide and is not intended to replace future District budget decisions. The District has in place a CIP Review Team which reviews the recommendations and requests for CIP Projects made by department/division staff.

There are two general categories for CIP projects:

1. Small improvement projects and major maintenance needs which compete for revenue in the annual budget cycle; and,
2. Major projects requiring the expenditure of public funds (above annual operating expenses) for the purchase, construction or replacement of physical infrastructure in our community.

A CIP project can include the following:

- **Land:** land, easements and rights-of-way
- **Structures:** feasibility studies, construction costs, architectural, engineering, legal and related expenses; major renovation or additions
- **Equipment:** equipment to serve a new facility or replaces existing equipment in facilities (e.g. furniture, fleet vehicles, library books or computer systems)
- **Other Expenditures:** cost-sharing arrangements between the District and outside parties; purchase of water rights, etc.

The Trustees are involved in the CIP process as they review the data sheets submitted as part of the budget process.

Policies, Practices, Resolutions and Ordinances

The Incline Village General Improvement District has Policies, Practices, Resolutions and Ordinances. These are located on the District website under "Resources".

MINUTES

REGULAR MEETING OF AUGUST 26, 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 Wednesday, August 26, 2020 at 6:00 p.m. This meeting was conducted virtually via Zoom.

A. PLEDGE OF ALLEGIANCE*

The pledge of allegiance was recited.

B. ROLL CALL OF THE IVGID BOARD OF TRUSTEES*

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

Also present were District Staff Members Director of Finance Paul Navazio, Director of Public Works Joe Pomroy 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.

Director of Information Technology Mike Gove went over the new Zoom participation rules.

C. PUBLIC COMMENTS

Dick Warren said is it possible to have an honest discussion about Staff and their competence? Take a look at Aaron Katz's email from August 22nd, which all of you got. Although he is not up to speed on the Burnt Cedar Pool Project and using a CMAR to make it happen, why do we tend to default to folks that increase the cost? In the beginning Terracon was around \$1.2M or so, now we are at \$5.6M, how did that happen? At the Board level you have Trustees like Peter Morris & Kendra Wong that totally agree that any IVGID employee is outstanding; BTW has Cheerleader Peter Morris ever commented on an item without first telling us what a great job Staff has done on "such & such"? Hey Peter, why do we have this "effluent pipeline" issue if Staff is so great? As with most organizations, one has good/okay/bad Staff, and it is the job of Management to move that needle towards good/okay employees and away from bad employees (get rid of them). So his issue is IVGID Management, not Staff. He is only going to discuss Finance

Management, because although he might know something about other areas, he has a better feel for Finance/Accounting than Utilities, etc. IVGID has an issue in Finance, the new Finance Director, Paul Navazio, is sinking. If you do not agree, check out the last Audit Committee meeting of August 19th. He was totally blown away re the discussion of the CAFR & the 14 Points by members of the Audit Committee. Fortunately, that issue will get resolved because the Audit Committee will bring in an outside expert to review it. What's interesting about the new Finance Director's approach is that he supports what the former Finance Director, Eick, did. And most of us know what Eick did was out-of-line. But our current Finance Director thinks Eick's response to financial & accounting issues was "spot-on", he agrees! It takes a "stretch of the imagination" to really believe that Eick was right. So my problem is that IVGID currently has an incompetent Finance Director, and so how can the Staff below the incompetent Finance Director be improved if the top person is worthless? It is a mystery. Thank you.

Linda Newman said she did not think it possible but the Board agenda items and supporting material just get worse and worse. What she means is that the departure from complete and accurate information becomes more and more distant with each passing week. The first item on the consent calendar doesn't qualify as a consent item as it was never discussed by the Board, can't be reviewed without further explanation, it does not disclose the complete financial impact and liabilities and isn't routine. And worse, the fact that this equipment will be installed at a non-IVGID location and members of our Parks and Rec Staff will be used to provide instruction has been omitted. Deception, by omission, has become an art form at our District. It needs to stop. Please remove this item from the entire agenda. As for the \$160,000 software proposal, after Mr. Pinkerton's more than \$500,000 in software additions that are either useless or not up to the job, she can only hope that this proposal has been vetted, will perform according to expectations and demonstrate an appropriate return on investment. What she would like to know is whether this software can be integrated or expanded to provide these services to all our recreational and beach businesses. And, she would like to point out, that under additional methods on page 4, it mentions IVGID punch card payments. Every member of staff should know that you cannot pay with punch cards. You can reduce the value of a punch card by paying the resident rate with cash or a credit card, but you cannot pay with a punch card. On the New Burnt Cedar Pool items, she does not know how you can award additional contracts with multiple vendors and approve a method of delivery until you establish the budget and how you will pay for a new pool. In addition, before you move from the pre-design stage, you need to know whether Concept 1 is feasible after the completion of all site surveys and topographical studies and obtain guidance from all the appropriate regulatory agencies. Please take a step back

and get this right. She highly recommends that this Board define the scope of legal services required and then begin the process for securing new legal counsel. Your starting point should be engaging a law firm or firms as agents of the Board and determine whether you should have one firm to handle all governmental functions and other firms for contract and other extraordinary items to review. On the matter of correspondence in the Board packet, there is no prohibition by the AG against including ALL correspondence received by the District in the packet. For more than a decade, correspondence was always included. Then in 2018, correspondence was omitted without the Board taking a formal vote. All correspondence, with very limited exceptions, are public records. Please restore them to the packets or post all correspondence received by the District on the website.

Patrick McBurnett said he is a 27-year full time resident who understands the devastation on the lake as we have overcrowding in the basin which generates a lot of trash and then there are all the parked cars on the east shore where there are few bathrooms. The exception is our beaches because of the limitations. Our beaches are clean and not overcrowded. We have an upcoming election that is important. IVGID has a new General Manager who is going in the right direction. This will all change if the Board make up changes; Trustees Schmitz, Dent and Callicrate have worked hard. One issue are the STRs [short term rentals] and we have lost the battle with Washoe County. The real estate group has lead the charge and one of them is running for the Board of Trustees. A friend of his was at a meeting where he cut him off. This domineering person is a major STR agent which is a very important fact. We need to limit the access to our beaches and stop the purchase of unlimited cards. We need independent minded Trustees who will represent this community.

Cliff Dobler said that Staff will bring forward a design award for TSK; we had the advance schematic design at the last meeting. Estimated cost of the project is at \$5.6 million which jumped on a trampoline from \$1 million. Rather than defining a scope of work, we received a design for all work. The proposal outlines 6 tasks which Mr. Dobler read. There were five different design firms who excluded disciplines and there could be fees for utilities, fees for TRPA, etc. The number of weeks is included – 68 weeks. It is all scrambled together. What will we get? Not clear at all. At the end, what will we have? He became quite perturbed when he got the pile of paper so he asked and he got a new pile of paper; a new proposal that was 26 pages. He read it but he needs more time to digest it. Further, the geotechnical information was excluded so this item should be postponed until you have all the facts.

Margaret Martini said she had no idea that reading a Board packet would be a lot like reading a mystery novel with a cast of unreliable narrators. It was a mystery to her to learn that the District is currently operating beginning to intermediate level gymnastics programs and is looking to expand. Somehow, in July a staff member requested a quote for gymnastics equipment and someone discussed with the Duffield Foundation the possibility of providing a grant and a consulting fee for equipment that would be located at the Lake Tahoe School with gymnastic programs administered by our staff. Only half of this information was provided in the packet, the rest I learned from other citizens and their emails with Staff. This consent item is of deep concern for a number of reasons. First, she is not aware of the programs our property owners pay to provide for the schools and whether NRS 318 allows the District to collect money from property owners to subsidize these school programs. Secondly, if gymnastics is a private business opportunity why is our government expanding our recreational offerings to compete against struggling local businesses? Thirdly, is it even lawful for us to accept a grant for equipment that will be housed outside of our recreational venues with our staff operating the programs? And what are our liabilities? She supposes she shouldn't have been surprised as the District offers 100 or more programs that parcel owners subsidize at a cost that exceeds more than a million dollars annually. There is no data on all of the programs at all of our venues, the participation, and ALL the costs to operate. Please provide this information to all Trustees and post it on the website. Consider this a public records request. With items like this one, she can see that there is no Board oversight. She can also see why the District continues to omit correspondence from the Board packet. Information is so tightly controlled that not only are requested public records withheld or delayed as long as possible, but timely communications from our citizens voicing their concerns or simply sharing information must also be kept from the public's view. These, too, are public records. Isn't it time for this Board to act like a Board and direct staff rather than the other way around?

Frank Wright said he is a candidate for the Board. Where are we today and where were we 6 months ago? He told you that things were going to change and some things have changed which is better for Incline Village. We have new Trustees and the way the Board is moving is in a positive direction. Things need to change as it all belongs to this community, the employees work for those people, and the Board members represent them and it should be that way. People fund everything, yet it appears that Staff thinks that they know everything. Public correspondence should be in the Board packet, it should just be in there, and it is insane. It is our tax dollars and we are funding everything and not the other way around. As we move forward, we need to move a little quicker. You need to get rid of some of the items and he will help in that process. We have to have a willing group of people to look at it and

if we can't do that, we will be in the same position as we were when the former General Manager was here.

Mike Abel said as usual our esteemed staff has committed itself to making simple things complicated through an excessively large Board packet. With the possible exception of Mrs. Schmitz who reviews the mountains of crap that IVGID throws at the Board, he cannot imagine anyone else on the board actually reads every page of this ridiculous 174-page document. IVGID has several unwritten internal rules: One is that every issue must be obfuscated with masses of paper and inside professional language to confuse the Trustees enough that (out of frustration) they feel compelled to nod their heads "yes" to the staff recommendation. The other unwritten internal rule is that IVGID will never ever take the suggestion of bringing intelligent, experienced local talent to the table on important design and construction issues. Rather, we will deplete our funds with a young inexperienced desk engineer who has never done any heavy construction and have him execute a large new project. Like Mad magazine's Alfred E Newman, IVGID seems to have fully implemented the Three Stooges engineering system. Another unwritten IVGID rule, is never ever be fully forthright with the public or the Board. Always hold back that little bit of information that might prove embarrassing or indicate their lack of accountability. Example would be Mr. Winquest's, RFQ that was put out for the pool project before the board was informed of this action. Now staff wants to slam the CMAR system down the throat of the semi-informed board. The obvious intent of the legislature as is pointed out to you on Page 64 of the packet is that CMAR is to be used, "to address public works that present unique and complex construction challenges." With hundreds of public swimming pools built and renovated every year, this pool is not a unique or challenging project. CMAR is just IVGID's lazy response to the normal DBB process. He likes how Mr. Chorey, in the great IVGID tradition, has responded to criticism of the CMAR process by hardening his stance and going to his buddies down the hill and getting them to validate his intransigence. He also wants to criticize Mr. Winquest by allowing Chorey to ONLY offer the CMAR option to the board without showing them a pathway to the normal DBB process or showing it as an option. He says take Mr. Katz's suggestion as stated in his email of 8/13/20 and hire an experienced engineer as CMA (construction Manager as Agent) and let that person direct the project. Then do the project as a DBB project that will in the legislature's words, "promote public confidence and trust in the contracting and bidding procedures" of IVGID.

Aaron Katz said that he wanted to talk about the gym equipment. We have 100 community programs and none breakeven. We lose millions annually, all of which are subsidized by Recreation Fee. Does anyone think this program is going to

breakeven financially? More bothersome, the equipment isn't for us, if it was for us, we would have been told where it was stored. Deceitful Staff tells us it "goes to various venues" - where is that? Why are you going through all of this when it is not for us and the equipment is not going to our property? He is not happy about Staff not coming forward. Don't we have enough on our plate? Just say no. On the swimming pool, the "R" in CMAR stands for guaranteed maximum price so we will have to pay hundreds of thousands of dollars, if not a million for a guaranteed price. We don't need a guaranteed price, can this idea. It demonstrates that our Staff isn't competent, hire a CMA and let them run this project. On the attorney - first, they should work for the Board as all the stuff that Staff has the attorney doing is a waste and is a waste of hundreds of thousands of dollars. You need to do a scope of work and hire experts in their specific field as no one attorney can do all of this or you can hire an in house attorney.

Yolanda Knaak said she would echo what others have said and without spending any time on this, she thinks we should have public correspondence as part of the Board packet. Thank you for working on the leaking pool as it is a huge project and there are a lot of things to discuss on that project. As far as STRs, she doesn't know if we can minimize that by limiting the punch cards we sell to them as it was something she has been thinking about.

Judith Miller said she is not sure that all correspondence to the District has to be included in the Board packet but at a minimum those communications where either the author intends it to be public comment or where a Board member requests material to be included in the packet certainly should be. Correspondence that is voice messages or e-mail that is intended to be public comment and received enough in advance should be included in both the printed and the online packets. Alternatively, all e-mails or voice mail intended for public comment could follow the procedure used by the County. Washoe County accepts e-mail and voice messages any time before the agenda item is heard. Staff reads each submission, up to three minutes, that is submitted into the record. Correspondence should include anything specifically designated by the sender as public comment. She finds the current practice of accepting e-mails for public comment but not reading them is a disservice to both the Board and the community members. And, while we are on the subject, isn't it time to reintroduce public comment on each general business item? It is so discourteous to cut off members of public who have to squeeze in their comments about everything on the agenda into 3 short minutes. Yes, we do have a few citizens who are quite skilled in the art of in political satire, but that should be appreciated, not strangled. The County provides public comment at every action item and listens politely to remarks unlike any that we

have heard at our meetings so please she encourages you to restore public comment after each action item.

Jack Dalton said thank you to the IT personnel; he is a full time resident and he has a question about the election for IVGID trustees that is going to happen no more than 2 months from now. How can we elect Blane Johnson when he has STR conflicts? Mr. Dalton continued by stating that he was raised in a small town in Nebraska where he knew his neighbors. They had no STRs in his neighborhood. STRs have a problem. Blane Johnson and Sun Bear Realty have more than 40 rentals on Airbnb and other sites; he continues to rent through COVID. There was a bear cub incident at his site along with multiple other violations that were not addressed. He would recommend that he and his company should sign STR recommendations found in other areas and that should be made public.

Ray Tulloch said he has a comment on the Burnt Cedar pool. Staff made a rush to decide on a method of construction, CMAR, and we don't have a design, costs showing more than double the benchmark costs, contingencies on top of contingencies are built in, yet Staff still wants CMAR, and it will increase to the maximum price which is \$5.6 million and given our track record, this process will increase that to over 10% of that regardless of what we are told is guaranteed maximum. He believes we should reject that proposal outright and wait until we get proper design estimates and properly bid out the process. Only true benchmarks are what the contractors will offer to complete the project. If Staff is not competent to do this project themselves, he supports CMA and he does not support the CMAR proposal as he believes that it will make the pool cost even more. Read some of the Board packet, read the gymnastics item, if public comment is correct and the equipment is on another property, he would urge the Board to reject this item until more public information is provided.

D. APPROVAL OF AGENDA (for possible action)

District General Manager Indra Winquest requested that General Business Item H.2. be removed from the agenda in its entirety. Staff is trying to move through this project with the goal being to get it done next summer. After the agenda came out, and after having conversations, he feels that we need more information about that site. We have been reviewing geotechnical information from 1999 and that he wants to pull it and evaluate it a little further. Staff does have a topographical analysis that is in motion and that may come back as soon as September 9; Staff would like to take a little more time to evaluate. Depending on what is underneath the pool, we may need to reposition the pool so he would prefer to bump this item. Chairman Callicrate asked if this action influences General Business Item H.3.

District General Manager Winquest said no, and as far as a discussion, that is up to the Board; he does see the value in allowing Staff to do their presentation. Trustee Dent said that if we don't know what the design is, then we can't decide the route to take so he doesn't think that the Board can make that decision however he is not opposed to having a discussion. Chairman Callicrate said that General Business Item H.2. is removed in its entirety from the agenda and that there will be a comment made before the Consent Calendar is considered which, after checking with District General Counsel, is okay.

E. DISTRICT STAFF UPDATE (for possible action)

E.1. District General Manager Indra Winquest

E.1.a. Review of the long range calendar

District General Manager Indra Winquest went over the long range calendar. Trustee Schmitz said, related to a pricing policy, we have had a lot of discussion on that topic with the Audit Committee and it should be here with the Board of Trustees and maybe as a part of the budget but it should be listed here. Trustee Schmitz continued that she is just curious and that she seems to recall that the effluent export pipeline project management deadline was August which was then pushed to the end of September and that she is concerned about the timing and the ability to move it forward for the construction season of next year. District General Manager Winquest said we will put it in the parking lot right now as Staff plans on bringing back a policy early in the budget and that this policy would be one of the considerable drivers for how Staff does their budgeting so it will come forward mid to late fall or winter but it will be put into the parking lot. On the pipeline, an interview was held with the one responsive firm and we are not sure we are ready to proceed and that he will be getting out some information to the Board and have an update in the General Manager's report of September 9, 2020. Trustee Dent said, adding on to the General Manager's response on the pipeline, the team had only one participant so there was nothing to compare to and we need to make a decision on the next steps as it is hard to say this is the one when there is nothing to compare it to. Trustee Wong suggested adding that discussion to the September 9 agenda. Chairman Callicrate said they talked about that and the whole point of September 9 is the punch card and that is a very good idea so we can put that out there, as a placeholder, and that he will touch base regarding changes but we will put that down as a tentative for September 9.

F. REPORTS TO THE IVGID BOARD OF TRUSTEES*

F.1. Board Treasurer Sara Schmitz

Board Treasurer Schmitz said she has been meeting with Staff and that the preliminary year-end financials have been posted on the website. Next week, the Director of Finance and his team will be putting together two formats for input, tied to special revenue accounting with the breakout, so that we are providing a different way of rolling that information up. She will be looking at that next week and she will bring that to the Board members for their review and input. She is working to get to a standardized process to get the procurement reports to her each month and that one outstanding item is that the Controller was going to look at a method to provide them online and that the only thing that has stopped it is because of confidential information; goal is to have that information readily available online.

F.2. Audit Committee Chairman Matthew Dent

Audit Committee Chairman Matthew Dent said that the audit is underway and there is nothing forecasted to hold it up. He has spoken with the auditors last week and again this week and there is nothing that would tell us that we are off track. The Audit Committee had its last meeting on August 19 and we reviewed the 14 points related to last year's Comprehensive Annual Financial Report (CAFR) and Staff made a presentation and the committee decided to move forward with the top three points (enterprise funds, capitalization of project costs and punch card accounting) and will decide next on the vendor. The last item was review of internal controls and the committee did a high level review and didn't get down in to the weeds; Staff has a lot of work to do but we did do an overview. Trustee Schmitz said, as a quick clarification, in addition to the items mentioned and as part of the enterprise special revenue, we also looked at the central services allocation as it relates to these funds. The Audit Committee will do a recommendation that will come to the Board and that review will be done next week and then it will be brought to the Board for their action. Trustee Morris said that he missed what the topic was that was being brought back to the Board of Trustees. Audit Committee Chairman Dent said it was the authorization that has already been authorized by the Board to the Audit Committee but that we are going to bring it back to the Board to make that decision even though he believes that the Board already voted, he will bring it back anyway.

G. CONSENT CALENDAR (for possible action)

- G.1. Recommendation to 1) accept a grant from the David & Cheryl Duffield Foundation to the IVGID Parks and Recreation Department in the amount of \$21,176 for the purchase of gymnastics programming equipment and associated expenses, and 2) authorize FY2020-21 budget augmentation for this purpose (Requesting Staff Member: District General Manager Indra Winqest)**

District General Manager Winqest said that he understands that certain individuals are skeptical about this gift and how it will be used. He is very confident on this project as the District has run gymnastics before and it can be very costly. We have a very generous donation and anyone who has worked with Staff, they know what they are doing. Parks and Recreation is collaborating with schools and non-profits to serve the youth of this community. This program will be popular and heavily utilized and anyone who wants to talk about it can call him as he is happy to talk about it. This is something that will benefit the youth and the District is very thankful for this generous gift from the David and Cheryl Duffield Foundation. Chairman Callicrate said thank you for that information as there were several comments made during public comment about just that. Staff will be putting together a more detailed information sheet on this project.

Trustee Wong made a motion to 1) accept a grant from the David and Cheryl Duffield Foundation to the IVGID Parks and Recreation Department in the amount of \$21,176 for the purchase of gymnastics programming equipment and associated expenses, and 2) authorize FY2020-21 budget augmentation for this purpose. Trustee Morris seconded the motion. Chairman Callicrate asked for further comments, hearing none, he called the question – the motion was unanimously passed.

Chairman Callicrate said that there will be a more in depth report on the gymnastic program out next week. Trustee Wong thanked the David and Cheryl Duffield Foundation for continuing to support our programs and the youth in our community. Chairman Callicrate said he seconds that statement and thanked them for their continued support of this community and for what they do in the Tahoe basin.

H. GENERAL BUSINESS (for possible action)

H.1. Review, discuss and possibly approve an item for the 2020/2021 Fiscal Year allowing the District to enter into an agreement for RTP|ONE – Capstone Database Integration, Active Gateway Services and ACM ONE|Store software licensing for 2020/21; Project – Fund: Ski; Project 3499CE1909; Vendor: Active Network in the amount of \$160,000 (Requesting Staff Member: Director of Information Technology Mike Gove and Diamond Peak Ski Resort General Manager Mike Bandelin)

Diamond Peak Ski Resort General Manager Bandelin and Director of Information Mike Gove gave an overview of the submitted materials. Chairman Callicrate asked how far beyond are we compared to the real world? Director of Information Technology Gove said IVGID is about 10 to 15 years behind. Chairman Callicrate said he recalls that quite a bit of money was spent related to software and hardware and that this sounds like it is a flexible set of software; is that correct? Director of Information Technology Gove said yes and that it is his team goal to help improve processes within the District and then proceeded to give a technical review of how it will work. Chairman Callicrate said that the Vermont software has been heavily utilized at the Recreation Center and other recreational venues so he understands that this would alleviate that sticking point and understands the custom implementation. As we invest in software, are we getting the best of it while we can to get a fully integrated network because technology is supposed to make work easier and is this the next step before it all gels? Director of Information Technology Gove said he makes no promises yet as we are still in the discovery process but that is the goal. We would like to have one card that can be used throughout the District. Punch cards are used as payment as we think of it. Capstone is custom to the District and RTP opens the door to start communicating throughout the District. Trustee Morris said that he had a good conversation with the Director of Information Technology and that he, himself, is a software guy who has spent nearly 40 years in that field. Given where it can take the District, he thinks it is an excellent move and he supports it. It is for \$160,000 and the project summary we used to have was for \$202,000 so maybe there are some other things that are going on and maybe that is some savings to deliver a better product. Director of Information Technology Gove said you are correct and that we are also getting Capstone integration as part of this which would have been extra. Trustee Schmitz thanked the Director of Information Technology for spending time with her and answering her questions as we need to plan for

reservations at the ski resort. She would like to point out on this project sheet that when we have our other capital projects, it includes Staff time as a cost, and this sheet doesn't have Staff time so she would like to ask our Accounting Department to weigh in, at some point, on that topic.

Trustee Morris made a motion to authorize Staff to enter into an agreement with Active Networks for RTP|ONE – Capstone Database Integration, Active Gateway Services and ACM ONE|Store software licensing and implementation for Diamond Peak Ski Resort, for a total amount of \$160,000. Trustee Wong seconded the motion. Chairman Callicrate asked for further comments, hearing none, he called the question – the motion was unanimously passed.

- H.2. Review, discuss and possibly approve a Schematic Design Services Contract for the Burnt Cedar Swimming Pool Improvement Project – Fund: Beaches; Project 3970BD2601. Vendor: TSK Architects in the amount of \$60,013 (Requesting Staff Member: Engineering Manager Nathan Chorey) – REMOVED FROM THE AGENDA IN ITS ENTIRETY**

Chairman Callicrate called for 7:24 p.m. break; reconvene at 7:40 p.m.

- H.3. Review, discuss, and possibly select a project delivery method [Construction Manager-at-Risk (CMAR) versus design/bid/build] for the Burnt Cedar Swimming Pool Improvement Project – Fund: Beaches; Project 3970BD2601 (Requesting Staff Member: Engineering Manager Nathan Chorey)**

Engineering Manager Nathan Chorey gave an overview of the submitted materials. Chairman Callicrate said that both processes have their merits and that it was brought up a couple of times in public comment that this is construction manager and construction manager at risk so how are those different? Engineering Manager Chorey said that a construction manager can be hired as an agent and that they are not responsible so they would be a consultant and that the District has done that and did so on the Diamond Peak Culvert Project. The construction manager at risk is responsible for the design and a guaranteed maximum price. Chairman Callicrate said that those are critical differences and that he wanted to understand that. Trustee Dent said that Engineering Manager Chorey and he spoke earlier and that they discussed the fee that the construction manager would get is negotiated

and that it is based off the costs. So are these the same people that are developing the costs or is this off the estimate that we got at the last meeting? Engineering Manager Chorey said that Staff has gone out for bid for the construction manager at risk (CMAR) process and that the next step would be to interview the respondents and discuss compensation. It is spelled out in the Nevada Revised Statutes and it is generally between 5% and 20% and it is negotiated. Trustee Dent asked off of what number – it is the proposed price or off our estimate? Engineering Manager Chorey said that both parties arrive at a guaranteed maximum price and it is a percentage of the bids received. Trustee Dent said it is a percent of the hard cost and that percent is negotiated. Engineering Manager Chorey said yes. Trustee Dent said he would like to understand that process. Engineering Manager Chorey said that there is a cost estimate then scheduling and constructability. The next phase is a guaranteed maximum price and at that time we can either say we don't want to do it, thank you, and then we can go and publicly bid it. Trustee Dent asked why we are recommending the CMAR route and is that because of bandwidth, capacity, or guaranteed maximum price? Given that the Burnt Cedar pool has a big issue which is unknown and that is rock, which we don't know if it is present or how thick it is, etc., should we go the CMAR route or wait until the schematic is prepared because it seems premature to do this before we have the schematic drawings? Engineering Manager Chorey responded that the CMAR process will help us with that as the contractor may say they don't want to bother with an investigation on the rock. By bringing in a contractor early, we get their valuable input and IVGID could benefit. Trustee Morris said that he is not ready to make a motion or to vote because there is a lot that we have to learn about the different options to learn about the benefits. He is still unclear about when this would become a CMAR agreement and do we do the schematic and then get the contractor or do we do the CMAR agreement so they are involved in developing the schematic? Engineering Manager Chorey said that anytime during the design, the CMAR can be brought on and that Staff is advocating for earlier so they can help us. We have an interview process to conduct before we bring them on board and hand them the schematic documents which they can review and price for constructability. This is about the project funnel and as you get further along, the ability to make changes decreases. Trustee Morris said the Board doesn't need to make a decision today as Staff is getting more information. The culvert at Diamond Peak was his first introduction to CMAR and that he spent a lot of time with the former Director of Asset Management to gain understanding and what he got from it is that there were potential big unknowns and that instead of us taking on that risk, it reduced our risk.

Engineering Manager Chorey said that the Diamond Peak culvert had unique challenges and while he was not here at that time, the culvert was over 30-feet deep and there were utilities there. The scan of the pipe indicated that the pipe was in pretty bad shape. Remediation could have gone in a number of different directions so we got a contractor to help us solve that problem. The Burnt Cedar pool is not unique but there are elements such as having people at the beach with an active construction site, circulation is a challenge, can't have construction traffic navigate that loop so a way needs to be figured out to separate the contractor from the beach users, etc. and who better to ask than the contractor and the contractor that is going to do the work. Trustee Morris said he agrees with Staff and that he thinks it is important. You are making him think about other reasons to consider therefore maybe Staff can prepare, in table form, a list of pros and cons of CMAR and DBB [Design-Bid-Build] so as we approach this we can say here are the risks or the unknowns and then why go this way or that way. A decision grid with pros and cons would be very helpful to him. The only thing that he thought about was if we find a giant piece of granite, what is that going to cost us or what if there is some water table issue. He is sure there are some so having those pros and cons will help him to make his decision. Chairman Callicrate said that Trustee Morris' point is well taken and that it was spelled out fairly well however having a visual would help. It is probably a little premature until we have the schematic but that bringing in people sooner rather than later can be beneficial. District General Manager Winqest said it is about the bandwidth of our Engineering team and one of the benefits to CMAR is that we will be able to alleviate the time our Engineering team has to spend. They are totally capable to deliver this project but with all the projects coming up, it would take off some of the pressure on this team. It will also keep us on a tighter schedule as we want to get this project done next summer. We pulled that other item off the agenda to work through the issues so that the Board can be comfortable with the direction the District is moving. Staff will be bringing the item back for the schematic design contract and it is good to have this discussion. The uniqueness of this project is the site excavation, etc. as we don't know what we are going to find once we get into this job site. As you get into the final design, it becomes a lot easier to drop in features. Trustee Dent said it is more of a bandwidth issue and is the CMAR contractor going to rip out the pool deck and see what is under there? If not, then no contractor will know what is under there. On a \$5 million contract, we may have a \$250,000 fee or a \$1 million fee and are we paying that upfront or afterwards? This is missing the point about what the CMAR is going to tell us about what is under the pool deck. Engineering Manager Chorey said by bringing on the

CMAR contractor, and in the worst case scenario, we are going to hear that the rocks are costing X dollars and we will have that conversation before the construction starts. Rather than have a change order, we can think it out during the design to arrive at a better solution. Trustee Dent said if we go through the CMAR process, and we put out a bid for the excavation under the pool deck and the bid comes back, the contractor doesn't know what is under there so he doesn't understand how we eliminate that piece with a CMAR. We need CMAR to help design the access. Why go CMAR versus hiring a consultant to help guide us? They won't charge us between \$250,000 and \$1 million. This is from a pre-construction standpoint, in private residential, we will do that for them for a \$10,000 fee and they will have a permit and then we give it back to the client and if they go with us for construction; we are there to help the designer design. It is cheaper to hire a contractor and the savings could be between \$250,000 and \$500,000 and that this is the only part he is hung up on. Engineering Manager Chorey said that is definitely an option and that a general contractor will add a percentage and that is all CMAR is doing. It is very similar to DBB except we add them on earlier. Trustee Schmitz said that she has built pools, not public pools, but that she has done a heck of a lot of home construction and that any time anyone is given a maximum not-to-exceed price, someone has done everything to protect themselves and that means paying more. She doesn't understand the benefit of CMAR but she clearly understands the benefit of an overall construction manager. On agenda packet pages 81 and 82, which does compare DBB to CMAR, and then looking at the two diagrams, on agenda packet page 82, pre-construction services and it talks about a guaranteed maximum price – anytime you have that, there is padding to protect themselves. Going through the process will allow us to possibly make changes and decisions. It will all be going on in parallel and if they encounter something, they will have themselves covered as they are going to give themselves a way out. She doesn't understand the cost benefit to a project that doesn't have a lot of complexity so she is sort of puzzled as to why we would be taking this approach. Further, she doesn't know what a CMA is and how it is different from CMAR; we need to understand the difference between DBB, CMA and CMAR. Trustee Morris said that the other thing is about timing and workload that we can manage. He is pretty sure that we want to get this done in one complete season so when you do the report, please be sure to talk about the timing as it is important and then those associated options. Trustee Morris then asked Trustee Dent, as the construction man on the Board, if he would have the time to meet with the potential CMAR and discuss this a bit further and then come back and translate that back to the Board. Chairman Callicrate said that he didn't know

about the legal ramifications of that but that he does know that Trustee Dent is pretty busy and that he doesn't want to presuppose what Trustee Dent would say but we have to be careful with individual Trustee involvement because it is a public situation. If we are going to potentially be approving a bid, it could be perceived that we were meddling and there could be some legal issues there. Trustee Wong said that she is not a construction expert and that she would defer to others that have the expertise and our Staff, but that she cares less which direction as long as we do so responsibly and get this project done. Chairman Callicrate said that he doesn't know enough about the differences but that he is seeing that we have limitations with our Staff as we are in a time constrained situation and that he would like to look at it a little bit further. He respects what Trustees Dent and Schmitz have added. Director of Public Works Pomroy then gave a bit of history going back to the construction of the Chateau and the Public Works buildings which were construction management by agent (CMA) and then he discussed the Diamond Peak culvert which was CMAR and that Q&D was the recommended contractor who charged IVGID \$25,000 prior to going to construction to get to the guaranteed maximum construction contract. There was a fixed fee during that time period and that is what they did during the culvert design. Chairman Callicrate said that this has been a good discussion and that we need more information so will this come back on September 9? District General Manager Winquest said that there are things that Staff needs to work through and then we will figure out where we land and yes, the goal is September 9. There is risk with whatever direction we go and that it is about making the best decision. Trustee Dent said with CMAR, all we are doing is getting a pre-bid before we do the project and paying the added fee. With DBB, we have the engineer's estimate and then we bid it. Thank you Staff for the added information and if we don't have the bandwidth to handle this project, which it looks like it is coming down to that, then be more confident with that and moving forward on this project. Chairman Callicrate asked Staff to try and bring it back on September 9 or at a date to be determined.

H.4. Review and discuss the District General Manager taking one of the four following actions to obtain legal services for the District: (Requesting Staff Member: District General Manager Indra Winquest)

- a. Proceed with a Request for Information followed by a Request for Proposal;**

- b. Obtain a pricing proposal from Best, Best & Krieger for a monthly retainer fee and/or hourly fee;**
- c. Interview and hire in-house legal counsel; or**
- d. An alternative/option determined by the Board of Trustees at this meeting**

District General Manager Winquest gave an overview of the submitted materials. Trustee Schmitz said that she had a very nice conversation with the District General Manager about this item and that they talked at length about the materials in the Board packet. Starting on agenda packet page 90, this language and how it was written up, as well as the process, was a different philosophy than this District General Manager is trying to bring to the District. On the questionnaire, it was reviewed by Staff, and we should really try to abide by Resolution 1480 which means that the Board would be more involved. If we go about this process, based on the new philosophy, the process would need to be updated a bit with more Board participation and the things we are asking for as the former District General Manager had a different philosophy. The idea and the concept is good however it should be revised and rewritten to see what the roles are and the process of who is involved. District General Manager Winquest said that he agrees and that a lot of what we want to get out of this is how do we scope it out and how do we integrate the Board into the process and make it a total team effort for the District. His philosophy is very different on how he uses the attorney. Trustee Dent said he definitely thinks if we do go out with an RFP, we should revisit this to understand the scope of what the attorney is to handle because it appears that the scope was expanded quite a bit. Given that our previous firm is behind us at the end of this month and that we are now working with BBK, it is in the District's best interest to have a monthly retainer and set a scope and expectations as we work through this process. He would like to move forward with Item B. and work on a scope of work for our attorney which could lead us down the road of going out for a request. BBK has been on board for several months and they have set the gold standard so let's go with Item B. and figure out what that looks like. Chairman Callicrate said he is tending more towards Item B. because we do need to have them because our former attorney will be no longer. The Managing Partner did say that if they have any residual items, they were available and he did say that in the best possible way to make sure that everything is done completely and thoroughly. He thinks that if we were to get a monthly retainer that would be great and then we would have an opportunity for the new Trustees to give some feedback. Trustee Schmitz said she would add that by doing that, and working on that, it would help us to refine the services for a new attorney

and help us to define in an RFP/RFI and that will give us clarity. Trustee Morris said he is tending towards Item B. as well. A couple of things – he thinks that BBK has done exemplary work for us with knowledge and attitude and that when we get a pricing proposal from them, we need to give sufficient lead time to them so that we can help increase the worth of their investment. When they come back with their proposal, he would like to see what length of contract that they would like and then ask them to make the other services known that they could provide to us as well to add some value and that he is really interested in hearing that from them as well. Trustee Wong said that we are close enough to an election that we should keep on working with them. She is absolutely in favor of us going through the RFP process once we know what that looks like. Chairman Callicrate said that he thinks that we have enough to reach out to BBK and get a proposal as there is value in investing long term in a law firm and that after the election, we can have this discussion again. We do so appreciate the work that Mr. Velto has done with jumping in and what he has been able to do to help out. He thinks that this is their last meeting with us and he wanted to recognize the work that he has done; District General Counsel Velto said thank you and that it has been a pleasure to work with you.

H.5. Review and discuss an improved method of handling correspondence submitted to the Board of Trustees/District (Requesting Trustee: Chairman Tim Callicrate)

Chairman Callicrate gave an overview of the submitted materials. District General Counsel Velto said at the end of the day, the Board has the discretion on how you want to proceed but that there are legal issues that are present and that the Board Chairman presented. It is likely in your best interest to schedule a meeting with your attorney to discuss, in a legal non-meeting, on how to best proceed. In looking at the documents before you, it would be best to have a defined policy but that it is really hard with labor issues and freedom of speech thus he would really suggest a legal non-meeting to discuss this matter. Chairman Callicrate said that he seems to recall that Counsel Guinasso had sent out to all of the Trustees some information that came from the Attorney General's office and that it was left out which is his fault. District General Counsel Velto said to take a look at agenda packet page 130. Trustee Schmitz said that this is responding to an OML complaint so what is libelous to the District? Chairman Callicrate said that he thinks there was an e-mail sent out by Counsel Guinasso that the Attorney General said that when you include correspondence, depending on the content, that you could open up the Board and the District to potential

litigation. He doesn't have that information in front of him and he assumed it was included in the packet. Trustee Wong asked if the District Clerk could resend that e-mail to all the Trustees. Chairman Callicrate asked that Staff locate that e-mail that Counsel Guinasso sent to the Board and resend it to make sure that all of the Board members have that material. To District General Counsel Velto's point, we should meet with Mr. Nelson and go through this so we have a policy that is deliberate. Trustee Schmitz said that there are members of the community that take time to write to all of us as Trustees and her feeling is that all of that should be included as community members should know what they have written about and when people take the time to write, it should be shared with other members of the public. Chairman Callicrate said that we have all our records digitized and that perhaps we should post that information on our website. We will have the same reoccurring question is that the people who have written and have expertise in a particular field should have that information included as well as people who are opposed. If there are those that castigate in a negative or profane way, that is not acceptable. He wants to have a good and robust policy as we do appreciate the people who write to us. District General Manager Winquest said that it is going to be important to have a good understanding of what the other agencies do and that he does want to echo that it is all about being transparent and that he has been here a long time. He does echo what Chairman Callicrate said and that there was a time period where there was a lot of bad things that were written about the Board and Staff which does create a hostile environment which is not good for morale. It is all about getting the correspondence but when you make defamatory comments, it is not good for the community and the Staff. Chairman Callicrate said he will schedule a meeting with District General Counsel to discuss this topic and then he will get the information out to the Board on when that meeting will occur on this item.

I. APPROVAL OF MINUTES (for possible action)

I.1. Meeting Minutes of July 29, 2020

Chairman Callicrate asked for changes, none were requested so 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 of Trustees updates at this time.

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

Yolanda Knaak said you are doing a great job and that she is glad things are moving forward to fix the leaking pool.

Margaret Martini said she is a little disappointed for going ahead with the gymnastic program as she doesn't think there was enough information provided at this time. Other programs are breaking even or making money and taking on another program, this is the ice rink all over again. Very nice of them, they should just give that money to the Lake Tahoe School and let them offer this and IVGID shouldn't be involved in any other program unless it can be penciled out 100% which would include the cost per hour to use a facility, etc. as she is not seeing any of those things being presented. This is not in the purview of IVGID and although she really appreciates Mr. Duffield, if he wants that program, he should support it as such.

Cliff Dobler said getting back to the Burnt Cedar pool; when he was on the committee, the only thing we received, from the architects, was a layout. Through this whole process, he cannot conceive what the difference is in the cost estimate which is a \$4.5 million difference. He went out to Arrowcreek the other day, and they have a pool that a very wealthy man funded. The pool deck had two different types of stones, same thing with fencing, and it had ground lighting. We have none of that being disclosed so that needs to be done. On the attorneys, he would urge this Board to consider two attorneys - one for government and one for contracts.

L. ADJOURNMENT (for possible action)

The meeting was adjourned at 8:57 p.m.

Respectfully submitted,

Susan A. Herron
District Clerk

Attachments*:

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

Submitted by Aaron Katz: Written statement to be included in the written minutes of this August 26, 2020 regular IVGID Board (“Board”) meeting – Agenda item G – Possible approval to purchase someone else’s gymnasium equipment using grant funds arguably provided by the Duffield Foundation – on the Consent Calendar no less

Submitted by Aaron Katz: Written statement to be included in the written minutes of this August 26, 2020 regular IVGID Board (“Board”) meeting – Agenda item H(5) – Review and discussion of the Board of Trustees’ re a possible Board meeting “correspondence” policy

Submitted by Aaron Katz: Written statement to be included in the written minutes of this August 26, 2020 regular IVGID Board (“Board”) meeting – Agenda item H(3) – Possible selection of a construction manager-at-risk (“CMAR”) project delivery method for the Burnt Cedar beach swimming pool capital improvement project (“CIP”)

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS AUGUST 26, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM G – POSSIBLE APPROVAL TO PURCHASE SOMEONE ELSE’S GYMNASIUM EQUIPMENT USING GRANT FUNDS ARGUABLY PROVIDED BY THE DUFFIELD FOUNDATION – ON THE CONSENT CALENDAR NO LESS

Introduction: Here staff propose we accept an alleged \$21,176 cash grant from the Duffield Foundation for the purchase of gymnasium equipment “and associated (programming) expenses”¹ which sets the stage for our offering yet another money-losing recreational program² run under the auspices of the public’s Recreation Center³ – on the Consent Calendar no less. But the back-up documentation provided by staff is in conflict and simply makes no sense. And that’s the purpose of this written statement.

But it’s For “the Kids” Card Man: This is our General Manager’s (“GM’s”) all too often refrain; it’s for the kids. This way anyone who criticizes can be accused of a lack of concern for our community’s kids. And here we hear it again⁴.

The Numbers Don’t Add Up: The August 17, 2020 letter from the Duffield Foundation states that “all (of the proposed) grant monies (\$21,176)...will be used only to support the purchase of gymnastics equipment (\$20,076) and miscellaneous consulting costs (\$1,000).”⁵ Well apparently at

¹ See page 2 of the packet of materials prepared by staff in anticipation of this August 26, 2020 meeting [https://www.yourtahoepace.com/uploads/pdf-ivgid/0826_-_Regular_-_Searchable.pdf (“the 8/26/2020 Board packet”).]

² For 2020-21, a whopping \$1,222,247, just in operational losses [see the asterisk next to the proposed Recreation Facility Fee (“RFF”) subsidy at page 117 of Exhibit “A”]. And by the way, how would anyone know where to look to learn of this dirty little truth? Take a look at IVGID’s adopted 2020-21 Budget (go to https://www.yourtahoepace.com/uploads/pdf-ivgid/FINAL_IVGID_2020.2021_APPROVED_BUDGET_FORM_4404LGF.pdf). Where does anyone see this breakdown?

³ IVGID staff run well in excess of 90 community programs out of the Recreation Center [see page 113 of the packet of materials prepared by staff in anticipation of the Board’s March 11, 2020 meeting [https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf (“the 3/11/2020 Board packet”) – staff’s narrative (labeled an “executive summary”) of the Recreation Center and community programming functions, in anticipation of passage of a 2020-21 budget (see pages 113-117 of the 3/11/2020 Board packet), is attached to this written statement as Exhibit “A”], and not one operates at a break even or positive cash flow basis.

⁴ “This equipment will be utilized at various venues by the Parks & Recreation Staff to provide gymnastics programming *for the youth of Incline Village & Crystal Bay.*”¹

⁵ See page 3 of the 8/26/2020 Board packet.

least \$100 is intended to be spent on something else. Although I've asked our GM for an explanation, I haven't gotten one.

The Recipient of the Proposed \$1,000 in Consulting Fees is Not "Outlined in the Invoice"⁶
Attached to Staff's Memorandum in Support: The August 17, 2020 letter from the Duffield Foundation states that "miscellaneous consulting costs (are)...outlined in the invoice."⁵ Take a look at the invoice⁶ and show me where these costs are outlined. The answer is *nowhere!*

For These Reasons on August 22, 2020 I Sent an E-Mail Request to the IVGID Board That at Least One Member "Pull" This Agenda Item From the Consent Calendar So it Can be Discussed in Detail⁷: because "this agenda item needs a whole lot more information/answers."

Even Though My E-Mail Was Sent to the IVGID Board, Rather Than Our GM, on August 24, 2020 Our GM Responded⁸: And what new information did he share? That the \$1,000 of "miscellaneous consulting costs" would be spent "to cover the consulting time of the Recreation Specialist for program planning and development." Moreover, "the Recreation Specialist would need to invoice the District (going through) our Recreation Supervisor (for) Sports and Community Programming prior to payment (because we)...will need to give this (invoice) to the Duffield Foundation before they grant (IVGID)...the funds." Interesting.

According to Transparent Nevada⁹ **We Have No "Recreation Specialist" Position:** That's right! Take a look at the 1,012 employees we had in 2019 and do a search for one who was our "Recreation Specialist." There was *none*.

According to Indra, We No Longer Have a "Recreation Supervisor (For) Community Programming" Position: That's right! Do the same search in Transparent Nevada for a Recreation Supervisor for Community Programming and we get Kerry Ferguson. But Ms. Ferguson was recently promoted to Communications Coordinator. And to save money, didn't Indra tell us he was eliminating Ms. Ferguson's former Recreation Supervisor for Community Programming position? It just doesn't add up.

So We Have to Provide a "Specialist" For "Program Planning Development" to Create a Gymnastics Program Who Invoices a "Community Programming Supervisor" Who Must Bill the Duffield Foundation in Order to Receive Grant Funding to Reimburse What We Pay to the "Recreation Specialist:" Is this starting to make sense, or simply raising more questions?

Moreover if One Reads Between the Lines, This Gymnastics Equipment is NOT Going to Reside at Our Recreation Center: Let me quote again from Indra's staff memorandum⁵: this equipment will be utilized *at various venues* by the Parks & Recreation Staff to provide gymnastics

⁶ This invoice appears at pages 4-6 of the 8/26/2020 Board packet. It also is part of Exhibit "A."

⁷ This e-mail request is attached as Exhibit "B" to this written statement.

⁸ Indra's response is attached as Exhibit "C" to this written statement.

⁹ Go to <https://transparentnevada.com/salaries/2019/incline-village-general-improvement-district/>.

programming.” At “various venues?” What various venues? Could it be the Sports Shop inside the Hyatt Lake Tahoe Hotel’s shopping mall? Or is it Lake Tahoe School?

So Do We Now Need a New Truck to Transport This Equipment to “Various Venues?”

Do We Need New Employees to Load and Unload the Truck?

Do We Need New Employees to Drive the Truck?

Do We Need New Employees to Set Up and Tear Down This Gymnastics Equipment?

Assuming Lake Tahoe School is One or the Only “Various Venue,” Why Are We Administering and Underwriting the Costs of Their *De Facto* Gymnastics Program?

And Assuming We’re Not Able to Financially Operates This Program on a Break Even or Positive Cash Flow Basis, Who’s Going to Pick Up the Tab?

So Why, Why, Why?

Conclusion: Indra tells us⁸ this is another one of his “truly positive collaboration(s) for the community.” I’m sorry, I don’t see it that way. For reasons Indra hasn’t explained, he is cozying up with another local special interest group – developer David Duffield. And Lake Tahoe School. Using the public resources of IVGID which is involuntarily financially bank rolled by local property owners to do his bidding. And why? Whatever the answer, I can guarantee you that the motivating factor is not “for our community’s kids.” In my opinion we don't need another money losing community program which depends upon the RFF for its funding. And we don't need to increase an already oversized recreation "footprint" when we already employ a whopping 25.68 Recreation Center FTEs³. For these reasons I pray that after transferring this matter to the General Business and from the Consent Calendar, the Board simply vote no.

And to those asking why our RFF/Beach Facility Fees (“BFFs”) are as high as they are and never seem to go down, now you have another example of some of the reasons.

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

EXHIBIT "A"

**Incline Village General Improvement District
Recreation Center & Community Programming – Executive Summary
Operating Budget FYE June 30, 2021**

Service Metrics/Service Period

The Recreation Center is open 364 days out of the year from 6am – 9pm, Monday – Friday and 7am – 8pm, Sat/Sun. Over 90 Community Recreation Programs are offered daily on a year-round basis for all ages and every demographic.



Service Measures (total visits)

	Actual	Budgeted	Budgeted
	<u>2018/19</u>	<u>2019/20</u>	<u>2020/21</u>
Recreation Center	288,473	325,000	300,000
Aquatics	64,392	68,000	66,000
Youth and Family Programs	8442	3500	3500
Youth & Adult Sports	6625	7000	7200
Senior Programs	12,194	11,800	12,300
Fitness, Health & Wellness	31,957	30,500	32,000
Total	412,083	445,800	421,000

Staffing

Recreation Center			5.89
Fitness, Health & Wellness			3.24
Aquatics			8.33
Youth & Family Programs			2.17
Youth & Adult Sports			1.90
Senior Programs			3.77
Recreation Counter			.38
Total FTE	25.10	25.03	25.68

Services Provided

- Massage Therapy
- 37 Group Fitness Classes Weekly
- 25 Yard 8 Lane Indoor Pool with Diving board
- Gymnasium
- Full Service Locker Rooms
- Pro Shop
- Aquatics Programs
- Youth & Adult Sports Programs
- Youth & Family Programs
- Special Events
- Senior Programs
- Fitness, Health & Wellness Programs
- Indoor Pickle Ball Program (Winter)
- Facility Booking
- Programming Administration
- Recreation Center Membership Services
- Community Programming Marketing
- Lobby with Free Community Wi-Fi and Public Computers

**Incline Village General Improvement District
Recreation Center & Community Programming
Service Level Outline
Operating Budget FYE June 30, 2021**

RECREATION CENTER – Open 364 days of the year

Service Provided	Frequency
Group Fitness Classes	Daily (48 classes weekly)
Cardio & Strength Room (Cable TV)	Daily
Massage Therapy	Daily by Appointment only
Personal Training	Daily by Appointment only
Gymnasium	Daily Drop in/Programming
25 yard 8 Lane Pool w/Diving Board	Daily Drop in/Programming
Indoor Pickle Ball	4x weekly/2-3 hours per day
Full service Locker Room	Daily
Facility Booking/Group Picnic Rentals/Kayak & Paddleboard Storage	Daily
Program Registration	Daily
Membership Services	Daily
Birthday Parties	Daily by Reservation
Adult Basketball Drop in	Tu/Wed/Thu Year Round
Lifeguard Operations	Daily (2 Lifeguards on duty during operating hours)
Fitness Attendant/Recreation Center Rover	Daily – 6 – 8 hours
Kid Zone Child Care	6 days weekly (Paid service)
Free Community wifi/ Public Computers	Daily
Complimentary Coffee & Tea	Daily (Members/Daily Paid Visit)
Towel Service	Daily (paid service)
Cleaning Service	Daily (After Closing)

Community Programming – FITNESS, HEALTH & WELLNESS

Service Provided	Ages	Frequency
Youth Dance – Fairytale Ballet, Jazz, Hip Hop	3 – 11	Two 12 week sessions
Adult Ballet	18+	Ongoing 1 month sessions
Nutrition Lectures	All Ages	12 sessions annually
Yoga Workshops	18+	8 sessions
5 peaks in 5 weeks Fitness Challenge	All ages	5 weeks – July/August
Personal Training	All Ages	Daily by Appointment only
Annual Fitness Challenge	All Ages	Once Annually – 6 weeks
Art Classes- 3 Variations	13+	3 Programs annually
Ballroom Dance	21+	Ongoing

Community Programming – AQUATICS

Service Provided	Ages	Frequency
Lifeguard Operations – RC	NA	Daily – 2 Lifeguards on duty during operating hours
Lifeguard Operations - Beaches	NA	Memorial Day – Labor Day Weekends
Lifeguard Operations – BC	NA	Mid May – Late September
Group Swim Lessons – RC	6mo +	Year Round
Group Swim Lessons – BC	6mo+	June – August (IVGID Passholders)
Private Swim Lessons	6mo+	Year Round
Swim Team	6+	Year Round Mon - Thu
Swim Around Tahoe	All Ages	Daily
Masters Swimmers	All Ages	Daily
Lifeguard Training Class	15+	Weekends May/June
CPR Certification	Staff	When Needed
WSI Swim Instructor Training	16+	Weekends May/June
Jr Lifeguard Training	10 – 14	6 3 hours sessions

Community Programming – SENIORS

Service Provided	Ages	Frequency
Hiking Series	55+	Tuesday's May - November
Digital Photo	55+	Once Monthly Year Round
Ski Clinics	55+	Wednesday's January - April
Bocce Ball	Adult/Senior	Wednesdays June - August
Moonlight Hikes	Adult/Senior	Full Moons May - June
Conversation Cafe	Adult/Senior	Thursdays Year Round
Field Trips & Outings	55+	Once Monthly
Incliners	49+	Year Round
Veterans Club	NA	Year Round
Community Events	All Ages	Year Round
Senior Transportation	55+	Daily
Snowshoe Hikes	55+	Tuesday's December - April

Community Programming – YOUTH & ADULT SPORTS

Service Provided	Ages	Frequency
Youth Basketball Leagues	1 st – 8 th	Daily December - February
Girls Softball Leagues	2 nd – 8 th	Daily Late April – Mid June
Youth Flag Football Leagues		Fall
Youth Volleyball Leagues	5 th – 8 th	Spring
Play Like a Champion Basketball	6 – 10	October - December
Play Like a Champion Volleyball	10 – 16	February – April
Middle School Volleyball Clinics	5 th – 8 th	Three weeks November
TK Basketball Camps	9 – 14	Two weeks June/August
Middle School Volleyball Camp	5 th – 8 th	One week - June
Youth Soccer Camp	9 – 14	One week - August
Brazilian Jiu Jitsu	All ages	Ongoing
Adult Volleyball Leagues	18+	Two seasons Oct - Apr
Adult 3 on 3 Basketball League	18+	Fall/Spring
Adult Softball Leagues (3 leagues)	18+	June – August
Adult Softball Tournament	18+	Labor Day Weekend
Adult Outdoor Soccer	18+	Summer/Fall
Adult Indoor Soccer Leagues	18+	Fall/Spring

Community Programming – YOUTH & FAMILY PROGRAMMING

Service Provided	Ages	Frequency
Tahoe Tiny Timbers	6 – 12	Daily when school is out
Trail of Treats & Terror - <i>Collaboration</i>	6mo+	Tue/Fri Year Round
Easter Eggstravaganza	All Ages	October
Underwater Egg Hunt	All Ages	March/April
IMS Career Day - <i>Collaboration</i>	All Ages	March/April
Teen Dances - <i>Collaboration</i>	6 th – 8 th	March
Leadership in Training Program	6 th – 8 th	School Year (4 Dances)
Little Adventure Camps	11 – 18	June - August
Pre-K enrichment classes	3 – 6	July - August
Themed Specialty Camps ie. Animals, Sewing & Cooking, Author Academy, World of Water.	3 – 6	School Year
Stand up Paddleboard Camp	6 – 11	June - August
8 th Grade Promotion - <i>Collaboration</i>	6 – 14	May - July
Water Carnival	8 th grade	June
Brunch w/Santa - <i>Collaboration</i>	All Ages	August
Community Holiday Celebration	All Ages	December
Community Leadership Club	All Ages	December
Community Snowshoe	9+	January – March (3 Dates)
Starlight Cinema	All Ages	July – August (3 dates)
Water Carnival	All Ages	August

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
 RECREATION AND COMMUNITY PROGRAMMING
 PROPOSED OPERATING SOURCES AND USES
 FOR THE FISCAL YEAR ENDING JUNE 30, 2021

	Actual FYE - 18	Actual FYE - 19	Estimated Actual FYE- 20	Approved Budget FYE - 20	Proposed Budget FYE - 21
Sources:					
Ad Valorem Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -
Consolidated Taxes	-	-	-	-	-
Charges for Services	1,289,952	1,364,045	1,320,000	1,285,209	1,364,897
Facility Fee	1,039,415	1,308,670	1,173,029	1,173,029	1,222,247
Investment income	-	-	-	-	-
Miscellaneous Revenues	1,247	3,483	-	-	-
Intergovernmental	17,000	17,000	17,000	17,000	17,000
Interfund	-	-	-	-	-
Central Services	-	-	-	-	-
Total Sources	2,347,614	2,693,198	2,510,029	2,475,238	2,604,144
Uses:					
Salaries & Wages	1,093,852	1,156,579	1,210,000	1,164,024	1,260,756
Employee Benefits	319,199	321,005	355,000	368,533	394,888
Total Personnel	1,413,051	1,477,584	1,565,000	1,532,557	1,655,644
Professional Services	5,400	5,550	5,700	5,700	5,850
Services & Supplies	496,034	485,452	560,000	560,046	563,979
Insurance	37,623	50,559	57,600	57,600	55,920
Utilities	135,239	133,041	145,000	145,360	144,640
Cost of Goods Sold	43,756	39,086	40,000	49,860	44,559
Central Services	101,000	105,700	124,000	124,000	133,440
Defensible Space	-	-	-	-	-
Total Services & Supplies	819,052	819,388	932,300	942,566	948,388
Total Uses	2,232,103	2,296,972	2,497,300	2,475,123	2,604,032
Net Sources (Uses)	\$ 115,511	\$ 396,226	\$ 12,729	\$ 115	\$ 112

EXHIBIT "B"

Agenda Item G - Aug 26, 2020 IVGID Board Meeting - Request to Remove This Item From the Consent Calendar and 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>, Schmitz Sara <schmitz_trustee@ivgid.org>, Herron Susan <Susan_Herron@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>
Subject: Agenda Item G - Aug 26, 2020 IVGID Board Meeting - Request to Remove This Item From the Consent Calendar and Transfer to the General Business Calendar
Date: Aug 22, 2020 7:47 PM

To Chairperson Callicrate and the Other Honorable Members of the IVGID Board -

I ask that at least one Board member transfer this agenda item as requested in the subject line. And here's why.

The invoice attached (pages 4-6 of the Board packet) totals \$20,076.

The August 17, 2020 letter from the Duffield Foundation (page 3 of the Board packet) states that the invoice outlines the \$1,000 miscellaneous consulting fee. Yet an inspection of the 3 pages to the invoice mentions nothing about this fee.

Furthermore, the August 17, 2020 letter states that the grant will total \$21,176 for these two items and the numbers don't add up. What happens to the excess \$100?

Furthermore, who's the alleged consultant getting paid the \$1,000 from IVGID? And for exactly what kind of consulting services?

This agenda item needs a whole lot more information/answers which cannot be discussed/clarified on the Consent Calendar.

Also, I am including a records request by copy of this e-mail to Ms. Herron. Here are the items:

1. Since the \$1,000 consulting fee discussed above is being paid by IVGID, I would like to examine any writings (including e-mails) which identify the particulars of these consulting services, and the payment to whom;
2. If the subject grant was as a result of one or more written requests by/on behalf of IVGID, I would like to examine all of these written requests.

Hopefully Ms. Herron can provide examination prior to the upcoming Board meeting.

Thank you for your cooperation. Aaron Katz

EXHIBIT "C"

Re: Agenda Item G - Aug 26, 2020 IVGID Board Meeting - Request to Remove This Item From the Consent Calendar and Transfer to the General Business Calendar

From: "Winqest, Indra S." <ISW@ivgid.org>
To: "s4s@ix.netcom.com"
Cc: Tim Callicrate <callicrate_trustee@ivgid.org>, "Wong, Kendra" <Wong_trustee@ivgid.org>, Matthew Dent <dent_trustee@ivgid.org>, Peter Morris <morris_trustee@ivgid.org>, Sara Schmitz <trustee_schmitz@ivgid.org>, "Herron, Susan" <Susan_Herron@ivgid.org>
Subject: Re: Agenda Item G - Aug 26, 2020 IVGID Board Meeting - Request to Remove This Item From the Consent Calendar and Transfer to the General Business Calendar
Date: Aug 24, 2020 5:01 PM

Hi Aaron -

I have received your email. Consulting fees will be to cover the consulting time of the Recreation Specialist for program planning and development. The Recreation Specialist would need to invoice the District via our Recreation Supervisor – Sports and Community Programming prior to payment as I will need to give this to the Duffield Foundation before they grant us the funds. I'm happy to discuss the details with any members of the public so they have a full understanding of this agenda item. This is a truly positive collaboration for the community so hopefully this helps you understand this. Have a nice week.

Indra

On Aug 22, 2020, at 7:47 PM, "s4s@ix.netcom.com" <s4s@ix.netcom.com> wrote:

To Chairperson Callicrate and the Other Honorable Members of the IVGID Board -

I ask that at least one Board member transfer this agenda item as requested in the subject line. And here's why.

The invoice attached (pages 4-6 of the Board packet) totals \$20,076.

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Furthermore, who's the alleged consultant getting paid the \$1,000 from IVGID? And for exactly what kind of consulting services?

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2. If the subject grant was as a result of one or more written requests by/on behalf of IVGID, I would like to examine all of these written requests.

Hopefully Ms. Herron can provide examination prior to the upcoming Board meeting.

Thank you for your cooperation. Aaron Katz

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS AUGUST 26, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(5) – REVIEW AND DISCUSSION OF THE BOARD OF TRUSTEES’ RE A POSSIBLE BOARD MEETING “CORRESPONDENCE” POLICY

Introduction: Here our chairperson proposes discussion of a possible formal correspondence policy insofar as correspondence received is concerned at Board meetings. For decades written correspondence *to the Board* was *always* included in the packet of materials prepared by staff in anticipation of Board meetings. That is until the beginning of 2018 when unelected staff, with the full cooperation and support of former Chairperson Wong, took it upon themselves to begin censoring written correspondence received from the public *addressed to the IVGID Board* from the packet of materials prepared in anticipation of public Board meetings¹. Then at the Board’s February 27, 2019 meeting, Chairperson Wong and staff removed correspondence *to the Board* from the agenda altogether notwithstanding the Board *never* voted to eliminate that correspondence from the public as an agenda item.

Besides the disingenuous effort at censorship, this behavior violated Board policy, came after two prior unsuccessful attempts to change that policy, and after explicit instructions against future censorship from at least two Board members². In other words, another example of staff arrogance and the “IVGID Culture”³ which permeates everything staff do. Since then staff have excluded public correspondence *to the Board* from board packets, and the only way correspondence can be legally included, is by making that correspondence part of a written statement, like this one, expressly submitted for inclusion in the minutes of Board meetings. This subject and a proposed policy are the purposes of this written statement.

For Some Number of Years, Through and Including the Present, the Board Has Had a Policy Which Requires Written Correspondence From the Public *to the Board* to Be Included in All of its Board Packets: Since April 14, 1999 written correspondence *addressed to the IVGID Board* from members of the public have not only been the subject of a separate Board meeting agenda item, but copies of that correspondence have been included in the packets of materials prepared by staff in anticipation thereof. That is until February 27, 2019 as referenced above. The District has adopted handbooks for its employees as well as its Trustees which speak to its policies. And insofar as correspondence *to the Board* is concerned, let me quote from page 12 of the current Trustee “member handbook:”

¹ Notwithstanding, the agendas for those meetings continued to include correspondence from the public as an agenda item.

² Chairperson Callicrate and Trustee Dent (see detailed discussion below).

³ The culture where unelected staff care more about themselves, their public employee colleagues, and “favored special interest collaborators” than the Board and the public they were purportedly hired to serve.

“Correspondence is *included in the Board packet* if it is received in time for its inclusion. Correspondence received after production of the Board packet is verbally noted as received and *then included in the following Board packet.*”⁴

On April 25, 2018 IVGID Staff Disingenuously Recruited Trustee Horan to Do Their Bidding by Proposing a Modification to the Board's Written Correspondence Policy Which Proposed Omission of Communications From the Public⁵: Unelected staff used Trustee Horan as a tool (the way they use former Chairperson Wong and Trustee Morris today to be their tools) to adopt a correspondence policy which differed markedly from what was supposed to be the then current policy⁶. Under staff's version of “transparency,” Trustee Horan proposed a policy whereby:

“2. The District Clerk (i.e., Susan Herron) w(ould)...no (longer)...include ...correspondence (from)...members of the public...within the Board packet or successive ones;” and,

“5. If a member of the public (wa)s unable to attend a Board meeting⁷, to ...submit their comments...in writing, (although) they (we)re welcome to transmit their comments...via e-mail *to the Board*...the(ir) transmittals w(ould) be treated as Correspondence.” In other words, since “correspondence (from)...members of the public...w(ould)...no (longer be) ...include(d)...within the Board packet or successive ones,” *neither would* comments submitted by members of the public who requested their comments to be attached to the minutes of those meetings (who) were unable to attend Board meetings. Given the Board chose not to modify the current policy, Trustee Horan's efforts were tabled and as a result, for the time being, no action was taken⁸.

⁴ The Trustee's "member handbook" can be viewed at https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Handbook_working_handbook.pdf. A copy of page 12 with an asterisk next to the quoted language is attached as Exhibit “A” to this written statement.

⁵ See pages 101-103 of the packet of materials prepared by staff in anticipation of this August 26, 2020 meeting [“the 8/26/2020 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/0826_-_Regular_-_Searchable.pdf)].

⁶ See pages 103-104 of the packet of materials prepared by staff in anticipation of the Board's regular April 25, 2018 meeting [“the 4/25/2018 Board packet” (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-25-18.pdf)].

⁷ Remember, according to staff, some two-thirds (2/3) of local property owners are absentee vacation and/or second homeowners. In other words, they do not reside in Incline Village or Crystal Bay and therefore likely cannot physically attend more than one or two Board meetings/year at best.

The Subject Came Up Again at the Board's May 9, 2018 Meeting: Listen to the colloquy between Trustees Dent, Callicrate and former General Manager ("GM") Pinkerton⁹:

Trustee Dent: "General Manager Pinkerton, the last couple of board packets haven't included correspondence received, and this one doesn't either...It was my understanding we weren't making any changes (i.e., including written correspondence to the board in the board packet).

GM Pinkerton: That's right. We're not making any changes to the correspondence.

Trustee Dent: So we haven't received any correspondence over the last couple of months? They haven't been in the board packet.

GM Pinkerton: We have, have been including *pertinent correspondence*...I think we're comfortable that any correspondence that hasn't already been communicated to the board and is not in any way, we think derogatory in manner or exposing the district, we've included that correspondence¹⁰. And we will continue to include that correspondence...The clerk (Susan Herron), myself and legal counsel always review correspondence and determine whether things are appropriate to be included in correspondence.

Trustee Dent: So we're filtering our correspondence rather than just including all the correspondence? We're filtering based upon whether we like or don't like the comments?"

Now listen to Chairperson Callicrate's comments on this subject:

⁸ See page 13 of the minutes of that meeting which appears at page 187 of the packet of materials prepared by staff in anticipation of the Board's regular May 23, 2018 meeting ["the 5/23/2018 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-23-18.pdf)].

⁹ IVGID livestreams its Board meetings (<https://livestream.com/accounts/3411104>). See 3:28:48-3:33:25 of the May 9, 2018 livestream of this meeting ["the 5/9/2018 livestream" (<https://livestream.com/IVGID/events/8198653/videos/174618053>)].

¹⁰ This is an untrue statement. Given review of all past Board meetings prior to May 9, 2018, the reader can see for him/herself that when Mr. Pinkerton stated staff "*has* been including pertinent correspondence" in board packets, either nothing in his opinion has been "pertinent," or he speaks with forked tongue.

“As I recall, the Board never decided to *not* include the correspondence in our packets. It was brought up (on April 25, 2018) by Vice-Chairman Horan, and the Board decided that we didn't want to take action (see discussion above). So that (agenda item) was pulled...The Board makes the final decision what's going to go in the packet and not go in the packet. And defamatory or not...*these are public records which should be included* since we have a correspondence section (on our agendas)...What *we* (i.e., *the Board as a whole*) receive as an e-mail (or otherwise) is public information. And it should be included in here...I don't think that it's up to us to be filtering or removing or leaving out (any) information. I would vehemently disagree about removing correspondence from our packet. It (can be) inflammatory, it can be defamatory, it can rake each one of us over the coals umpteen days to Sunday. But that's part of being a public body...This just to me this sends a chilling effect and once again opens us up to perception is reality. That we're trying to hide something...filter it...I don't agree with that at all.”

Given the foregoing, one would have expected written correspondence from the public *to the Board* to be included in the board packets for the Board's May 23, 2018 and beyond meetings. But if so, one would be sadly mistaken!

So What Should Be Our Correspondence Policy? Chairperson Callicrate said it best:

“What(ever) we (i.e., *the Board*) receive as an e-mail (or otherwise) is public information. And it should be included in here...I don't think that it's up to us (or staff) to be filtering or removing or leaving out (any) information. I would vehemently disagree about removing correspondence from our packet. It (can be) inflammatory, it can be defamatory, it can rake each one of us over the coals umpteen days to Sunday. But that's part of being a public body...This just to me this sends a chilling (message) and once again opens us up to perception is reality. That we're trying to hide something...filter it...I don't agree with that at all.”

In other words, include it ***all*** correspondence *to the Board*. The only limitations should be that:

1. The correspondence should be addressed to the Board as a whole intended by the author to be public. Correspondence to less than the Board as a whole, intended by the author to not be made public, should not be included. Nor should correspondence to our GM or one or more staff members unless subsequently sent to the Board as a whole.

2. All such “correspondence (should be) *included in the Board packet* (as long as) it is received in time for its inclusion. Correspondence received after production of the Board packet (should be) verbally noted as received, and then included in the following Board packet.”

This policy has served us well for twenty (20) or more years until it was changed two (2) years ago (see discussion above). It will work equally as we go forward.

The Effect, if Any, of the Office of Attorney General’s (“OAG’s”) Open Meeting Law (“OML”) October 2, 2018 Letter¹¹: On or about May 14, 2018 local resident Frank Wright filed an OML complaint with the OAG pertaining to IVGID staff’s omission of public correspondence *addressed to the IVGID Board* in its Board packets prepared in anticipation of Board meetings¹². On October 2, 2018 the OAG prepared its response in OAG File No. 13897-287¹³. That response determined nothing more than that:

1. The Board agenda’s description of “Correspondence Received by the District” did not constitute an OML violation inasmuch as it was sufficiently “clear and complete” because it could “be interpreted to say that all of IVGID’s correspondence is a ‘topic scheduled to be considered during the meeting;’”¹⁴ and,
2. The wording of IVGID’s minutes of its May 9, 2018 Board meeting did not constitute an OML violation inasmuch as it was “not require(d to be a) verbatim memorialization of public comment.”¹⁵

Given Chairperson Callicrate’s staff memorandum in support of this agenda item cautions that “the District(’s correspondence policy) must be compliant with the Opinion from OAG File No. 13897-

¹¹ See pages 130-133 of the 8/26/2020 Board packet.

¹² See pages 113-124 of the 8/26/2020 Board packet.

¹³ Although Chairperson Callicrate and IVGID staff refer to this letter as a formal “Opinion,” it was not. NRS 241.0395(1) makes it clear that *only* “findings of fact and conclusions of law that a public body has violated any provision of...chapter” (NRS 241) represents a formal “opinion.” Moreover, *only* formal opinions “must (be) include(d)...on the...agenda posted for a meeting of the public body which acknowledge...the existence of the findings of fact and conclusions of law (and)...must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.” Why then was the letter agendized, and a copy included as supporting material in the packet of materials prepared by staff (see pages 130-133 of the 8/26/2020 Board packet) in anticipation of the Board’s November 13, 2018 meeting (see agenda item F.3 at page 135 of the 8/26/2020 Board packet)? *Propaganda!*

¹⁴ See page 132 of the 8/26/2020 Board packet.

¹⁵ See page 133 of the 8/26/2020 Board packet.

287¹⁶, in reality, this “opinion” has no application whatsoever inasmuch as the reader can clearly see it deals with the wording of agenda items, and the wording of minutes of Board meetings.

To Reiterate, Our Policy Should *Only* Apply to Correspondence to the Board as a Whole Intended by the Author to Be Read by the Board as a Whole: If a citizen wants to send a private message to one or more Board members, however, *not* all of them, this correspondence should not be part of the Board’s correspondence policy because it is intended to be private. Similarly, every time a citizen sends correspondence to our GM or un-elected staff, that correspondence should *not* be part of the Board’s correspondence policy. Only if the author subsequently or concurrently sends copies to *the Board as a whole*, should it be included.

Conclusion: Not including written correspondence from members of the public *to the Board* in Board packets which are posted online, represents staff censorship pure and simple. Maybe most residents don't care about how IVGID staff repeatedly conceal what represent public records and ignore requests for those records to be made public by their fellow members of the public. Maybe they don't care about how the IVGID Board does nothing whenever its members are put on notice of inappropriate staff action, such as the actions the subject of this written statement. But maybe some do care because they are treated the way others in our community have been treated, yet don't realize they are not alone. These are some of the wrongs associated with staff censorship.

There’s a second wrong insofar as censoring written correspondence *to the Board* is concerned. And that’s staffs’ proclivity to protect their staff colleagues who are firmly committed to the IVGID culture³. Members of the public have an interest in learning how their fellow citizens’ requests *to the Board* for relief are consistently ignored.

There’s a third wrong insofar as censoring written correspondence *to the Board* is concerned. And that’s the public’s ability to evaluate the accuracy and sincerity of trustees’ campaign pledges when running for re-election. After all, if some members of the public are able to share evidence that one or more of our trustees “speak with forked tongue,” others may conclude those trustees are not worthy of continuing as Board trustees¹⁷. But by censoring the public’s view of such correspondence, it is deprived of this knowledge. And that means one or more trustees may not be fairly re-elected as a Board trustee(s). And if you think about it, what we really have here is further evidence of staff’s discriminatory application of public communication intended to assist their favored sons and daughters via board packets in their bids for reelection.

Please return all correspondence to the Board as an agenda item, and with Board packets.

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

¹⁶ See page 96 of the 8/26/2020 Board packet.

¹⁷ In other words, “consistency matters.”

EXHIBIT "A"



Agenda Notebooks

It is District Staff's responsibility to provide the Board of Trustees with a detailed packet for information supporting those items on the agenda. Each Trustee will be provided, typically no later than the Friday preceding the Wednesday meeting, a notebook of information supporting each agenda item as applicable. This information may also be supplied, upon request by individual Trustee, electronically i.e. in PDF format. On that same Friday, the requesting members of the public shall be mailed their packet. This process can be delayed to the Monday preceding the Wednesday meeting in event of an emergency (i.e. weather, machine failure, etc.). It is each Trustee's responsibility to ensure that they have read the materials prepared for them so that they come to each meeting prepared to discuss the items on the agenda. If they have any question or concern about the materials provided on an agenda item, they are encouraged to ask questions of the District Staff, starting with the General Manager, **prior** to the meeting. The thorough understanding of each matter on the agenda allows the Board of Trustees meeting to proceed in a timely and orderly manner.

Typically, the agenda will include various reports made by Staff or a Trustee which are relevant to those members in attendance and/or the general public, Consent Calendar items which are items that the District Staff deems as being typical, routine and non-controversial, and General Business items which are items that the Staff would like to have dialogue with the Board of Trustees or get feedback from a multitude of sources. Occasionally, a public hearing is incorporated into an agenda for the purpose of providing a time certain period of public comment on a particular topic or topics. When a public hearing is held, there are additional requirements which District Staff will fulfill.

The Board of Trustees meeting agenda is provided to the local newspaper at its request. Typically before each meeting, the District's Communication Coordinator issues a brief overview of the meeting via press release or other format, and then, after the meeting, the District's Communication Coordinator issues a recap of actions taken by the Board of Trustees at its meeting.

Techniques and Tips

Agenda Tips

- The agenda should be concise, but inclusive enough to clearly identify the agenda items and allow discussion of that item.
- Posting of the agendas should be in substantial compliance with the Open Meeting Law.
- Mailing of the agendas should also be in substantial compliance with the Open Meeting Law. If the agendas are mailed within the required time frame, the intent of the law has been met. Incline Village General Improvement District is not responsible for mail delivery.
- Notes on contents of the agenda:
 - *Correspondence.* Correspondence is included in the Board packet if it is received in time for its inclusion. Correspondence received after production of the Board packet is verbally noted as received and then included in the following Board packet.
 - *Public Comments.* The Board of Trustees has adopted an advisory statement which is included on each agenda.



WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS AUGUST 26, 2020 REGULAR IVGID BOARD MEETING – AGENDA ITEM H(3) – POSSIBLE SELECTION OF A CONSTRUCTION MANAGER-AT-RISK (“CMAR”) PROJECT DELIVERY METHOD FOR THE BURNT CEDAR BEACH SWIMMING POOL CAPITAL IMPROVEMENT PROJECT (“CIP”)

Introduction: Here staff propose selection of a CMAR project delivery method for replacement of the Burnt Cedar Beach swimming pool CIP¹. Given this project doesn’t warrant the added cost of a CMAR, and there is another similar and less expensive method available which staff are withholding from the Board and the public, I object. And that’s the purpose of this written statement.

Staff Asks For This Unnecessarily Expensive Project Delivery Method Because it is Not Competent to Professionally Manage Completion of This CIP: In my opinion, the problem we face with this CIP is a common problem repeated over-and-over again. Former General Manager Steven Pinkerton used to tell the Board and the public over-and-over again that our staff are professional and less costly than paying a third party for the same management services. And for this reason, every CIP has a cost component to pay for unreimbursed staff time. And that’s exactly what we see on the Project Summary sheet staff have prepared for this CIP².

But because our Engineering Manager is pushing so hard for appointment of a CMAR, and make no mistake about it, he is pushing so hard, this sends the message staff he is not capable of professionally managing completion of the subject CIP. Moreover, consider staff’s admission that because of its alleged management expertise, “IVGID has...had projects enter (into) protracted legal action...with delayed completion dates.”¹⁷

Staff Pushing: To bolster staff’s bias in favor of the CMAR project delivery method, they initiated contact with two third party sources; Pat Pusich of Tate Snyder Kimsey (TSK) Architects³ (“TSK”) and Scott McCullough, a Project Manager with Douglas County⁴. Take a look at the communications between our staff and these third parties and ask yourself: is our staff merely attempting to educate themselves insofar as the CMAR project delivery method is concerned? Or are they looking for evidence to support their biased pre-determination that CMAR *is* the direction to proceed?

Now if Mssrs. Pusich and McCullough were true impartial third parties, wouldn’t you expect that they would freely communicate with other members of our community insofar as this subject

¹ See pages 64-66 of the packet of materials prepared by staff in anticipation of this August 26, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/0826_-_Regular_-_Searchable.pdf (“the 8/26/2020 Board packet”)].

² See page 28 of the 8/26/2020 Board packet. Note the \$225,000 budgeted for IVGID “construction management.”

³ See pages 56-61 and 65 of the 8/26/2020 Board packet.

⁴ See page 66 and 84-86 of the 8/26/2020 Board packet.

were concerned? So on August 21, 2020 I reached out to both inquiring as to their experiences with the CMA project delivery method, if any⁵. But I received no response from either. Why is that? We all know that the moment Mssrs. Pusich and McCullough received my e-mails they picked up the telephone and/or e-mailed our Nathan Chorey to advise him of my inquiries. And rather than encouraging transparency and communication with the public, Mr. Chorey likely told them to ignore my e-mails. In other words, rather than allowing full exploration of the truth, Mr. Chorey perpetuated his bias in the hope the Board would buy into his favored CMAR project delivery method.

I Never Before Realized Staff Have Admitted Their Less Than Competence on Previous CIPs:

At page 63 of the Board packet staff reveal that it used the CMAR project delivery method “in 2018 to construct the Diamond Peak (Culvert to Nowhere)...Project.” And at the Board’s August 12, 2020 meeting staff represented that the same project delivery method was used for construction of the Diamond Peak Skier Services Building.

Staff’s Contracts With TSK: At the Board’s August 12, 2020 meeting we discussed our GM’s entrance into a contract with TSK on or about June 3, 2020⁶. The scope of work associated with the TSK contract included, in part, that TSK would:

1. “Provide Concept Design Options to reflect findings and recommendations from the earlier analysis and public outreach efforts;” and,
2. “Develop...(a) Concept Design Cost Estimate.”

Apparently staff are pleased with TSK’s efforts inasmuch as:

1. They have “full confidence in our Design Team (TSK Architects) delivering a quality set of construction documents (as) they were selected from a field of six (6) qualified applicants based on the quality of past designs and working with project owners and contractors to deliver successful projects;”⁷
2. The TSK Architect Design Team completed the predesign work...to the District’s satisfaction;”⁸ and,
3. They have proposed entrance into a new \$60,013 schematic design services contract for the subject CIP with TSK⁹.

⁵ Those e-mails are collectively attached as Exhibit “A” to this written statement.

⁶ See pages 63-75 of the packet of materials prepared by staff in anticipation of the Board’s August 12, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/0812_-_Regular_-_Searchable.pdf (“the 8/12/2020 Board packet”)].

⁷ See page 65 of the 8/26/2020 Board packet.

⁸ See page 27 of the 8/26/2020 Board packet.

Staff's Third Party Beneficiary Contracts With Aquatic Design Group ("ADG"): On or about May 12, 2020 TSK entered into a contract with ADG¹⁰ on IVGID's behalf. According to the scope of work associated with that contract¹¹, ADG was retained, in part, to "prepare a basis of design document for use by (IVGID) that describe(s) the pool characteristics, programmatic capabilities, and design intent for pool systems...based upon (the) selected swimming pool option." Now that the design has been selected, ADG has submitted a proposal whereby it will provide schematic design services as a TSK subcontractor¹².

Therefore Presumably We Have a Smart Design Team Which Will Design This Project the Correct Way the First Time: In other words, the potential for costly change orders should be small.

Of the Project Delivery Options Staff Have Presented to the Board, Conspicuously Absent is the Construction Manager-as-Agent ("CMA") Option: At page 63 of the 8/26/2020 Board packet staff tell the Board and the public that "NRS 338 allows (for) three (3) project delivery methods: "1. Design – Bid – Build¹³ ('DBB')...2. Construction Manager at Risk¹⁴ ['CMAR' (and)]...3. Design Build ('DB')," and "for the (subject CIP)...staff would like the Board to consider DBB and CMAR." But staff have intentionally omitted another NRS 338 option; the CMA.

CMA: NRS 338.1718 expressly provides for CMAs who must be: "(1) licensed...contractor(s)...(2) hold a certificate of registration to practice architecture, interior design or residential design...(and, 3) be licensed as a professional engineer" [see NRS 338.1718(1)(a)]. Once we find a CMA we're comfortable with, and similar to the CMAR, he/she

"May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work" [see NRS 338.1718(1)(b)].

Moreover, to avoid the potential for the conflict of interest use of a CMAR exhibits, NRS 338.1718(1)(b) goes on to instruct that,

"A construction manager as agent who enters into a contract with a public body pursuant to this section may not:

⁹ See pages 26-27 of the 8/26/2020 Board packet.

¹⁰ See pages 76-79 of the 8/12/2020 Board packet.

¹¹ See pages 76-77 of the 8/12/2020 Board packet.

¹² See pages 37-47 of the 8/26/2020 Board packet.

¹³ Since staff have omitted these NRS provisions, they are attached as Exhibit "B" to this written statement.

¹⁴ See pages 68-79 of the 8/26/2020 Board packet.

- (1) Take part in the design or construction of the public work; or
- (2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.”

In other words, a CMA can do everything a CMAR can do without securing a guaranteed maximum price.

Comparing CMAs to CMARs: Let’s start with the qualifications of each. A CMAR need only: “(3) be licensed as a contractor...and (4) if the project is for the construction of a public work of the State, be qualified to bid on a public work” (see NRS 338.1691¹⁵). As I have demonstrated, a CMA on the other hand must be a: “(1) licensed...contractor...(2) hold a certificate of registration to practice architecture, interior design or residential design...(and, 3) be licensed as a professional engineer” [see NRS 338.1718(1)(a)¹³]. In other words, the requirements to be a CMA *are actually more stringent than those of a CMAR*.

A CMAR “applie(s)...professional management...to a construction project from conception to completion, with the goal of controlling project time, cost, and extent (by)...prepar(ing) a preliminary project schedule, mak(ing) recommendations for sequencing construction, (and) prepar(ing) cost estimates?”¹⁶ In other words, “develop(ing) a firm construction schedule (with)...the option to reduce the project timeline needed in advance of construction.”¹⁷

“Staff believes there is additional value in partnering with a Contractor from the start.”⁷ But as I have demonstrated, NRS 338.1718(1)(b)¹³ instructs that a CMA is authorized to “assist...a public body ...in the planning, scheduling and management of the construction of a public work.” Moreover, just like the CMAR, he/she is a licensed contractor.

“Staff believes (that)...having (the) opportunity to value engineer⁷...during...develop(ing) a firm construction schedule...make CMAR the recommended project delivery method.”¹⁷ But remember, a CMAR is not necessarily a “licensed...professional engineer” as is the CMA.

The real difference between the two is that the CMA assumes no “responsibility for the cost, quality or timely completion of the construction of the public work” [see NRS 338.1718(1)(b)]. Whereas the CMAR, “when...(the) pre-construction phase is complete, (will) propose...a Guaranteed Maximum Price (GMP which in our case “will be awarded at a Board of Trustees meeting”⁷) and executes the construction *as (the) Contractor*”¹⁶ [remember, NRS 338.1718(1)(b)¹³ *prohibits* a CMA from “tak(ing) part in the...construction of the public work”].

¹⁵ See pages 68-69 of the 8/26/2020 Board packet.

¹⁶ See page 64 of the 8/26/2020 Board packet.

¹⁷ See page 66 of the 8/26/2020 Board packet.

The Alleged CMAR Benefits Which Here Are Really Little if Any Benefit: At pages 64-65 of the 8/26/2020 Board packet staff tout the following benefits of the CMAR project method:

“DBB...takes a considerable amount of time...Each step adds additional days to the project timeline...30 days (to)...advertise...2 weeks...to review bid results and recommend award at a Board...meeting followed by another 2 weeks to complete the contract...The CMAR bid process is fast-tracked, as portions of the project can be bid to subcontractors while design is still being completed...ass the contract requirements will (have) be(en) addressed in advance.”

We cannot begin construction on this project until March or April of 2021. That gives us 7-8 *months* to advertise, review bid results, recommend award at a Board meeting, and contract completion. More than adequate time.

For All These Reasons I have Concluded a CMA is Really a More Qualified CMAR Without the “R” (aka GMP): Therefore when as here the client “ha(s) full confidence in (its) Design Team” as does staff in “delivering a quality set of construction documents...the CMAR project delivery method (unnecessarily) involves the Contractor in the design phase of the project.”⁷

More Bothersome, NRS 338.1696(1)¹⁸ Would Compel Us to Enter Into Negotiations With a CMAR For a Contract to Construct the Subject CIP: “for: (a) the cost of the work, plus a fee, *with a GPM*; (b) a fixed price; or (c) a fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work or portion thereof.”

And Even More Bothersome, NRS 338.1697¹⁹ Allows a Contract For a GMP to Include a Provision That Allows the CMAR to Receive All or Part of Any Cost Savings Between the GMP and the Actual Cost of Construction Where the Latter is Less Than the GMP: Does anyone actually believe that a CMAR isn’t going to cover his/her hiney by negotiating an *excessive* GPM with the expectation of pocketing a built in excess he/she will be able to pocket for him/herself? And does anyone really believe that our “crack” staff negotiating team is going to be able to avoid inclusion of such a provision in any contract with a CMAR? If so, I have a couple of bridges to sell you.

For These Reasons, Staff Reluctantly Admit “the Traditional DBB (Project Delivery Method) May Potentially (Offer) the Lowest Construction Bid Price:”¹⁷ And note that the provisions of the NRS which related to CMAs are a subset of the DBB project delivery method¹³.

¹⁸ See pages 73-74 of the 8/26/2020 Board packet.

¹⁹ See page 74 of the 8/26/2020 Board packet.

Especially When One Understands That a CMAR is Likely to Unnecessarily Cost the District \$1.0236 Million: Take a look at page 99 of the 8/12/2020 Board packet²⁰. Here ADG estimates the probable costs for this project. Look at the top of the “Option #1 Fully Burden(ed) Construction Costs” column. There you will see a footnote 3. Now look for the asterisk towards the bottom of the page next to footnote 3. There you will see that this footnote reads: “Base Improvements include costs of approx. 29% for (Escalation, *CMAR Contingency*, General Conditions, Overhead & Profit, Insurance & Bonds).” Given the column has *already* included a \$593,925 “estimating contingency” (see the asterisk next to item 1.25), this 29% surcharge is in essence *almost entirely devoted to the cost of a CMAR!*

And Especially When One Understands That \$225,000 Has Already Been Budgeted to Pay For Unreimbursed and Unprofessional Staff Management! That’s right. Take a look at the Project Summary for this CIP². Unbelievably, staff have proposed reimbursing themselves \$225,000 for unreimbursed construction management staff time. I don’t know about you, but if we’re going to pay anyone for construction management, *I would much rather it be to a truly professional CMA rather than our staff!*

Conclusion: If we truly “have full confidence in (our TSK and ADQ) Design Team(s)” in “delivering a quality set of construction documents,” as staff represents⁷; “the complexity of the Burnt Cedar Swimming Pool Improvement Project...does *not* warrant using the CMAR project delivery method;”¹⁷ “the...DBB (project delivery method) may potentially have the lowest construction bid price,”¹⁷ and the CMAR project delivery method may unnecessarily add \$1.0236 million in CMAR costs¹⁹, *why would we be giving consideration to a CMAR option?*

Moreover, the CMA has the very real potential for a conflict of interest. Whereas the CMAR can be a project’s contractor (in it is encouraged because the client must negotiate with the CMAR towards this end goal), a CMA cannot. This allows the client to obtain the best price through the public bid process without sacrificing the “professional (project) management” staff tout¹⁶.

What this entire episode really exposes is another of IVGID’s seminal problems. We too readily accept the recommendations of a grossly overpaid and over benefited staff which are: incapable of operating our recreational facilities at a financial break even or on a positive cash flow basis, and lack the competence to professionally manage, maintain, repair, and replace those facilities.

And to those asking why our Recreation Facility (“RFF”)/Beach Facility Fee (“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!

²⁰ This page is attached as Exhibit “C” to the written statement I submitted on this subject which will be attached to the minutes of the Board’s August 12, 2020 meeting when they are presumably included in the upcoming September 9 or 23, 2020 meetings’ (<https://www.yourtahoeplace.com/ivgid/board-of-trustees/meetings-and-agendas>) board packet(s).

EXHIBIT "A"

Your Recent E-Mails With Nathan Chorey From IVGID Re; CMARs

From: s4s@ix.netcom.com
To: SMcCullough@douglasnv.us
Subject: Your Recent E-Mails With Nathan Chorey From IVGID Re; CMARs
Date: Aug 21, 2020 9:48 AM

Hello Mr. McCullough -

I am one of a number of concerned Incline Village citizens insofar as the costs associated with replacement of our Burnt Cedar Pool project is concerned.

Nathan Chorey, an IVGID PE, is pushing for use of a construction manager at risk ("CMAR") delivery method, and in support, he has publicly shared a number of e-mails between he and you to bolster his arguments (that's how I got your e-mail).

The reason I am reaching out to you is because Mr. Chorey has intentionally ignored another delivery method option which I and others feel is more suitable to our project. And that is the construction manager as an agent ("CMA") option.

As I am sure you know, this is an option which like CMARs is expressly recognized at NRS 338.1717, et seq. And it appears to differ from the CMAR option only in that for what appears to be a potentially higher fee, the client retains the CMAR to in essence become its master contractor because of a guaranteed maximum price ("GMP").

In other words, if you're not concerned with a GMP because you're confident in your design team, don't you get the same benefits from a potentially lower cost CMA? And if so, why wouldn't you engage the services of a CMA versus a CMAR?

And in fact, have you used the services of a CMA in the past resulting in a similar positive experience to the CMARs you represent?

Our Board of Trustees has a public meeting on this subject scheduled for next Wednesday and I would like to be able to share your views on CMAs sufficiently ahead of that meeting if you don't mind sharing them.

Should you have questions or concerns and feel the need to reach out, please feel free to do so. Otherwise, thank you so much for your hopeful cooperation and assistance. Aaron Katz

Your Recent E-Mails With Nathan Chorey From IVGID Re; CMARs

From: s4s@ix.netcom.com
To: PPuisch@tska.com
Subject: Your Recent E-Mails With Nathan Chorey From IVGID Re; CMARs
Date: Aug 21, 2020 10:15 AM

Hello Mr. Pusich -

I am one of a number of concerned Incline Village citizens insofar as the costs associated with replacement of our Burnt Cedar Pool project is concerned.

Nathan Chorey, an IVGID PE, is pushing for use of a construction manager at risk ("CMAR") delivery method, and in support, he has publicly shared a number of e-mails between he and you to bolster his arguments (that's how I got your e-mail).

The reason I am reaching out to you is because Mr. Chorey has intentionally ignored another delivery method option which I and others feel is more suitable to our project. And that is the construction manager as an agent ("CMA") option.

As I am sure you know, this is an option which like CMARs is expressly recognized at NRS 338.1717, et seq. And it appears to differ from the CMAR option only in that for what appears to be a potentially higher fee, the client retains the CMAR to in essence become its master contractor because of a guaranteed maximum price ("GMP").

In other words, if you're not concerned with a GMP because you're confident in your design team (in our case, your firm specifically), don't you get the same benefits from a potentially lower cost CMA? And if so, why wouldn't you engage the services of a CMA versus a CMAR?

Have you/your firm used the services of a CMA in the past resulting in a similar positive experience to the CMARs you represent? If so I would appreciate hearing of your experience(s).

Our Board of Trustees has a public meeting on this subject scheduled for next Wednesday and I would like to be able to share your views on CMAs sufficiently ahead of that meeting if you don't mind sharing them.

On another note, I find with interest a statement in your August 20, 2020 proposal: "we truly recognize the importance of this project to *the Lake Tahoe Community*." You obviously are working under a misstatement of fact, and I don't understand where you obtained your information. However with that said,

Burnt Cedar Pool is located on Burnt Cedar Beach. This beach is a PRIVATE beach. It is not open to the public. In fact, the public is not entitled to access and use this beach insofar as recreational pursuits are concerned. The only persons who are entitled to access and use that beach are Incline Village property owners whose properties were located within IVGID's June 8, 1965 boundaries (I am one of those persons). And this restriction holds true to Burnt Cedar Pool as well. According to the beach deed, IVGID is nothing more than a beach steward for the direct benefit and recreation use of those local parcel owners with beach access. Although this project is and may be of interest to about 7,700 local property owners and their guests with beach access, you should understand it is of not of interest "to the Lake Tahoe Community" other than their possible interest in how a political subdivision of the state which holds legal title to a beach can restrict general members of the public from accessing and using that beach.

Should you have questions or concerns and feel the need to reach out, please feel free to do so. Otherwise, thank you so much for your hopeful cooperation and assistance. Aaron Katz

EXHIBIT "B"

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. Subject to the provisions of subparagraphs (1), (2) and (3), if only one subcontractor submits a proposal, the construction manager at risk may select that subcontractor. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting regarding the scope of the work to be performed by the subcontractor, if such a preproposal meeting was held;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsections 13 and 15, the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. If a construction manager at risk substitutes a subcontractor for any subcontractor selected pursuant to subsection 9 without complying with the provisions of subsection 13, the construction manager at risk shall forfeit, as a penalty to the public body, an amount equal to 1 percent of the total amount of the contract.

15. If a construction manager at risk does not select a subcontractor pursuant to subsection 9 to perform a portion of work on a public work, the construction manager at risk shall notify the public body that the construction manager at risk intends to perform that portion of work. If, after providing such notification, the construction manager at risk substitutes a subcontractor to perform the work, the construction manager at risk shall forfeit, as a penalty to the public body, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the construction manager at risk selected himself or herself to perform on the public work.

16. The construction manager at risk shall make available to the public the name of each subcontractor who submits a proposal.

17. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

18. As used in this section, "general terms" has the meaning ascribed to it in NRS 338.141.

(Added to NRS by 2011, 3682; A 2013, 2980; R 2013, 2986; A 2017, 4031; R 2017, 4035, effective July 1, 2021)

CONTRACTS INVOLVING DESIGN-BUILD TEAMS, PRIME CONTRACTORS OR NONPROFIT ORGANIZATIONS

General Provisions

NRS 338.1711 Contracts for which public body is required or authorized to enter into with prime contractor or design-build team. [Effective through June 30, 2021.]

1. Except as otherwise provided in this section and NRS 338.158 to 338.168, inclusive, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds \$5,000,000.

3. Within any 12-month period, a public body may contract with a design-build team for the design and construction of not more than two discrete public works projects, each of which have an estimated cost of \$5,000,000 or less if the public body has approved the use of a design-build team.

(Added to NRS by 1999, 3467; A 2001, 2013, 2022, 2275; 2003, 119, 157, 2025, 2439; 2005, 1808; 2007, 2903; 2011, 3698; 2013, 2983; 2017, 3206, 4034)

NRS 338.1711 Contracts for which public body is required or authorized to enter into with prime contractor or design-build team. [Effective July 1, 2021.]

1. Except as otherwise provided in this section and NRS 338.158 to 338.168, inclusive, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds \$5,000,000.

(Added to NRS by 1999, 3467; A 2001, 2013, 2022, 2275; 2003, 119, 157, 2025, 2439; 2005, 1808; 2007, 2903; 2011, 3698; 2013, 2983; 2017, 3206, 4034; 2019, 1580, effective July 1, 2021)

NRS 338.1715 Procedure for selecting design-build team. A public body that contracts with a design-build team pursuant to NRS 338.1711 shall select the design-build team in accordance with the provisions of NRS 338.1721 to 338.1727, inclusive.

(Added to NRS by 1999, 3469; A 2001, 2022, 2276; 2003, 119, 157, 2441; 2005, 1810)

NRS 338.1717 Employment of architect, general contractor, construction manager as agent, landscape architect or engineer as consultant. A public body may employ a registered architect, general contractor, construction manager as agent, landscape architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect, general contractor, construction manager as agent, landscape architect or engineer so employed shall not:

1. Construct the public work; or
 2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.
- (Added to NRS by 1999, 3472; A 2001, 2022, 2003, 119, 2441, 2007, 2903)

NRS 338.1718 Contract with construction manager as agent.

1. A construction manager as agent:
 - (a) Must:
 - (1) Be a contractor licensed pursuant to chapter 624 of NRS;
 - (2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or
 - (3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.
 - (b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not:
 - (1) Take part in the design or construction of the public work; or
 - (2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.
 2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.
- (Added to NRS by 2007, 2895; A 2011, 3698)

Procedures for Awarding Contracts to Design-Build Teams

NRS 338.1721 Qualifications of design-build team. To qualify to participate in a project for the design and construction of a public work, a design-build team must:

1. Have the ability to obtain a performance bond and payment bond as required pursuant to NRS 339.025;
 2. Have the ability to obtain insurance covering general liability and liability for errors and omissions;
 3. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for preliminary proposals;
 4. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;
 5. Ensure that the members of the design-build team possess the licenses and certificates required to carry out the functions of their respective professions within this State; and
 6. If the project is for the design and construction of a public work of the State, ensure that the prime contractor is qualified to bid on a public work of the State pursuant to NRS 338.1379.
- (Added to NRS by 1999, 3470; A 2001, 252, 2022, 2003, 119, 2131, 2005, 1810)

NRS 338.1723 Advertisement for preliminary proposals.

1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team. The advertisement must be published:

(a) In a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed at least once and not less than 7 days before the opening of bids; and

(b) On the Internet website of the public body, if the public body maintains an Internet website, every day for not less than 7 days before the opening of bids.

➤ If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work to be designed and constructed;

(b) An estimate of the cost to design and construct the public work;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the public work will begin and end;

(d) The date by which preliminary proposals must be submitted to the public body;

(e) If the proposal is for a public work of the State, a statement setting forth that the prime contractor must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a preliminary proposal;

(f) A description of the extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the public work that the public body determines to be necessary;

(g) A list of the requirements set forth in NRS 338.1721;

(h) A list of the factors and relative weight assigned to each factor that the public body will use to evaluate design-build teams who submit a proposal for the public work;

(i) Notice that a design-build team desiring to submit a proposal for the public work must include with its proposal the information used by the public body to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 338.1725 and a description of that information; and

(j) A statement as to whether a design-build team that is selected as a finalist pursuant to NRS 338.1725 but is not awarded the design-build contract pursuant to NRS 338.1727 will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement.

(Added to NRS by 1999, 3469; A 2001, 252, 2015, 2022, 2003, 119, 2131, 2441, 2005, 1810, 2011, 1864)

NRS 338.1725 Selection of finalists based on preliminary proposals; minimum number of proposals required; availability to public of certain information.

1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.