

MEMORANDUM

TO: Audit Committee Chair Dent

CC: Board Clerk Herron

FROM: Audit Committee Member Clifford F. Dobler

DATED: August 4, 2020

Re: Historic Memorandums/Letters from citizens on accounting and reporting the activities of Community Services and Beach recreational venues as Governmental Funds

Please include in the next Audit Committee Board Packet and distribute to each Audit Committee member the attached 9 memorandums and/or letters sent to the IVGID Board of Trustees, IVGID Audit Committee, Nevada Department of Taxation, and IVGID auditor during the years 2015 to 2016. These documents are all in reference to the accounting referenced above.

It is appropriate that the newly formed Board of Trustees have a comprehensive history of concerns by citizens regarding this matter.

Sincerely,

Clifford F. Dobler

ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 1

November 30, 2015

To: IVGID Board of Trustees - Audit committee (Wong, Hammerel & Callicrate)

From: Clifford F. Dobler

Re: Accounting change for Community Services and Beaches from Enterprise Funds to Special Revenue Funds

Dear Audit Committee:

On May 21, 2015, the Board of Trustees adopted Resolution Number 1838 creating Special Revenue, Capital Projects and Debts Service Funds for the IVGID Community Services and Beach Funds. It should be noted that a Special Revenue Fund was created only for operations and the Capital Projects and Debt Service Funds were established simply as governmental funds.

As such the focus of this presentation is whether the operating activities of the community service venues and the beaches should be accounted and reported using a Special Revenue Fund.

Prior to adoption of this Resolution and in accordance with the Government Accounting Standards Board ("GASB") Statement No. 34 and NRS 354.517, the accounting for the Community Services and Beach Funds were qualified and reported as Enterprise Funds.

On October 27, 2015 the Department of Taxation for the State of Nevada issued Guidance Letter 15-002 which provides guidance in the use of Enterprise Funds and Special Revenue Funds.

Page 2 of Guidance Letter 15-002 advises: "When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular kind of fund. For example, a governmental fund, such as a special revenue fund, generally has activities which are financed through taxes, intergovernmental revenues, and other non-exchange revenues. In a non-exchange transaction, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an exchange transaction, in which each party

receives and gives up essentially equal values... **An enterprise fund essentially reports exchange transactions.”**

In the case of IVGID all revenue sources (other than capital grants) for the Community Services Fund and the Beach Fund are **exchange transactions**. The Recreation Facility Fee and the Beach Fee which are adopted annually by the Board of Trustees are approved by a resolution which states: “The Trustees find that the owners of the parcels are directly benefited in a fair and reasonable way for the sums which they are charged.” In other words the parcel owners are receiving and giving up essentially equal values. As such, an **exchange transaction** has occurred. In addition, user fees at each of the venues are considered **exchange transactions**.

Based upon a comprehensive review and complete analysis of Guidance Letter 15-002, Resolution Number 1838 should never have been adopted by the Board as the Community Services Fund and Beach Fund are indeed Enterprise Funds and not Special Revenue Funds. The accounting and reporting of the activities of the Community Services and Beaches should not be changed.

Why use an Enterprise fund?

NRS 354.517 defines an enterprise fund as a fund established to account for operations which are financed and conducted in a manner similar to the operations of private business enterprises where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users.

Paragraph 67 of GASB Statement No. 34 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods or services. Additionally, pursuant to paragraph 67 (c), if the pricing policies of the district for the fees and charges are designed to recover its costs, including capital costs (such as depreciation or debt service), then enterprise fund accounting **MUST** be used.

As defined above, it is clear that the funding (revenues) from activities of the Community Service venues and the Beaches are by fees which include user fees and the Recreation Facility Fee and Beach Fee to cover operating costs and all capital costs including debt service for capital improvements.

Why would you use a Special Revenue fund?

Paragraph 30 of GASB Statement No. 54 states that special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes **other than debt service or capital projects**. Proceeds of specific revenue sources establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund.

Since the Recreation Facility Fee and Beach Fee together with the various user fees are used for debt service and capital projects, it appears that the Special Revenue Fund accounting and reporting should not be utilized. Historically the majority of the Recreational Facility Fee and Beach Fee were used for debt service and capital projects.

If it is apparent that Special Revenue Fund accounting should **not** be used and Enterprise Fund accounting should be used, then on what basis did the Board of Trustees approve the change in accounting and reporting? As stated in the Guidance Report, "An activity may no longer be reported as a special revenue fund based only on management's desire to account for it separately."

Why the need for the Change?

According to the Memorandum dated December 1, 2014 from Gerald W. Eick to the Board of Trustees various reasons to change the accounting and reporting were provided. None of the rationales were based upon or relevant to NRS or GASB standards.

One of the main thrusts of the Memorandum seemed to be the desire to separate the **REVENUES** into three funds: one for operating, one for capital projects and one for debt service.

According to the Memorandum on the second page second complete paragraph, "Enterprise Funds report operations, which does not really reflect a flow of resources. A flow of **resources (revenues)** format would ultimately make it clear how much goes to operations versus capital expenditure and debt service."

Furthermore in the third full paragraph of the same page he states: "Utilization of the Special Revenue Fund, which isolates operating revenues and expenditures, along with Capital Projects and Debt Service Funds, will allow the District to clearly identify the three main elements of the flow of transactions for Community Services and the Beach."

On page 3 first full paragraph Mr Eick writes "Separation occurs both **for revenue and expenditure**. Under this model, the District would be able to demonstrate through budgeting, accounting and reporting, **the separate uses of the facility fee for operating, capital and debt.**"

In other words, the facility fee (a revenue item) would be authorized, appropriated and committed to three separate uses: operating, capital projects and debt service.

The Bait and Switch:

However, based on Resolution Number 1838 a sheet with various boxes indicates that the **ENTIRE (ALL)** Recreation Facility Fee and Beach Fee would be reported as REVENUE in the Special Revenue operating fund and then **transfers** from the Special Revenue operating fund to the Capital Project and Debt Service funds would occur. **THUS THE FACILITY FEE WOULD ONLY BE REPORTED IN THE OPERATING FUND WHICH CONTRADICTS THE PREVIOUS PARAGRAPHS of Mr. Eick's December1, 2014 memorandum.**

To continue the contradiction, on May 21, 2015 the FINAL budget for the fiscal year ending 6/30/2016 submitted to the State of Nevada Department of Taxation

on page 12 for the Community Services Special Revenue fund "Charges for Services" reported and allocated ALL of the **REVENUE** collected from the Recreation Facility Fee to the Special Revenue fund and concealed the fee by dividing it into the various venues. Subsequently, on page 14, transfers out of the Special Revenue Fund were made to the Capital Project and Debt Service funds. The same reporting treatment was used for the Beach Fund on pages 15 and 17. As to the Capital Project and Debt Service funds **NO REVENUES** are reported only transfers in labeled "other financing sources" are noted on pages 18 and 21.

SO WHAT IS GOING ON HERE? The decision to create the Special Revenue Funds, Capital Project Funds and Debt Services Funds was to SEPARATE the revenues into each fund. The revenues as reported to the State were **NOT** separated. As a result the revenues for operating activities have been vastly overstated and the revenues for the capital project and debt services funds are **nonexistent**. **WHERE IS THE CLARITY AND TRANSPARENCY HERE?**

To further continue the contradiction, current monthly operating reports for the Community Service venues and the Beaches continue to record the ENTIRE RECREATION FACILITY FEE as revenue for the Operating Fund. **AGAIN WHERE IS THE CLARITY AND TRANSPARENCY HERE?**

Not only should Special Revenue Fund reporting not be instituted but when done anyhow the reporting is still not in compliance with what was sold to the Board of Trustees

Conclusion:

In accordance with Guidance letter 15-002, NRS 354.517 and GASB Statement No. 34, the activities of the Community Service venues and the Beach venue require Enterprise Fund accounting and reporting.

Mr. Gerald W. Eick's Memorandums to the Board of Trustees on December 1, 2014 and May 7, 2015 recommending and establishing a change from Enterprise Fund accounting and reporting to Special Revenue Fund accounting and reporting

do not conform to the definitions, standards or examples provided by the State of Nevada Department of Taxation Guidance Letter 15-002.

In addition, the implementation of Resolution Number 1838 and the reporting of the budget to the State of Nevada **DID NOT** follow the recommendations Mr. Eick presented in his two memorandums nor does this resolution satisfy his stated goals of providing and communicating accurate, transparent and understandable financial reports.

My observation is this is just an "end run" around not having to report depreciation or interest expense in operating results. Thus the bottom line (PROFIT) for the two operating funds will appear to be much more profitable and will assist management in selling the public on how improved the operations have become.

Based on the Guidance Letter 15-002, the NRS requirements and GASB statements it would be difficult to believe that the "look see" by IVGID's attorney and the independent auditing firm would "bless" the accounting change as acceptable. Another review by both firms and the Board of Trustees would seem prudent.

This appears to be a complete breakdown of communication, including misleading and incorrect information from Staff to the Board of Trustees and the community at large.

Enclosures: Guidance Letter 15-002 dated October 27, 2015(NO APPENDIX)

Letter to BofT from Gerald Eick dated December 1, 2014

cc: Department of Taxation - State of Nevada

Dan Carter - Edie Bailly.





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Guidance Letter 15-002

Date: October 27, 2015

To: County Finance Officers

From: Terry E. Rubald, Deputy Executive Director, Department of Taxation

CC: Committee on Local Government Finance, Marvin Leavitt, Chairman
Deonne Contine, Executive Director, Department of Taxation
Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services

Subject: Special Revenue Funds and Enterprise Funds

SUMMARY:

This Guidance Letter recognizes Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34, "Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles. In addition, this Guidance Letter discusses the nature and use of special revenue funds and enterprise funds, and provides examples.

This Guidance Letter does not change any interpretations of any existing general accounting principles followed by a local government. The purpose in issuing this Guidance Letter is to raise awareness about differences between using special revenue fund and enterprise fund accounting, by highlighting and discussing certain GASB statements in relation to Nevada law.

AUTHORITY FOR THIS LETTER:

NRS 354.472(1)(d): One of the purposes of the Local Government Budget and Finance Act is to provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money. NRS 354.612(2) requires fund financial statements and other schedules to be prepared in accordance with generally accepted accounting principles.

APPLICATION:

The Department finds that Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34, "Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of

financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles.

Based on the definitions of proprietary fund and special revenue fund found in NRS 354.553 and 354.570, as well as GASB No. 34, a special revenue fund is a type of governmental fund, whereas an enterprise fund is a type of proprietary fund.¹ In either case, the level of financial reporting must be based on a determination of whether the special revenue fund or the enterprise fund is a major or non-major fund.² The criteria for designation as a major fund is measured by whether the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund are at least 10 percent of the corresponding total for all funds of that category or type. In addition, the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund must be at least 5 percent of the corresponding total for all governmental and enterprise funds combined.³

When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular kind of fund. For example, a governmental fund, such as a special revenue fund, generally has activities which are financed through taxes, intergovernmental revenues, and other non-exchange revenues. In a *nonexchange* transaction, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an *exchange* transaction, in which each party receives and gives up essentially equal values.⁴ Business-type activities financed in whole or in part by fees charged to external parties for goods or services are usually, but not always, reported in enterprise funds.⁵ An enterprise fund essentially reports exchange transactions.

GASB No. 34, ¶78 outlines the financial statements required for governmental funds, including a balance sheet and statement of revenues, expenditures, and changes in fund balances. GASB No. 34, ¶91 indicates the required financial statements for a proprietary fund include a statement of net assets or balance sheet; a statement of revenues, expenses, and changes in fund net assets or fund equity; and a statement of cash flows.

Enterprise Funds

NRS 354.517 defines an enterprise fund as a fund established to account for operations (1) which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users; or (2) for which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance, management control, accountability or other purposes.

Similarly, ¶67 of GASB Statement No. 34 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods or services. In addition:

Activities are *required* to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's *principal revenue sources*.

- a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges and the full faith and credit of a related primary government or component unit—

¹See complete statutory reference for NRS 354.553 and 354.570 at the end of this Guidance Letter. See also, ¶63, ¶64, ¶66, ¶67, GASB Statement No. 34 (June 1999), pp. 25-26.

²¶75, GASB Statement No. 34 (June 1999), p. 28.

³¶76, GASB Statement No. 34 (June, 1999), p. 28.

⁴¶7, GASB Statement No. 33 (December, 1998), p. 3.

⁵¶15, GASB Statement No. 34 (June, 1999), p. 9.

even if that government is not expected to make any payments—is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable “solely” from the revenues of the activity.)⁶

- b. Laws or regulations require that the activity’s costs of providing services, including capital costs (such as depreciation debt service), be recovered with fees and charges, rather than with taxes or similar revenues.
- c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).

Footnote 33 to ¶67 states that:

These criteria do not require insignificant activities of governments to be reported as enterprise funds. For example, state law may require a county’s small claims court to assess plaintiffs a fee to cover the cost of frivolous claims. However, taxes, not fees, are the principal revenue source of the county’s court system, and the fees in question cover only the cost of frivolous small claims court cases. In this case, the county would not be required to remove its court system or the small claims court activity from its general fund and report it in an enterprise fund. Conversely, a state department of environmental protection regulation may require a water utility to recover the costs of operating its water plant, including debt service costs, through charges to its customers—the utility’s principal revenue source. Because these charges are the activity’s principal revenue source and because the water utility is required to recover its costs, the utility should be reported as an enterprise fund.

In explaining enterprise fund reporting requirements, GASB 34, ¶387 states that:

Perhaps most significantly, this Statement makes clear that enterprise fund reporting should be used for any activity that is financed with *debt secured solely by net revenue* from its fees and charges to external users. Enterprise fund reporting is also required for any activity that operates under *laws or regulations* requiring that its costs of providing services, including capital costs (depreciation or debt service), be recovered with fees and charges. The final criterion—requiring enterprise fund reporting for any activity for which management establishes fees and charges, pursuant to its *pricing policies*, designed to recover its costs of providing services, including capital costs—is similar to the existing criterion. However, it adds an element of objectivity by basing the standard on established policies rather than management’s intent. Further, this Statement makes clear that all criteria for required use of enterprise fund reporting should be applied only in the context of an activity’s principal revenue sources. For example, paragraph 67a requires an activity to be reported as an enterprise fund if the activity is financed by debt secured solely by a pledge of the net revenue from fees and charges of the activity. To apply the principal revenue source test in relation to this criterion, a government should compare an activity’s pledged revenues to its total revenues.

⁶ In practice, there are exceptions. For example, sometimes general obligation (GO) backing is needed for enterprise funds in small rural communities so a lower interest rate can be obtained from the state bond bank. Using GO backed revenue bonds does not automatically require a change from an enterprise fund to a special revenue fund.

Examples of an Enterprise Fund

Background

A general power of a county is acquire, improve, equip, operate and maintain a variety of projects, including sewerage and water projects. *NRS 244A.057*. The Board of County Commissioners may issue special obligation bonds to acquire, improve and equip any sewerage or water project. *NRS 244A.0587*. A county may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 244A.063*.⁷

For example, the Douglas County Board of County Commissioners established the Carson Valley Water Utility Fund by resolution adopted May 3, 2012. See *Appendix for Exhibit 1, Resolution No. 2012R-037*. The Board resolved to use the existing working capital from four individual water utility funds to establish a consolidated water utility fund and further resolved to recover the costs of operation of the water system, including overhead, through user charges, without producing any significant amount of profit in the long run. The new Water Utility Fund is designed to account for all revenues and all charges related to the consolidated operations, management and rate setting of four legacy utilities.

Analysis

In this example the Douglas County Board of County Commissioners has the authority to establish an enterprise fund pursuant to *NRS 354.612*. The resolution meets the conditions in *NRS 354.612* for an enterprise fund. For instance, subparagraph 4 requires the local government to furnish working capital for the fund which the resolution addressed by transferring the working capital from four legacy utilities to the current fund. In addition, *NRS 354.612(4)* requires the recovery of the costs of operation, including overhead, without "producing any significant amount of profit in the long run." This objective was also included in the resolution and specifically referenced "user charges" as the means by which operation costs would be recovered. The resolution was consistent with the authority provided in *NRS Chapter 244A*.

"User charges" take the form of water usage fees and connection charges. Payment by water users of usage fees and connection charges are exchange transactions because each party gives up and receives something of equal value. Rates are typically set to recover costs of operation and maintenance. This meets the definition of *GASB 34 ¶ 67(c)* requiring the use of an enterprise fund when pricing policies for fees and charges are designed to recover costs.

Special Revenue Funds

GASB Statement No. 54 "Fund Balance Reporting and Governmental Fund Type Definitions," updates the definitions of governmental fund types, with the most significant changes related to special revenue funds. The nature of a special revenue fund is discussed at Paragraph 30:

30. Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term "proceeds of specific revenue sources" establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund. Those specific restricted or committed revenues may be initially received in another fund and subsequently distributed to a special revenue fund. Those amounts should not

⁷ Cities have similar authority. A general power of a city is to acquire, improve, equip, operate and maintain a variety of projects including sewerage and water projects. *NRS 268.730*. A city may defray the cost of acquisition, improvement and equipment through general obligation bonds, which may be payable from taxes and further secured by a pledge of other revenues derived from any other income-producing project of the city. *NRS 268.732*. A city may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 268.738*.

be recognized as revenue in the fund initially receiving them; however, those inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes. Special revenue funds should not be used to account for resources held in trust for individuals, private organizations, or other governments.

GASB Statement No. 54 abandons the reserved and unreserved classifications of fund balance and replaces them with five new classifications: non-spendable, restricted, committed, assigned and unassigned. These classifications will indicate the level of constraints placed upon how resources can be spent and identify the sources of those constraints.

The terms “restricted” or “committed” are references to constraints placed on the use of the revenue source. For example, a fund balance is “restricted” when the constraints are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.⁸ A “committed” fund balance includes amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. “Committed” amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action, such as legislation, resolution, or ordinance, which was employed to previously commit those amounts. A committed fund balance also should incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.⁹

In the past, special revenue funds were reported in instances where there was a specific spending purpose, but not necessarily a specific revenue source. The new definition of a special revenue fund means that local governments need to evaluate resources *received* to determine if they qualify for reporting in a special revenue fund. An activity may no longer be reported as a special revenue fund based only on management’s desire to account for it separately. For all major special revenue funds reported, local governments will need to disclose the purpose of the fund and the revenues and other resources reported in the funds in the notes to the financial statements.

Please note that the change in classifications of fund balance and special revenue fund financial statement reporting requirements detailed in Statement No. 54 does not require changes in the way a local government budgets and internally accounts for special revenue funds; and the Department has not changed the budget reporting forms to reflect the new classifications.

In addition, GASB Statement No. 54 states at Paragraph 31:

The restricted or committed proceeds of specific revenue sources should be expected to continue to comprise a *substantial portion* of the inflows reported in the fund. Other resources (investment earnings and transfers from other funds, for example) also may be reported in the fund if those resources are restricted, committed, or assigned to the specified purpose of the fund. Governments should discontinue reporting a special revenue fund, and instead report the fund’s remaining resources in the general fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

Local governments may use the following calculation to determine whether an activity would qualify for reporting as a special revenue fund:

$$\text{Substantial portion of inflows} = \frac{(\text{restricted revenues} + \text{committed revenues})}{\text{Total Inflows reported in the fund}}$$

⁸ ¶34, GASB Statement No. 34 (June 1999), p. 16. See also ¶8, GASB Statement No. 8 (February 2009), p. 4.

⁹ ¶10, GASB Statement No. 10 (February 2009), p. 5.

In the calculation, restricted revenues are defined as resources externally restricted or having restrictions imposed by internal enabling legislation (same definition as restricted net assets used in government-wide reporting). The committed revenues are resources with constraints imposed by the highest level of the government, where the constraints can be removed only by a similar action of the same governing body. Total Inflows are defined as the inflows of all financial resources. Total inflows will include transfers and other financing sources such as debt issuances.¹⁰

“Substantial portion” of inflows is not defined in Statement No. 54, however, the Government Finance Officers Association has indicated “around 20 percent” is reasonable for justifying a special revenue fund; and it is a commonly used threshold. Local governments also need to consider factors such as past resource history, future resource expectations and unusual current year inflows such as debt proceeds.¹¹

An example of how to analyze or “prove up” whether the total revenue sources are substantially restricted, committed or assigned to the specified purpose of the fund is attached as Exhibit 2 from Churchill County. If the analysis shows that the restricted and committed resources are less than 20%, then the local government can take action to remedy the situation by going through the process of formally committing additional resources so that the inflow of restricted and committed resources represent a substantial component of the total inflow.

Examples of Special Revenue Funds

Two examples of a special revenue fund may be found in the Appendix of this Guidance Letter. The first example is a special revenue fund for a landscape maintenance district created by resolution adopted by the Douglas County Board of Commissioners. See *Exhibit 3 in the Appendix*. In this case, the initial financing source is a developer funded security deposit and subsequent revenue will be annual assessments levied on benefiting property owners. The revenue will be restricted to expenditures for improvements or maintenance of parcels within the district.

A second example of a special revenue fund is the “Infrastructure Fund” created by resolution adopted by the Carson City Board of Supervisors. See *Exhibit 4 in the Appendix*. The revenue source is a sales tax of one-eighth of one percent (0.125%). The proceeds of the tax may only be used to fund certain public infrastructure projects identified in the Plan of Expenditure adopted by the Board of Supervisors on April 17, 2014.

In both examples, the revenue source meets the definition of a “committed” fund source because the governing board took formal action to restrict the use of the revenue. However, we would need more information to determine whether those committed funds represent a “substantial” portion – at least 20% - of the total revenue inflow.

Example of a Special Revenue Fund – Or is it? – Fire Districts

Background

A fire protection district formed pursuant to NRS Chapter 474 may sue and be sued; arbitrate claims; and contract and be contracted with. *NRS 474.125*. In addition, a fire protection district may impose a property tax rate not to exceed 1 percent of the assessed value within the district, including net proceeds, to cover the costs of establishing, equipping and maintaining the district with fire-fighting facilities. *NRS 474.190*. Under *NRS 474.200(3)*, two separate funds must be created for the district, an operating fund and a district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. In addition, the district may issue

¹⁰ Washington State Auditor’s Office, “GASB Statement 54 – Focusing on Special Revenue Funds,” page 37, accessed 4-17-15 at <http://digitalarchives.wa.gov/WA.Media/do/BE1679E72F5484784D2834ACA64AE00E.pdf>

¹¹ Ibid, p. 37 and New York Division of Local Government and School Accountability, “Fund Balance Reporting and Governmental Fund Type Definitions,” p. 5, accessed 4-17-15 at <https://osc.state.ny.us/localgov/pubs/releases/gasb54.pdf>

bonds for purchase of equipment and acquisition of property; and may levy a tax sufficient to pay for the bonds. Under NRS 474.300(4), proceeds of the tax levied for debt service must be placed in a special fund to pay the principal and interest on the bonds.

Analysis

Clearly the property taxes in this example are imposed non-exchange revenues resulting from an assessment on property. This is a characteristic of a governmental fund rather than a business-entity type fund.

Next, the analysis should consider whether the governmental fund is a special purpose fund. As discussed in GASB No. 54, ¶ 30, a special revenue fund is used to account for and report the proceeds of specific revenue sources which are restricted or committed to expenditure for specified purposes other than debt service or capital projects. In this example, the district may levy a tax to pay for bonds for equipment and property, so the revenue received for debt service does not necessarily mean the fund is a special revenue fund.

NRS 474.200(3) requires a portion of the property tax to be deposited in the district emergency fund, and the fund must be used solely for emergencies. In this case, the property tax revenue source appears to be restricted for a specified purpose other than debt service or capital projects. "Money collected to meet unforeseen emergencies" appears to be a restriction.

Further analysis is needed, however, because the emergency fund may still not qualify as a special revenue fund. This is so because the uses which may be made from the emergency fund need to be defined in order to determine whether the fund balance should be reported as restricted or committed.

Some governments formally set aside amounts in governmental funds under formal stabilization-type policies that can be expended only when certain specific non-routine circumstances exist. For example, typical purposes for which stabilization funds are set aside include emergency situations; unanticipated significant revenue shortages or budgetary imbalances; working capital needs; contingencies; and others. The authority for such funds generally is derived from statute, ordinance, resolution, charter, or constitution¹², as in this example.

For purposes of reporting fund balance, stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria set forth in GASB Statement No. 54, as amended, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In this example, the source of the emergency fund is a portion of the property tax rate and is restricted. However, GASB 54 states that "a stabilization amount that can be accessed in an emergency would not qualify to be classified within the committed category because the circumstances or conditions that constitute an emergency are not sufficiently detailed. If the revenue from the property tax is restricted or committed, then the emergency fund qualifies as a special revenue fund. If the source is not restricted or committed, then the stabilization arrangement discussed above applies.

Example of Application of Criteria to determine whether Fund is an Enterprise Fund or a Special Revenue Fund

Nevada General Improvement District

NRS 318.197 permits a governing board of a general improvement district to fix rates, tolls or charges other than special assessments, including but not limited to, service charges and standby service charges, for services or facilities furnished by the district. NRS 318.197 is permissive rather than

¹² ¶20, GASB Statement No. 54 (February 2009), p. 9.

mandatory in that the governing board “may” fix rates, tolls or charges to cover the costs of services or facilities furnished.

The board may “pledge the revenue for the payment of any indebtedness or special obligations of the district.” Such rates and tolls constitute a perpetual lien on and against the property served, and may be collected on the tax roll together with the county’s general taxes (NRS 318.201). In addition, NRS 318.225 grants the governing board the power and authority to levy ad valorem taxes. NRS 318.275 permits the district to borrow money and issue GO bonds, revenue bonds, and special assessment bonds. Revenue bonds issued for the purpose of acquiring or improving facilities appertaining to the basic purpose of the district must be made payable solely out of the net revenues for any and all of the income-producing facilities and services provided by the district (NRS 318.320). General obligation bonds and other general obligation securities payable from general property taxes may be additionally secured by a pledge of and lien on net revenues. (NRS 318.325).

Applying GASB Statement 34, ¶67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. However, if the general improvement district’s activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity, then it would be required to use the enterprise fund accounting. This would be the case if the district issued revenue bonds pursuant to NRS 318.320. If the district’s activity is financed with debt secured by both taxes and user fees, then it is not required to use enterprise fund accounting, as would be the case under NRS 318.325 for GO bonds secured by taxes or a combination of taxes and fees. Finally, under ¶67(c), if the pricing policies of the district for the fees and charges are designed to recover its costs, including capital costs (such as depreciation or debt service), then enterprise fund accounting must be used.

If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, ¶67, then standard governmental fund reporting must be used. If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created. The restricted and committed revenue must be recognized as revenue of the special revenue fund rather than the general fund. Total inflows include restricted revenues, committed revenues, transfers in and any other financing sources.

If you have any questions about this guidance letter, please call the Local Government Finance Section of the Division of Local Government Services, Department of Taxation at (775) 684-2100.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>

Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select “Publications;” then select Assessment Standards Publications and “Guidance letters.”

MEMORANDUM

TO: Board of Trustees

THROUGH: Steven J. Pinkerton
General Manager

FROM: Gerald W. Eick, CPA CGMA
Director of Finance, Accounting, Risk Management and Information
Technology

SUBJECT: Establishing Special Revenue, Capital Projects, and Debt Service funds, as well as related sub-funds, for Community Services Fund and the Beach Fund, effective for July 1, 2015

DATE: December 1, 2014

I. RECOMMENDATION

That the Board of Trustees makes a motion to authorize Staff to assemble and report an Operating and Capital Budget for the fiscal year beginning July 1, 2015 to the State of Nevada Department of Taxation, Local Governments Division, that utilizes Special Revenue, Capital Project, and Debt Service Fund accounting for the Community Services Fund (which is comprised of the sub-funds Golf, Facilities, Ski, Recreation, Other Recreation, Parks and Tennis) and for the Beach Fund.

II. BACKGROUND

Staff has identified that the District's determination of fees and charges no longer is best reflected by an accounting under the Enterprise Fund format. The premise of Enterprise Funds is that pricing policies establish fees and charges designed to cover its costs including capital costs (such as depreciation or debt service). This premise will remain reasonably in place though the year ending June 30, 2015 to have continued to use and be consistent with our historical format. However, it is clear the magnitude of what the District does, as a responsible asset manager, requires the District to put as much planning and operating efforts into capital expenditure which in turn requires multi-year decision making and carries operating consequences. An example of such consequences is our building reserves for future projects. Another example is repurposing amounts that once were used to pay debt service to fund capital expenditures.

Measurement and reporting of these consequences no longer is served effectively by using the Enterprise Fund format however Utilities would continue as our only Enterprise Fund.

Accounting is both an art and a science. The science comes from the many standards that exist. For governments, it is mostly in the form of generally accepted governmental accounting principles. The art comes mostly in how information is assembled and communicated. Over the last few years, the District has set facility fees with stated elements for operations, capital, and debt, with an occasional eye to reserves. This has been done balancing the context of the total fee and long term capital expenditures and debt service and is as such identified, by the District, as "smoothing". We are pushing the definition for use of an Enterprise Fund. Our perspective is heavily affected by multi-year approach not a single operating period.

A number of community members have expressed frustration with not understanding our financial reports. Much of this complexity is caused by the standard by which Enterprise Funds report operations, which does not really reflect a flow of resources. A flow of resources format would ultimately make it clear how much goes to operations versus capital expenditure and debt service. That is why the District has presented budgets in two ways - based on operating results and Total Sources and Uses. However, despite a desire to provide maximum information, the result has been even greater confusion about why two budget formats.

Utilization of the Special Revenue Fund, which isolates operating revenues and expenditures, along with Capital Projects and Debt Service Funds, will allow the District to clearly identify the three main elements of the flow of transactions for Community Services and the Beach. Financial statement users, regulators, internal managers, and the public will all have one format and one consistent measurement of revenues and expenditures. Our internal management budgets, monthly reporting, audit reporting, and State budget document will be more concise and have a similar appearance. This simplicity and clarity alone justifies the change.

III. FINANCIAL IMPACT AND BUDGET

The effects of these changes are a matter of where transactions are reported. It does not change the total dollars. Many common elements of our current Total Sources and Uses budget would be used but will be separated by those which constitute Special Revenue (operations), versus Capital Projects, and Debt Service. Separation occurs both for revenue and expenditure. Under this model, the District would be able to demonstrate, through budgeting, accounting and reporting, the separate uses of the facility fee for operating, capital and debt. We have talked about it many times and presented it many ways in special reports, but we find users are still confused. Use of this new format would help to eliminate this confusion. Also, compliance with a restriction such as sales of coverage, which can only be used for capital, would be easier to identify and track over time, as would the accumulation of reserves for any category.

IV. ALTERNATIVES

The District could continue to utilize the Enterprise Fund format. Our auditors have acknowledged they can see both our current interpretation and our reasoning for change. They will support the change when we conclude it should be made. We are still close enough to either definition to consider both. However, as time progresses and we make more financial decisions with a longer view, the community will not be served either for understanding nor a reflection of what is occurring by using the Enterprise Fund format for Community Services and the Beach. Staff feels the change is inevitable and should be made now. We are already making multi-year decisions relative to capital plans. The change also minimizes the complexity and misunderstanding we have with those who read our reports. Not changing does not seem appropriate.

V. COMMENTS

Our new General Manager has many decades of experience with governmental accounting and reporting as a user. One of his first observations was why we were not utilizing Special Revenue Funds to report our Community Services and Beaches. Special Revenue Fund standards get its name from the recognition that governments often receive a revenue source for a particular purpose. Demonstrating compliance with both the measurements and the actual functional use of those revenues is an important part of the community's comfort with the

Establishing Special Revenue, Capital Projects, and Debt Service funds, as well as related sub-funds, for Community Services Fund and the Beach Fund, effective for July 1, 2015

-4-

December 1, 2014

operation of its government. This is opportunity for the District to be clear and transparent with the flow of resources, how they are used, and because of the separate funds, also demonstrate a pattern of compliance, readiness or instances where these objectives are not met.

The District has recently upgraded its accounting system. During this process, Staff has already developed a revised chart of accounts that would facilitate the new funds. Also, for the last five years, under the current system, the Director of Finance has monitored a process by which all activity could be converted to the new format once the change is adopted. It may not be necessary to convert all years but it is possible if the need is determined. The most common use of historical data is the prior and current year comparison we use as we develop a future budget. We'd expect to convert the years ending June 30, 2014 and 2015 to facilitate the new budget.

**ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 2**

February 18, 2016

TO: Audit Committee - Trustees Callicrate, Wong and Hammerel

RE: Question asked of Dan Carter of EideBailly at Audit Committee Meeting on 12/16/2015 regarding the transition from Enterprise Fund Accounting and Reporting to Special Revenue Fund Accounting and Reporting

Partial transcript of Question and Answer and my observations and comments

Question by Jim Hammerel

Mr. Hammerel stated that questions from **other** community members as well as Trustees not on the Audit Committee might come up relative to the review and approval of the District's transition to Enterprise Fund Accounting from Special Revenue Fund Accounting and whether it was appropriate or not appropriate. He asked Mr. Carter to comment on the District's transition to Enterprise Fund Accounting.

Mr. Carter corrected Mr. Hammerel noting that the transition was from Enterprise Fund Accounting to Special Revenue Fund Accounting.

My Comments: In the interest of clarity, it would have been helpful for Mr. Hammerel to make mention that the transition concerned the District's Community Services Fund and the Beach Fund. My memorandum dated November 30, 2015 to the IVGID Audit Committee clearly delineates that the transition was NOT appropriate. I cited the Nevada Revised Statutes and the GASB statements included and detailed in the Department of Taxation Guidance Letter 15-002 dated October 27, 2015 which clearly defined when an Enterprise or Special Revenue Fund should be used. I believe that other community members expressed similar objections. The concerns and conclusions raised in my memo were not addressed by the Audit Committee and Mr. Hammerel did not take this opportunity to ask Mr. Carter to counter my specific conclusions. That being said, it may be that Mr. Hammerel never reviewed my memorandum or analyzed the points of fact. He may have simply relied upon Senior Staff's assertions that the transition was appropriate and was asking the auditor this question to validate the Board's reliance upon General Manager Pinkerton and Director of Finance Eick's representations.

Answer by Dan Carter

Mr. Dan Carter's response was quite lengthy and quite a run around. A definitive answer of Mr. Hammerel's question on whether or not the accounting and reporting transition was appropriate or not appropriate was not provided. Keep in mind that Mr. Eick in previous memorandums to the Board of Trustees claimed that the audit firm and the District's legal counsel took a "look see" at this accounting change and everything was A OK. Also be aware that after the Board of Trustees approved the transition in the spring of 2015 that the State of Nevada Department of Taxation issued Guidance Letter 15-002 clearly defining with reference to Nevada Statutes and Government Accounting Standards Board (GASB) Statements when an Enterprise Fund or a Special Revenue Fund should be used. This

information was recapped on page two and three of my November 30, 2015 memorandum. Mr. Eick at a Board workshop session on December 3, 2015 assembled a multi-paged presentation to try and convince the Board of Trustees that the "transition" was on the right track. An enormous effort was made to distinguish differences in Government Accounting and Business Accounting. There was no mention of generally accepted accounting principles, GASB Statements or the State of Nevada Department of Taxation Guidance Letter.

Remarkable as it may seem Mr. Carter states: "We can't be in any way seen as approving those functions because we have to keep our independence with management on what goes on up here." Mr. Carter further states: "I certainly can't guarantee that we won't have issues at the back end."

Mr. Carter's response contradicts Mr. Eicks's verbal and written representations that this transition was approved by the auditor.

Mr. Carter later remarks: "we had specific conversations with the Department of Taxation but it was more about the use of Special Revenue Funds. There are specific guidance in GASB about what can and can't be accounted for with a Special Revenue Fund and it kind of came out of – it's not really an issue up here but we have a lot of governments with just dozens and dozens of Special Revenue Funds. Any time something new came up they would just create a new fund to account for it. So GASB was trying to clean that up. And put in some pretty strict guidance as far as what when a Special Revenue Fund can be used."

Mr. Carter's expansive narrative would have proven informative to the Audit Committee and the community if he had also explained the strict guidance provided by GASB. Please refer to page 2 and 3 of my memorandum which examines and states why the activities at Community Services and the Beach Fund must be reported and accounted for as Enterprise Funds and does not meet the guidelines to qualify as Special Revenue Funds.

Mr. Carter states: "It is unusual up here when we use the word *fee* like the Community Services Fee or the Beach Fee because it's technically a TAX so the fact that there's a **restriction** on the use of that tax money is exactly what a Special Revenue Fund is used for." Apparently, Mr. Carter disagrees with IVGID's collection of the Recreation Facility Fees and Beach Facility Fees as FEES and considers both to be a TAX. Mr. Carter seems to have no understanding that in addition to these Recreation Facility and Beach Facility Fees he refers to as a TAX, over 60% OF THE REVENUES GENERATED AT THE RECREATIONAL VENUES ARE SALES OF FOOD AND BEVERAGE , SPORTING GOOD APPAREL AND USER FEES TO SKI OR PLAY A ROUND OF GOLF - AMONG OTHER EXCHANGE TRANSACTIONS. I can only surmise that he has determined that those other revenues might also be considered a tax. I am also unclear on what "restrictions" are placed on all this "tax money".

At this point, one can rightfully draw a conclusion that Mr. Carter is attempting to shape the user revenues of the Community Services and Beaches into a tax with restrictions in order to attempt some compliance with Paragraph 30 of GASB Statement No. 54. If that is indeed the case, he has failed.

As Mr. Carter approaches the conclusion of his REMARKABLE response, he states: "It is disclosed as a subsequent event in the current year CAFR but I think on a go forward basis once we can get through the transitional period I would hope that it would be, you know, a clear way to report the activities of everything that runs through those two funds." No opinion, no guidance, no reference to accounting standards or statutes only hope. WHAT AN ANSWER.

So based on Mr. Carter's voluble response that did not validate whether the transition from Enterprise Fund Accounting and Reporting to Special Revenue Fund Accounting and Reporting was appropriate, with the exception of Trustee Callicrate, Trustee Wong, Hammerel, Dent and Horan approved the audited financial statements that included the subsequent event footnote which states the transition was made.

If any of you would like to reread the Guidance Letter issued by the State of Nevada Department of Taxation or my comprehensive memorandum I would be more than happy to resend them to you. You can also recheck your email inbox or ask Susan Herron for copies.

Please read NRS 354.517 defining an Enterprise Fund and also GASB Statement No. 34 (paragraph 67) which clearly defines that the activities of the Community Services and Beach Funds are REQUIRED to be reported as Enterprise Funds.

The voluminous material provided by Mr. Eick in several Board Meetings and Workshops attempting to make the case for a transition to Special Revenue Funds are all IRRELEVANT.

Your independent audit engagement partner does not have the requisite knowledge to perform a competent independent audit. This memorandum and my previous memorandums on the misallocation of the punch card discounts and the inappropriate accounting transition substantiate this assessment.

You cannot validate a CAFR that you know to be inaccurate. It is your responsibility to ensure that the CAFR is prepared professionally and it accurately represents the District's financial statements.

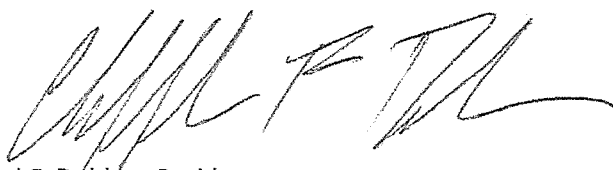
My advice: Discuss the misallocation of the punch card discounts and the accounting transition with Senior Management of the CPA firm and request a new audit engagement partner to take charge. You are heading into a buzz saw as you attempt to issue bonds in the future and prepare to utilize this CAFR to fraudulently misrepresent the District's operations and fiscal health to taxpayers, fee payers, investors and local, state and federal regulatory agencies.

My Final Comments: Rest assured that these material accounting deceptions and misrepresentations which you have failed to correct and continue to sponsor will only result in challenging the performance of your fiduciary responsibilities as Trustees and the integrity of the District's financial statements. I am actively researching additional areas of manipulative accounting allocations which I will continue to bring to you in the future.

Now is the time to take corrective action!

I will not let this go away or allowed it to be buried by time and neglect.

I will make every effort to improve Eide Bailly's understanding of the misallocation of the punch cards and the improper accounting transition and I am quite certain corrective action will be taken.

A handwritten signature in black ink, appearing to read 'Clifford F. Doblér', written in a cursive style.

Clifford F. Doblér - Resident

cc: Eide Bailly

cc: Trustee Dent

cc: Trustee Horan

cc: Department of Taxation

**ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 3**

MEMORANDUM

TO: Trustees Callicrate, Dent, Hammerel, Horan and Wong

CC: Susan Herron – Please include in the next Board Packet

FROM: Clifford F. Dobler

DATED: March 10, 2016

RE: Note 19 Subsequent Event of the 6-30-2015 Comprehensive Annual Financial Report -Page 46

Attached is page 46 with Note 19 of the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2015. I have highlighted in yellow the sentences in paragraphs 2 and 3 reflecting a significant discrepancy in the Net Position of the Community Services Fund and the Beach Fund.

In paragraph 2, the District states that prior to the audit, in the budget document filed with the State of Nevada Department of Taxation the NET POSITION for the Community Services Fund and the Beach Fund were estimated to be **\$5,294,138** and **\$1,302,486** respectively.

In paragraph 3, based on the audit the NET POSITION of the Community Services Fund and the Beach Fund WAS **\$44,762,511** and **\$5,701,288** respectively. It further states: "These amounts are adequate to satisfy their role in supporting the budget for the fiscal year ending June 30, 2016."

Aside from the amusement value and outright confusion for anyone relying upon this information: **HOW IS THIS POSSIBLE?** From my perspective, a discrepancy of this magnitude would require an explanation. **So what's up?** I happen to know, but would the average reader or Trustee know?

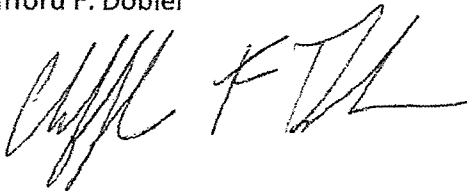
Now, if I called Mr. Eick and asked him to elaborate and correct the footnote he would simply say NO. I would then say: "I will, therefore, have to report this to the Board." His answer, based on past experience, would be "Go for it."

Footnote 19 is one example of a multitude of unclear and incomplete explanations and inaccuracies occurring throughout the CAFR.

WHY: No real review by the auditors and the absence of General Manager and Trustee oversight.

If you have an interest, I can point to several inaccuracies warranting correction throughout the Report. Of course, this would be if anyone is really interested. As I have said before, you need my help.

Clifford F. Dobler

A handwritten signature in black ink, appearing to read 'Clifford F. Dobler', written in a cursive style.

The District has committed to these capital improvement projects through contractual arrangements:

	<u>Contract Award</u>	<u>Completed at June 30, 2015</u>	<u>Remaining Commitment</u>
Utility Fund			
Water main Replacement			
Q&D Construction, Inc.	\$596,560	\$267,848	\$328,712
Community Services Fund			
Creek Restoration			
Cardno, Inc.	\$227,000	\$197,773	\$ 29,227
Ski Resort Point of Sales System			
Active Network	\$313,449	\$132,400	\$181,049

18. EXTRAORDINARY EXPENSE FOR UTILITY FUND

In April 2014, a leak occurred in the District’s effluent pipeline that results in damage to an area highway. Leaks of this magnitude and consequence are not expected in the normal course of operations and thus the repairs costs have been reported as an extraordinary expense. In July 2014 the District incurred \$26,906 of repair costs to complete the paving of the State highway affected by the leak.

19. SUBSEQUENT EVENT

Effective July 1, 2015, with its new fiscal and budget year, the District began utilizing Special Revenue, Capital Projects and Debt Service governmental fund accounting for the Community Services Fund and the Beach Fund, which have to date been accounted for as enterprise funds. The District has changed its approach to the pricing of services and in particular recognizes that the use of the facility fee to provide resources for capital expenditure and debt service cannot be displayed in a readily understandable fashion for its constituents.

The Board of Trustees has approved a budget, which has been filed with the State of Nevada Department of Taxation, which reflects this change. The remaining action will be to have the Board of Trustees approve the transfer of the Net Position of the Community Services Fund and the Beach Fund upon conclusion of the audit process and the acceptance of that report. The budget document filed with the State estimated that amount to be \$5,294,138 for the Community Services Fund, and \$1,302,486, for the Beach Fund. The District presented a template for calculating the transfer amount to the Nevada Department of Taxation Committee on Local Government Finance and outlined its intended method to convert from accrual based accounting under an enterprise fund, to modified accrual accounting for the Special Revenue governmental funds, which would go forward. No Net Position is considered directly related to either the capital projects funds or debt service funds at July 1, 2015.

Based on the audit as of June 30, 2015 the Net Position of the Community Services Fund is \$44,762,511. The Net Position for the Beach Fund is \$5,701,288. These amounts are adequate to satisfy their role in supporting the budget for the fiscal year ending June 30, 2016. The amount of capital project carryover \$1,115,576 (See Note 17) was known and set as a part of the approval of the operating and capital budget.

As of October 28, 2015 the District agreed to a settlement of the suit, described in Note 12, that will result in collecting \$245,000.

**ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 4**

MEMORANDUM

March 15, 2016

To: IVGID Trustees Wong, Hammeral, Callicrate, Dent, and Horan

From: Clifford F. Dobler

Re: Transition from an Enterprise Fund to a Special Revenue Fund for Community Services and the Beaches

The IVGID Community Service Fund and the Beach Fund can **ONLY** be Enterprise Funds based on THREE main concepts which are requirements under the Nevada Revised Statutes and GASB #34. The transition of these two funds to Special Revenue Funds would be in violation of Nevada Revised Statutes and not in accordance with GASB #34.

Requirement under Nevada Revised Statutes

NRS 354.517 DEFINES an enterprise fund as a fund established to account for operations (1) which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing GOODS OR SERVICES on a continuing basis to the general public, financed or recovered **PRIMARILY** through charges to the users; OR (2) for which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance, management control, accountability or other purposes.

Can there be any doubt that the expenses of providing goods or services of the various recreational venues are financed or recovered through charges to the users. Based on the June 30, 2015 Comprehensive Annual Financial Report total operating revenues of the Community Service Fund and the Beach Fund were \$18,272,166 of which \$11,913,577 is SALES and FEES of goods and services. So about 65% of revenues are from goods and services which would be considered a PRIMARY financing sources.

The remaining revenue is the Recreation Fee and the Beach Fee. According to Resolution 1837 adopted by the board of trustees to collect Recreation Standby and Services Charges AKA Recreation Facility Fee and Beach Fee which are also charges to users for services albeit a mandatory charge. With these fees the vast majority of expenses are financed and recovered PRIMARILY through charges to users.

Requirement under Government Accounting Standard Board

Statement 34 paragraph 67 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods and services **IN ADDITION**:

Activities are **REQUIRED** to be reported as enterprise funds if **ANY ONE** of the following criteria is met. Governments should apply each of these criteria in the context of the activity's *principal revenue sources*.

a. The activity is financed with debt that is secured SOLELY by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges *-and* the full faith and credit of a related primary government or component unit - even if that government is not expected to make any payments- is not payable solely from fees and charges of the activity.

b. Laws and regulations require that the activity's costs of providing services, including capital costs (such as depreciation and debt service) be recovered with fees and charges rather than with taxes or similar revenues.

c. THE PRICING POLICY OF THE ACTIVITY ESTABLISH FEES AND CHARGES DESIGNED TO RECOVER ITS COSTS, INCLUDING CAPITAL COSTS (SUCH AS DEPRECIATION OR DEBT SERVICE)

As I indicated in bold and caps, item C is exactly what IVGID does on an annual basis with the budget and has been doing the same pricing policy for years. So based on item C alone the Community Service Fund and the Beach Fund are REQUIRED to be accounted for as enterprise funds. Pricing the principal revenue sources

Think about this: Is the pricing policy of the utility fund the same as the pricing policy of the recreational funds? Of course it is. So how could the Staff of IVGID suggest that pricing policies have changed.

Requirements for Exchange and Non-Exchange Transactions

When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular type of fund. For example, a governmental fund, such as a **special revenue fund**, generally has activities which are financed through taxes, intergovernmental revenues, and other *non-exchange* revenues. In a *transaction*, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an *exchange* transaction, in which each party receives and gives up essentially equal values. (GASB Statement #33 para 7 page3). Business type activities financed in whole or in part by fees charged to external parties for goods and services are usually, but not always, reported in enterprise funds (GASB Statement #34 para 15 page 9). An enterprise fund essentially reports exchange transactions.

ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 5

Memorandum

Dated: June 4, 2016

To: Terry E. Rubald, Deputy Executive Director, Department of Taxation

From: Clifford F. Dobler

Subject: October 27, 2015 Guidance Letter 15-002 Special Revenue Funds and Enterprise Funds

Sent via e mail

Attached is a copy of the first eight pages of Guidance Letter 15-002.

After a detailed review, I noted six items which may warrant revision.

I have underlined the items in Red for easy identification:

1. Page 2, Second Complete Paragraph: The quote from footnote #5 - the words "but not always" was added. These three words are not found on page 9 of GASB Statement No. 34
2. Page 2, Footnote #1: The reference in Footnote #1 for GASB Statement No. 34 refers to pp25-26. Page 27 relating to pricing policies was omitted although it is part of the text
3. Page 8, Second Complete Paragraph, Line 2: "since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197 an enterprise fund is not required to be used." This statement cannot be found in any part of NRS 318.197 nor does the content of the Statute even imply such a statement.
4. Page 8, Second Complete Paragraph Lines 1-3: "Applying GASB Statement 34 Paragraph 67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. " Taken in context with the misstatements noted above in item 3, neither NRS 318.197 nor GASB 34 Paragraph 67(a-c) substantiates this correlation and conclusion.
5. Page 8, Third Complete Paragraph, First two lines: "If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, Paragraph 67, then standard governmental fund reporting **MUST** be used." This is incorrect. The first sentence of GASB Statement No. 34 Paragraph 67 actually states: "Enterprise funds may be used to report any activity for which a fee is charged to external users for goods or services." The balance of this Paragraph 67 establishes the activities required to be reported as enterprise funds if any of the criteria in clauses (a) – (c) are met. This Paragraph 67 also states: "Governments should apply each of these criteria in the context of the activity's principal revenue sources." There is no inference in this Paragraph 67 to suggest that any government that is not "required" to use Enterprise Fund accounting and reporting **MUST** use standard governmental fund reporting. GASB No. 34 Paragraph 67 and its clauses clearly state when Enterprise Funds are mandatory and when their utilization is an option.

6. Page 8, Third Complete Paragraph, Line 3: "If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created." There is no footnote to source this statement.

I respectfully request your review of the above with emphasis on items #3 through #5 as it has a major impact on how Incline Village General Improvement District or any GID may have interpreted the Guidance Letter. It may be apparent from an in-depth analysis, that the provider of these almost breathless paragraphs for the Example of a Nevada GID may not have a complete and accurate understanding of Nevada Revised Statutes and relevant GASB Statements. There appears to be minimal evidence presented by the provider to substantiate that proper criteria has been applied to determine if a Nevada General Improvement District Fund qualifies as a Special Revenue Fund.

Thank you in advance for your consideration.

Clifford F. Dobler

Resident of Incline Village, NV

775-722-4487

A handwritten signature in black ink, appearing to read 'C. F. Dobler', with a long horizontal flourish extending to the right.



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DEPARTMENT OF TAXATION

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Guidance Letter 15-002

Date: October 27, 2015

To: County Finance Officers

From: Terry E. Rubald, Deputy Executive Director, Department of Taxation

CC: Committee on Local Government Finance, Marvin Leavitt, Chairman
Deonne Contine, Executive Director, Department of Taxation
Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services

Subject: Special Revenue Funds and Enterprise Funds

SUMMARY:

This Guidance Letter recognizes Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34, "Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles. In addition, this Guidance Letter discusses the nature and use of special revenue funds and enterprise funds, and provides examples.

This Guidance Letter does not change any interpretations of any existing general accounting principles followed by a local government. The purpose in issuing this Guidance Letter is to raise awareness about differences between using special revenue fund and enterprise fund accounting, by highlighting and discussing certain GASB statements in relation to Nevada law.

AUTHORITY FOR THIS LETTER:

NRS 354.472(1)(d): One of the purposes of the Local Government Budget and Finance Act is to provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money. NRS 354.612(2) requires fund financial statements and other schedules to be prepared in accordance with generally accepted accounting principles.

Guidance Letter 15-002 was approved by the Committee on Local Government Finance on October 27, 2015.

APPLICATION:

The Department finds that Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34,

"Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles.

Based on the definitions of proprietary fund and special revenue fund found in NRS 354.553 and 354.570, as well as GASB No. 34, a special revenue fund is a type of governmental fund, whereas an enterprise fund is a type of proprietary fund.¹ In either case, the level of financial reporting must be based on a determination of whether the special revenue fund or the enterprise fund is a major or non-major fund.² The criteria for designation as a major fund is measured by whether the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund are at least 10 percent of the corresponding total for all funds of that category or type. In addition, the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund must be at least 5 percent of the corresponding total for all governmental and enterprise funds combined.³

When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular kind of fund. For example, a governmental fund, such as a special revenue fund, generally has activities which are financed through taxes, intergovernmental revenues, and other non-exchange revenues. In a *nonexchange* transaction, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an *exchange* transaction, in which each party receives and gives up essentially equal values.⁴ Business-type activities financed in whole or in part by fees charged to external parties for goods or services are usually, but not always, reported in enterprise funds.⁵ An enterprise fund essentially reports exchange transactions.

GASB No. 34, ¶78 outlines the financial statements required for governmental funds, including a balance sheet and statement of revenues, expenditures, and changes in fund balances. GASB No. 34, ¶91 indicates the required financial statements for a proprietary fund include a statement of net assets or balance sheet; a statement of revenues, expenses, and changes in fund net assets or fund equity; and a statement of cash flows.

Enterprise Funds

NRS 354.517 defines an enterprise fund as a fund established to account for operations (1) which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users; or (2) for which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance, management control, accountability or other purposes.

Similarly, ¶67 of GASB Statement No. 34 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods or services. In addition:

Activities are *required* to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's *principal revenue sources*.

¹See complete statutory reference for NRS 354.553 and 354.570 at the end of this Guidance Letter. *See also*, ¶63, ¶64, ¶66, ¶67, GASB Statement No. 34 (June 1999), pp. 25-26.

²¶75, GASB Statement No. 34 (June 1999), p. 28.

³¶76, GASB Statement No. 34 (June, 1999), p. 28.

⁴¶7, GASB Statement No. 33 (December, 1998), p. 3.

⁵¶15, GASB Statement No. 34 (June, 1999), p. 9.

- a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges *and* the full faith and credit of a related primary government or component unit—even if that government is not expected to make any payments—is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable "solely" from the revenues of the activity.)⁶
- b. Laws or regulations require that the activity's costs of providing services, including capital costs (such as depreciation debt service), be recovered with fees and charges, rather than with taxes or similar revenues.
- c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).

Footnote 33 to ¶67 states that:

These criteria do not require insignificant activities of governments to be reported as enterprise funds. For example, state law may require a county's small claims court to assess plaintiffs a fee to cover the cost of frivolous claims. However, taxes, not fees, are the principal revenue source of the county's court system, and the fees in question cover only the cost of frivolous small claims court cases. In this case, the county would not be required to remove its court system or the small claims court activity from its general fund and report it in an enterprise fund. Conversely, a state department of environmental protection regulation may require a water utility to recover the costs of operating its water plant, including debt service costs, through charges to its customers—the utility's principal revenue source. Because these charges are the activity's principal revenue source and because the water utility is required to recover its costs, the utility should be reported as an enterprise fund.

In explaining enterprise fund reporting requirements, GASB 34, ¶387 states that:

Perhaps most significantly, this Statement makes clear that enterprise fund reporting should be used for any activity that is financed with *debt secured solely by net revenue* from its fees and charges to external users. Enterprise fund reporting is also required for any activity that operates under *laws or regulations* requiring that its costs of providing services, including capital costs (depreciation or debt service), be recovered with fees and charges. The final criterion—requiring enterprise fund reporting for any activity for which management establishes fees and charges, pursuant to its *pricing policies*, designed to recover its costs of providing services, including capital costs—is similar to the existing criterion. However, it adds an element of objectivity by basing the standard on established policies rather than management's intent. Further, this Statement makes clear that all criteria for required use of enterprise fund reporting should be applied only in the context of an activity's principal revenue sources. For example, paragraph 67a requires an activity to be reported as an enterprise fund if the activity is financed by debt secured solely by a pledge of the net revenue from fees and charges of the activity. To apply the principal revenue source test in relation to this criterion, a government should compare an activity's pledged revenues to its total revenues.

⁶ In practice, there are exceptions. For example, sometimes general obligation (GO) backing is needed for enterprise funds in small rural communities so a lower interest rate can be obtained from the state bond bank. Using GO backed revenue bonds does not automatically require a change from an enterprise fund to a special revenue fund.

Examples of an Enterprise Fund

Background

A general power of a county is acquire, improve, equip, operate and maintain a variety of projects, including sewerage and water projects. *NRS 244A.057*. The Board of County Commissioners may issue special obligation bonds to acquire, improve and equip any sewerage or water project. *NRS 244A.0587*. A county may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 244A.063*.⁷

For example, the Douglas County Board of County Commissioners established the Carson Valley Water Utility Fund by resolution adopted May 3, 2012. See *Appendix for Exhibit 1, Resolution No. 2012R-037*. The Board resolved to use the existing working capital from four individual water utility funds to establish a consolidated water utility fund and further resolved to recover the costs of operation of the water system, including overhead, through user charges, without producing any significant amount of profit in the long run. The new Water Utility Fund is designed to account for all revenues and all charges related to the consolidated operations, management and rate setting of four legacy utilities.

Analysis

In this example the Douglas County Board of County Commissioners has the authority to establish an enterprise fund pursuant to *NRS 354.612*. The resolution meets the conditions in *NRS 354.612* for an enterprise fund. For instance, subparagraph 4 requires the local government to furnish working capital for the fund which the resolution addressed by transferring the working capital from four legacy utilities to the current fund. In addition, *NRS 354.612(4)* requires the recovery of the costs of operation, including overhead, without “producing any significant amount of profit in the long run.” This objective was also included in the resolution and specifically referenced “user charges” as the means by which operation costs would be recovered. The resolution was consistent with the authority provided in *NRS Chapter 244A*.

“User charges” take the form of water usage fees and connection charges. Payment by water users of usage fees and connection charges are exchange transactions because each party gives up and receives something of equal value. Rates are typically set to recover costs of operation and maintenance. This meets the definition of *GASB 34 ¶ 67(c)* requiring the use of an enterprise fund when pricing policies for fees and charges are designed to recover costs.

Special Revenue Funds

GASB Statement No. 54 “Fund Balance Reporting and Governmental Fund Type Definitions,” updates the definitions of governmental fund types, with the most significant changes related to special revenue funds. The nature of a special revenue fund is discussed at Paragraph 30:

30. Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term “*proceeds of specific revenue sources*” establishes that one

⁷ Cities have similar authority. A general power of a city is to acquire, improve, equip, operate and maintain a variety of projects including sewerage and water projects. *NRS 268.730*. A city may defray the cost of acquisition, improvement and equipment through general obligation bonds, which may be payable from taxes and further secured by a pledge of other revenues derived from any other income-producing project of the city. *NRS 268.732*. A city may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 268.738*.

or more specific restricted or committed revenues should be the foundation for a special revenue fund. Those specific restricted or committed revenues may be initially received in another fund and subsequently distributed to a special revenue fund. Those amounts should not be recognized as revenue in the fund initially receiving them; however, those inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes. Special revenue funds should not be used to account for resources held in trust for individuals, private organizations, or other governments.

GASB Statement No. 54 abandons the reserved and unreserved classifications of fund balance and replaces them with five new classifications: non-spendable, restricted, committed, assigned and unassigned. These classifications will indicate the level of constraints placed upon how resources can be spent and identify the sources of those constraints.

The terms “restricted” or “committed” are references to constraints placed on the use of the revenue source. For example, a fund balance is “restricted” when the constraints are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.⁸ A “committed” fund balance includes amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. “Committed” amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action, such as legislation, resolution, or ordinance, which was employed to previously commit those amounts. A committed fund balance also should incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.⁹

In the past, special revenue funds were reported in instances where there was a specific spending purpose, but not necessarily a specific revenue source. The new definition of a special revenue fund means that local governments need to evaluate resources *received* to determine if they qualify for reporting in a special revenue fund. An activity may no longer be reported as a special revenue fund based only on management’s desire to account for it separately. For all major special revenue funds reported, local governments will need to disclose the purpose of the fund and the revenues and other resources reported in the funds in the notes to the financial statements.

Please note that the change in classifications of fund balance and special revenue fund financial statement reporting requirements detailed in Statement No. 54 does not require changes in the way a local government budgets and internally accounts for special revenue funds; and the Department has not changed the budget reporting forms to reflect the new classifications.

In addition, GASB Statement No. 54 states at Paragraph 31:

The restricted or committed proceeds of specific revenue sources should be expected to continue to comprise *a substantial portion* of the inflows reported in the fund. Other resources (investment earnings and transfers from other funds, for example) also may be reported in the fund if those resources are restricted, committed, or assigned to the specified purpose of the fund. Governments should discontinue reporting a special revenue fund, and instead report the fund’s remaining resources in the general fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

Local governments may use the following calculation to determine whether an activity would qualify for reporting as a special revenue fund:

Substantial portion of inflows = (restricted revenues + committed revenues)

⁸ ¶34, GASB Statement No. 34 (June 1999), p. 16. See also ¶8, GASB Statement No. 8 (February 2009), p. 4.

⁹ ¶10, GASB Statement No. 10 (February 2009), p. 5.

Total Inflows reported in the fund

In the calculation, restricted revenues are defined as resources externally restricted or having restrictions imposed by internal enabling legislation (same definition as restricted net assets used in government-wide reporting). The committed revenues are resources with constraints imposed by the highest level of the government, where the constraints can be removed only by a similar action of the same governing body. Total Inflows are defined as the inflows of all financial resources. Total inflows will include transfers and other financing sources such as debt issuances.¹⁰

"Substantial portion" of inflows is not defined in Statement No. 54, however, the Government Finance Officers Association has indicated "around 20 percent" is reasonable for justifying a special revenue fund; and it is a commonly used threshold. Local governments also need to consider factors such as past resource history, future resource expectations and unusual current year inflows such as debt proceeds.¹¹

An example of how to analyze or "prove up" whether the total revenue sources are substantially restricted, committed or assigned to the specified purpose of the fund is attached as Exhibit 2 from Churchill County. If the analysis shows that the restricted and committed resources are less than 20%, then the local government can take action to remedy the situation by going through the process of formally committing additional resources so that the inflow of restricted and committed resources represent a substantial component of the total inflow.

Examples of Special Revenue Funds

Two examples of a special revenue fund may be found in the Appendix of this Guidance Letter. The first example is a special revenue fund for a landscape maintenance district created by resolution adopted by the Douglas County Board of Commissioners. See *Exhibit 3 in the Appendix*. In this case, the initial financing source is a developer funded security deposit and subsequent revenue will be annual assessments levied on benefiting property owners. The revenue will be restricted to expenditures for improvements or maintenance of parcels within the district.

A second example of a special revenue fund is the "Infrastructure Fund" created by resolution adopted by the Carson City Board of Supervisors. See *Exhibit 4 in the Appendix*. The revenue source is a sales tax of one-eighth of one percent (0.125%). The proceeds of the tax may only be used to fund certain public infrastructure projects identified in the Plan of Expenditure adopted by the Board of Supervisors on April 17, 2014.

In both examples, the revenue source meets the definition of a "committed" fund source because the governing board took formal action to restrict the use of the revenue. However, we would need more information to determine whether those committed funds represent a "substantial" portion – at least 20% - of the total revenue inflow.

Example of a Special Revenue Fund – Or is it? – Fire Districts

Background

A fire protection district formed pursuant to NRS Chapter 474 may sue and be sued; arbitrate claims; and contract and be contracted with. *NRS 474.125*. In addition, a fire protection district may impose a property tax rate not to exceed 1 percent of the assessed value within the district, including net proceeds, to cover the costs of establishing, equipping and maintaining the district with fire-fighting facilities. *NRS 474.190*. Under *NRS 474.200(3)*, two separate funds must be created for the district,

¹⁰ Washington State Auditor's Office, "GASB Statement 54 – Focusing on Special Revenue Funds," page 37, accessed 4-17-15 at <http://digitalarchives.wa.gov/WA.Media/do/BE1679E72F5484784D2834ACA64AE00E.pdf>

¹¹ Ibid, p. 37 and New York Division of Local Government and School Accountability, "Fund Balance Reporting and Governmental Fund Type Definitions," p. 5, accessed 4-17-15 at <https://osc.state.ny.us/localgov/pubs/releases/gasb54.pdf>

an operating fund and a district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. In addition, the district may issue bonds for purchase of equipment and acquisition of property; and may levy a tax sufficient to pay for the bonds. Under NRS 474.300(4), proceeds of the tax levied for debt service must be placed in a special fund to pay the principal and interest on the bonds.

Analysis

Clearly the property taxes in this example are imposed non-exchange revenues resulting from an assessment on property. This is a characteristic of a governmental fund rather than a business-entity type fund.

Next, the analysis should consider whether the governmental fund is a special purpose fund. As discussed in GASB No. 54, ¶ 30, a special revenue fund is used to account for and report the proceeds of specific revenue sources which are restricted or committed to expenditure for specified purposes other than debt service or capital projects. In this example, the district may levy a tax to pay for bonds for equipment and property, so the revenue received for debt service does not necessarily mean the fund is a special revenue fund.

NRS 474.200(3) requires a portion of the property tax to be deposited in the district emergency fund, and the fund must be used solely for emergencies. In this case, the property tax revenue source appears to be restricted for a specified purpose other than debt service or capital projects. "Money collected to meet unforeseen emergencies" appears to be a restriction.

Further analysis is needed, however, because the emergency fund may still not qualify as a special revenue fund. This is so because the uses which may be made from the emergency fund need to be defined in order to determine whether the fund balance should be reported as restricted or committed.

Some governments formally set aside amounts in governmental funds under formal stabilization-type policies that can be expended only when certain specific non-routine circumstances exist. For example, typical purposes for which stabilization funds are set aside include emergency situations; unanticipated significant revenue shortages or budgetary imbalances; working capital needs; contingencies; and others. The authority for such funds generally is derived from statute, ordinance, resolution, charter, or constitution¹², as in this example.

For purposes of reporting fund balance, stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria set forth in GASB Statement No. 54, as amended, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In this example, the source of the emergency fund is a portion of the property tax rate and is restricted. However, GASB 54 states that "a stabilization amount that can be accessed in an emergency would not qualify to be classified within the committed category because the circumstances or conditions that constitute an emergency are not sufficiently detailed. If the revenue from the property tax is restricted or committed, then the emergency fund qualifies as a special revenue fund. If the source is not restricted or committed, then the stabilization arrangement discussed above applies.

Example of Application of Criteria to determine whether Fund is an Enterprise Fund or a Special Revenue Fund

Nevada General Improvement District

¹² ¶20, GASB Statement No. 54 (February 2009), p. 9.

NRS 318.197 permits a governing board of a general improvement district to fix rates, tolls or charges other than special assessments, including but not limited to, service charges and standby service charges, for services or facilities furnished by the district. NRS 318.197 is permissive rather than mandatory in that the governing board "may" fix rates, tolls or charges to cover the costs of services or facilities furnished.

The board may "pledge the revenue for the payment of any indebtedness or special obligations of the district." Such rates and tolls constitute a perpetual lien on and against the property served, and may be collected on the tax roll together with the county's general taxes (NRS 318.201). In addition, NRS 318.225 grants the governing board the power and authority to levy ad valorem taxes. NRS 318.275 permits the district to borrow money and issue GO bonds, revenue bonds, and special assessment bonds. Revenue bonds issued for the purpose of acquiring or improving facilities appertaining to the basic purpose of the district must be made payable solely out of the net revenues for any and all of the income-producing facilities and services provided by the district (NRS 318.320). General obligation bonds and other general obligation securities payable from general property taxes may be additionally secured by a pledge of and lien on net revenues. (NRS 318.325).

Applying GASB Statement 34, ¶67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. However, if the general improvement district's activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity, then it would be required to use the enterprise fund accounting. This would be the case if the district issued revenue bonds pursuant to NRS 318.320. If the district's activity is financed with debt secured by both taxes and user fees, then it is not required to use enterprise fund accounting, as would be the case under NRS 318.325 for GO bonds secured by taxes or a combination of taxes and fees. Finally, under ¶67(c), if the pricing policies of the district for the fees and charges are designed to recover its costs, including capital costs (such as depreciation or debt service), then enterprise fund accounting must be used.

If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, ¶67, then standard governmental fund reporting must be used. If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created. The restricted and committed revenue must be recognized as revenue of the special revenue fund rather than the general fund. Total inflows include restricted revenues, committed revenues, transfers in and any other financing sources.

If you have any questions about this guidance letter, please call the Local Government Finance Section of the Division of Local Government Services, Department of Taxation at (775) 684-2100.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>

Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select "Publications;" then select Assessment Standards Publications and "Guidance letters."

ENTERPRISE VS SPECIAL REVENUE

ATTACHMENT 6

Memorandum - June 1, 2016

To: IVGID Board of Trustees

From: Clifford F. Dobler

Re: Facility Fee Clarification Memo dated May 23, 2016 to Trustee Phil Horan, Audit Committee Chair from Daniel Carter, Partner of Eide Bailly LLP

Five months ago, after completing the independent audit of the District's 2015 CAFR, Mr. Carter stated that the Recreation Facility Fee and Beach Facility Fee were "actually technically a tax. It's collected by the Washoe County Assessor's Office and remitted to you guys along with regular property taxes so the fact that there's a restriction on the use of that tax money is exactly what a special revenue fund is used for." Less than a week ago, Mr. Carter chose to correct this statement by claiming the Facility Fees, are not a tax but an "imposed non-exchange revenue" and "classification of imposed non-exchange transaction may be more appropriately accounted for in a special revenue fund." Unfortunately, this is Mr. Carter's second mistake. To be clear, as defined in GASB Statement No. 33, non-exchange transactions involve the government giving or receiving value without directly receiving (or giving) equal value in exchange. Examples of non-exchange revenues include property (ad valorem) taxes, fines and penalties and property forfeitures.

If Mr. Carter were familiar with Board Resolution 1847 approving the Report for Collection of Recreation Standby and Service Charges or visited the District's website detailing the Recreation Privileges for Parcels assessed the Recreation Fee and Beach Fee he would have known that these fees are in fact exchange transactions. You as Trustees affirm annually that our Recreation Fees allow us the availability and use of the Incline Village Championship and Mountain Golf Courses, Diamond Peak, tennis courts and other recreational properties and facilities. In addition, we receive reduced rates for season passes and reduced daily rates—all benefits which inure to the owners of properties assessed. You also state that we are directly benefited in a fair and reasonable way for the sums we are charged.

Neither the Board, nor Mr. Carter could possibly conclude that the District collects the Recreation Facility and Beach Facility Fees and provides nothing in return. To relabel these Fees as "non-exchange revenues" to justify the use of special revenue funds is a contortion of logic worthy of an acrobat. A CPA would recognize that values are in-fact exchanged. As the lead partner of Eide Bailly auditing the Community Services and Beach Funds, Mr. Carter should also be aware that the principle sources of revenue for the activities of these Funds are the fees and rates charged to external users of its goods or services. Both Funds are financed and conducted in a manner similar to the operations of private business enterprises and Enterprise Fund Accounting and Reporting should be used.

Attachments: Exhibit A - Facility Fee Clarification Memo from Daniel Carter dated May 23, 2016
Exhibit B - Resolution No. 1847

cc: Eide Bailly – Risk Management
Department of Taxation





Memo

To: Phil Horan, Chairman
Incline Village General Improvement District Audit Committee

From: Daniel Carter, Partner
Eide Bailly LLP

Date: May 23, 2016

Subject: Facility Fee Clarification

Eide Bailly presented our June 30, 2015 audit report to the Audit Committee of the Incline Village General Improvement District at the December 16, 2015 meeting. At this meeting a question was raised regarding the transition from enterprise fund accounting to governmental fund accounting. During my explanation of the use of governmental fund accounting, specifically as it relates to utilization of special revenue funds to account for the Facility Fee, I referred to the Facility Fee as a tax. This was an incorrect statement resulting from an attempt to simplify the discussion of the differences between exchange fees and imposed non-exchange revenues. By way of clarification I offer the following expanded explanation.

Enterprise fund accounting is primarily used when exchange fees (for example, the fee to play a round of golf) support the fund so that it is expected to be self-sustaining. Imposed non-exchange revenues result from assessments imposed by governments on individuals (for example, property tax or other assessment). Classification of imposed non-exchange transaction may be more appropriately accounted for in a special revenue fund.

While the Facility Fee meets the definition of an imposed non-exchange revenue it is not a tax. The Facility Fee is a charge pursuant to NRS 318.197 and collected on the tax roll pursuant to NRS 318.201.



RESOLUTION NO. 1847

**A RESOLUTION APPROVING THE REPORT
FOR COLLECTION ON THE WASHOE COUNTY TAX ROLL
OF RECREATION STANDBY AND SERVICE CHARGES
(ALSO KNOWN AS RECREATION FACILITY FEE AND BEACH FACILITY
FEE)**

RESOLVED by the Board of Trustees of the Incline Village General Improvement District, Washoe County, Nevada, that

WHEREAS, pursuant to Resolutions No. 419 and 420, as amended, and the order of this Board, a report entitled "Report for Collection on the County Tax Roll of Recreation Standby and Service Charges" has been prepared and filed with this Board, a report on recreation fees to be collected for the fiscal year 2016-17 for the use of Burnt Cedar and Incline Beaches and for the availability of use of the Incline Village Championship and Mountain Golf Courses, Diamond Peak, tennis courts, and other recreational properties and facilities for the District and its people;

WHEREAS, this Board has examined said report and finds the same to be sufficient for further proceedings in relation thereto;

WHEREAS, it is proposed that the charges contained in said report be collected on the general County tax roll on *(in two separate and distinct lines items identified as Recreation Facility Fee and Beach Facility Fee)* which general District taxes are to be collected for said year;

WHEREAS, on April 27, 2016, this Board adopted its Resolution No. 1846, A Resolution Preliminarily Approving The Report For Collection Of Recreation Standby And Service Charges, wherein it fixed May 18, 2016, at 5:30 p.m. at the Chateau, 955 Fairway Boulevard, Incline Village, Nevada, as the time and place when and where the Board would hear said report and all objections and protests, if any, to the report, and might revise, change, reduce or modify any charge therein, and finally approve and adopt same.

WHEREAS, notice of said hearing has been given by publication once a week for two weeks prior to the date of hearing, in the *North Lake Tahoe Bonanza*, a newspaper of general circulation printed and published within the District.



RESOLUTION NO. 1847

**A RESOLUTION APPROVING THE REPORT
FOR COLLECTION ON THE COUNTY TAX ROLL
OF RECREATION STANDBY AND SERVICE CHARGES
(ALSO KNOWN AS RECREATION FACILITY FEE AND BEACH FACILITY FEE)**

Page 2 of 4

WHEREAS, said Board met at said time and place and _____ (XX) person(s) appeared and _____ (X) person(s) protested against the charges made on their property and against said report, and the Board fully heard all persons and considered all matters and was fully advised in the premises, and did by motion revise, change, reduce or modify any of the charges therein which, in its opinion, were so required in order that said charges be equitably distributed among the several parcels of property contained in the report;

NOW, THEREFORE, IT IS ORDERED as follows:

1. That protests were not made at or before said hearing by the owners of a majority of separate parcels of property described in said report, and that said Board has jurisdiction to take further proceedings in relation thereto;

2. That all revisions, changes, reductions or modifications required, be made in said report that are, in the opinion of the Board, required to be made in order that said charges be equitably distributed among the parcels of property contained therein, and all other protests are overruled.

3. That said report contains all of the properties within the District that will be benefited by being charged for the costs of the acquisition, administration, operation, maintenance and improvement of the recreational facilities, including the improvements thereon, and of the servicing of bonds issued or to be issued therefor.

4. The Board of Trustees finds that each parcel assessed pursuant to this Resolution and in its report for the collection on the Washoe County tax roll of standby and service charges for the fiscal year 2016-17 is specifically benefited as follows:

- (a) Ordinance No. 7 sets forth in detail the specifics of the benefits available to property owners of all properties, whether improved or unimproved.



RESOLUTION NO. 1847

**A RESOLUTION APPROVING THE REPORT
FOR COLLECTION ON THE COUNTY TAX ROLL
OF RECREATION STANDBY AND SERVICE CHARGES
(ALSO KNOWN AS RECREATION FACILITY FEE AND BEACH FACILITY FEE)**

Page 3 of 4

- (b) The Board specifically finds that the availability of the use of IVGID's beaches; boat launch ramp; Championship golf course; Mountain golf course; tennis facilities; the Chateau; Diamond Peak Ski Resort, and Recreation Center, including reduced rates for season passes and reduced daily rates, are all benefits which inure to the owners of properties assessed hereunder. The Board also finds that such benefits are provided to said properties whether or not they are developed.
- (c) In conclusion, the Trustees find that the owners of the parcels set forth herein are directly benefited in a fair and reasonable way for the sums which they are charged.

5. That the rates charged for natural, intrinsic and fundamental distinctions are reasonable in their relation to the object of the charges imposed in said report, and that said charges have been apportioned in relation to said natural, intrinsic, fundamental and reasonable distinctions among said rates,

6. That said report, as revised, changed, reduced or modified, if any, is hereby adopted and that all of the charges herein constitute a perpetual lien on and against each of the parcels of property in the amount set opposite their description in said report, which lien is effective as of the date on which general taxes for the fiscal year 2016/2017 become a lien.

7. The Secretary shall file with the Washoe County Treasurer a copy of the report with a statement endorsed thereon over his signature that it has been finally adopted by the Board, and the Washoe County Treasurer shall enter the amounts of the charges (*in two separate and distinct lines items identified as Recreation Facility Fee and Beach Facility Fee*) against the respective lots or parcels of land as they appear on the current Washoe County tax roll.

8. The Washoe County Treasurer shall include the amount of the charges (*in two separate and distinct lines items identified as Recreation Facility Fee and Beach Facility Fee*) on the bills for taxes levied against respective lots or parcels of land in said report, or, in his discretion, issue separate bills therefor



RESOLUTION NO. 1847

**A RESOLUTION APPROVING THE REPORT
FOR COLLECTION ON THE COUNTY TAX ROLL
OF RECREATION STANDBY AND SERVICE CHARGES
(ALSO KNOWN AS RECREATION FACILITY FEE AND BEACH FACILITY FEE)**

Page 4 of 4

and separate receipts for collection on account thereof; and said amounts shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from the general taxes for the District, and shall be delinquent at the same time and thereafter be subject to the same delinquent penalties; and all laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to such charges.

* * * * *

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 18th day of May, 2016, by the following vote:

- AYES, and in favor thereof, Trustees
- NOES, Trustees
- ABSENT, None

Tim Callicrate
Secretary, IVGID Board of Trustees

ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 7

September 19, 2016

TO: State of Nevada Department of Taxation

With copies to: IVGID Board of Trustees and Jeff Strand - Eide Bailly Risk Management

From: Clifford F. Dobler and Linda Newman

Re: Improper reporting of Revenues in order to satisfy conditions of GASB No 54

Incline Village General Improvement District ('IVGID') has filed with the Nevada Department of Taxation annual budgets on form 4404LGF for fiscal year June 30, 2016 and June 30, 2017. Within the budgets the reporting for the operations of Community Services and the Beach were changed from Enterprise Funds to Special Revenue, Capital Project and Debt Service Funds based on a resolution establishing the new funds passed by the Board of Trustees of IVGID on May 21, 2015.

Based on the definitions of special revenue funds, capital project funds and debt service funds as provided in GASB Statement #54 on paragraphs 30 to 34, the type and amount of revenues received by IVGID in these funds would NOT allow IVGID to account and report the activities of Community Services and the Beaches as Governmental Funds.

Failed justification for imposed non exchange transactions

In justifying the decision to change the accounting and reporting, IVGID staff determined that the Recreational Standby Fee assessed annually to each parcel owner and the Beach Fee assessed annually to the same parcel owners except 428 parcels whose owners do not have beach access, somehow changed overnight from charges for services ('exchange revenues') to a community support fee ('imposed non exchange revenue') thereby allowing the accounting and reporting to change from Proprietary Fund accounting and reporting to Governmental Fund accounting and reporting .

This thinking to arbitrarily change the descriptive character of the two Fees cannot be supported by any actual facts. Each year when assessing the Recreational Standby Fee and the Beach Fee the Board of Trustees approves how each Fee will be allocated to pay for operating expenses, capital projects and debt service and passes a resolution stating (page 3 item 4c of Resolution No 1837) "In conclusion, the Trustees find that the owners of the parcels set forth herein are directly benefited in a fair and reasonable way for the sums which they are charged".

Each year a parcel owner is entitled to obtain 5 Recreation Passes or Recreation Punch Cards in any combination **in exchange** for their payment of the Recreation Standby Fee and Beach Fee. If the parcel owner decides to receive Recreation Passes then a lower fee can be obtained at the various recreational venues and free access to the beaches. If the parcel owner decides to receive Recreation Punch Cards the parcel owner receives \$166.00 in prepaid funds which can be used to buy down the guest rates to the resident rates, established by IVGID for the various recreational venues. In addition, at any time, a resident can decide to purchase additional Recreational Punch Cards for \$166.00 per card. It is quite obvious that each parcel owner has a choice in determining what combinations of Recreation

Passes or Recreation Punch Cards would be best to recoup the cost of the Recreational Standby Fees and Beach Fees based on their anticipated use of their Recreation Passes or Recreation Punch Cards.

According to the approved budget for the year ended June 30, 2017, the Staff of IVGID states in the Performance Measures (page 81-90) that the discounts to the community (as compared to market rates) were and are projected as follows:

	2015/2016 <u>(est. Actual)</u>	2016/2017 <u>(Budget)</u>
Beaches/Parks and Recreation	\$255,900	\$261,700
Diamond Peak Ski Resort	\$475,983	\$375,550
Golf Courses	\$1,293,952	\$1,002,340

In addition, in calendar year 2015 of the 172,000 visits to the beaches approximately 100,000 were residents with free access which if the market price of \$12.00 per adult was applied another \$1,200,000 in "discounts" have occurred.

So to create the idea that the Recreation Standby Fee and Beach Fee are non exchange revenues cannot be supported by the factual exchanges taking place.

Understanding the definition of a Special Revenue Fund

Now let us study the definition of a special revenue fund in three parts as provided in GASB Statement No 54.

Paragraph 30 - Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditures for specified purposes **other than debt service or capital projects.**

Once IVGID staff decided that the Recreational Standby Fee and the Beach Fee were the specific revenue sources which were restricted or committed to expenditures for specified purposes then by definition those specified purposes cannot be for debt service or capital projects. As such, the specific revenue source **must be limited** only to that portion of the Recreational Standby Fee and Beach Fee allocated for operations. The remaining portion for capital projects and debt service must be reported in the Capital Project Fund and the Debt Service Fund. If properly reported the amount of revenues reported in the Special Revenue fund would be SUBSTANTIALLY LESS then what has been reported on the State budget forms the past two years.

Based on the two resolutions and budgets approved by the Board of Trustees for the fiscal years ended June 30, 2016 and 2017 the Recreational Standby Fee and the Beach Fee has been restricted and committed for three specific purposes in the following table below and as such should have been reported as a revenue source in each fund. However the ENTIRE amount of the Fees were reported in the Special Revenue Fund for the State Budget.

	<u>Operations Special Rev</u>	<u>Capital Projects</u>	<u>Debt Service</u>	<u>Reported to State in Special Revenue Fund</u>
<u>Recreational Standby Fee</u>				
2015-2016	\$2,176,412	\$2,520,056	\$1,276,392	\$5,972,860
2016-2017	\$2,045,500	\$2,618,240	\$1,308,120	\$5,972,860
<u>Beach Fee</u>				
2015-2016	\$580,800	\$185,856	\$7,744	\$774,400
2016-2017	\$580,800	\$185,856	\$7,744	\$774,400

The Recreational Standby Fee and Beach Fee should have been allocated to the three funds established above, HOWEVER the Staff of IVGID determined that the ENTIRE Fees should be reported as a revenue source in the SPECIAL REVENUE Fund and then make TRANSFERS from the Special Revenue Fund for the amounts restricted and committed for Capital Projects and Debt Service Funds. THIS IS NOT THE CORRECT ACCOUNTING AND REPORTING WHICH SHOULD BE DONE. The revenue restricted and committed to each fund should be reported as revenue in each fund and not be grossed up in one fund and then transferred out to another fund. This is in complete violation of complying with the definition stated in GASB Statement No. 54

It should be noted that in the 2015-2016 Budget the Recreational Standby Fee and the Beach Fee were reported as "Charges for Services" wherein the 2016-2017 reported both Fees as "Community Support".

Based on the restricted and committed revenue sources for Capital Projects and Debt Service there should have been no reason for IVGID Staff to report the ENTIRE Recreational Standby Fee and Beach Fee in the Special Revenue Fund.

So why was it done and not be in compliance with GASB Statement No.#54 definition for a Special Revenue Fund?

GASB Statement No. 54 Paragraph 31 states: *The restricted or committed proceeds of specific revenue sources should be expected to continue to comprise a SUBSTANTIAL PORTION of the inflows reported in the fund.*

Since IVGID staff has determined that the specific revenue sources is the Recreational Standby Fee and Beach Fee which have been erroneously considered be an imposed non exchange revenue sources then these Fees would have to comprise a Substantial Portion of each Funds Revenues.

The Substantial Portion of inflows is not defined in GASB Statement No.54, however, the Government Finance Officers Association has indicated "around 20%" is reasonable for justifying the use of a special revenue fund and it is a commonly used threshold (see page 6 of Guidance Letter15-002 issued on October 27, 2015 from Nevada Department of Taxation). Local governments may use the following calculation to determine whether an activity would qualify for reporting as a special revenue fund:

Substantial portion of inflows = (restricted revenues + committed revenues)

Total Inflows reported in the Fund

See pages 5 and 6 of Guidance Letter 15-002 dated October 27, 2015 for information about "Substantial Portion".

The problem and the IVGID Staff attempt to fake the 20% threshold .

For the two fiscal years ending June 30, 2016 and June 30,2017 the total inflows reported on the State Budget forms 4404LGF for the Community Services Special Revenue Fund was \$17,612,962 and \$19,586,160 respectively . These amounts included the ENTIRE Recreational Standby Fee rather than the proper amount which excludes restricted and committed revenues for Capital Projects and Debt Service . Adjusted to exclude the revenues for Capital Projects and Debt Service the total inflows would be \$13,616,514 and \$15,678,800 respectively

Applying the Formula above to determine if the new "Imposed non exchange revenue" of the FEES applicable only to a Special Revenue Fund would be a Substantial Portion of the Special Revenue Fund Revenue results in the following:

Community Services Fund	<u>2015-2016</u>	<u>2016-2017</u>
Restricted and committed revenues	<u>\$2,176,412</u>	<u>\$2,045,500</u>
Total Inflows Reported in the Fund (adjusted)	\$13,616,514	\$15,678,800
Substantial Portion of inflows	15.93%	13.00%

As can clearly be seen the Restricted and Committed revenues generated from the Recreational Standby Fee applicable to the Special Revenue Fund **DOES NOT CONSTITUTE A SUBSTANTIAL PORTION OF THE INFLOWS TO QUALIFY THE ACCOUNTING AND REPORTING OF THE COMMUNITY SERVICES ACTIVITIES AS A SPECIAL REVENUE FUND.**

Applying the formula for the Beach Fund indicates that the Beach Fee would constitute a substantial portion of the inflows based on the budgets for the same two years calculated as follows:

Beach Fund	<u>2015-2016</u>	<u>2016-2017</u>
Restricted and committed revenues	<u>\$580,800</u>	<u>\$580,800</u>
Total Inflows Reported in the Fund (adjusted)	\$1,556,900	\$1,589,700
Substantial Portion of inflows	37.30%	36.53%

The trick conspired by the IVGID staff was to report the ENTIRE Recreational Standby Fee and Beach Fee revenue as the restricted or committed revenues for specific purposes INCLUDING CAPITAL PROJECTS

AND DEBT SERVICE which is completely contrary to the Definition of a Special Revenue Funds under GASB Statement No. 54. The reporting of the ENTIRE amount of the Recreational Standby Fee as Revenue was a brash attempt to meet the requirements that the Recreational Standby Fee for the Community Services Special Revenue Fund constituted the substantial portion ("around 20%") of the total inflows.

This reporting to the State was either a complete misunderstanding of GASB Statement No. 54 or deliberate by the Staff of IVGID.

CONCLUSION

There is no doubt that the activities of the Community Services and the Beachs are business type operations and should have continued to be reported under Priporitory Fund accounting as outlined in GASB Statement # 34.

IVGID staff has failed to provide any credible evidence that the types of activities are Government activities

To pivot from one form of accounting and reporting based on the idea that a single source of revenues

ENTERPRISE VS SPECIAL REVENUE

ATTACHMENT 8

Memorandum - October 26, 2016

To: IGVID Board of Trustees

From: Clifford F. Dobler

Re: Explanation of Revenue differences between budget reports

To be included in next board packet

After reviewing Dick Warren's memorandum on the multitude of different budgets which exist for the fiscal year ended 6/30/2015, I can shed some light of one of the major reporting discrepancies which may help solve some of the mystery.

The REVENUES for the community services and beach special revenue funds reported to the state do not agree with the reports to citizens.

The reason is simple. Just look at page 13 and 14 of GASB #54. Passing a board resolution to meet legal requirements for the formation of new funds does not change accounting and reporting requirements.

In order to qualify for reporting under special revenue funds, the proceeds of specific revenue sources must be restricted or committed for specified expenditures and cannot be for CAPITAL PROJECTS AND DEBT SERVICE.

In addition the specific revenue source must be a SUBSTANTIAL PORTION of all revenues of a fund. The substantial portion has been considered to be around 20%.

IVGID staff considers the REC FEE and BEACH FEE to be the required specific revenue source.

The REC FEE and BEACH FEE must also be a non exchange revenue source which **they are not** and that was mentioned to this board at the last meeting.

The REC FEE and BEACH FEE is approved annually by the BofT specifically for operations, capital projects and debt service. Three separate and fixed amounts.

So then each authorized portion of the REC FEE and BEACH FEE would be budgeted into each of the three separate funds. This is done correctly for reports to the citizens.

The state report however is the official report. IVGID has decided rather than follow GASB #54 appropriately it became necessary to report the ENTIRE REC FEE and BEACH FEES as Specific Revenue Sources in order to reach the required "SUBSTANTIAL PORTION" of revenues to be considered a special revenue fund.

If IVGID followed GASB #54, which it did not, and reported to the State the proper portion of the REC FEE and BEACH FEE into the separate funds the SUBSTANTIAL PORTION requirement could not be reached thus reporting Community Services activities under Special revenue funds could not be considered and Enterprise accounting would be required.

Historically for fiscal years 2011-2016 for Community Services activities the portion of the REC FEE allocated to operations in relation to the total revenues was a low of 8.33% and a high of 15.46% never reaching "around 20%". Thus the REC FEE as a portion of the total revenues never achieved a SUBSTANTIAL PORTION of around 20% to ever consider special revenue fund accounting and reporting.

The BEACH FEE allocated to operations in relation to the total revenues would be a SUBSTANTIAL PORTION to consider special revenue fund accounting but fails because the BEACH FEE is an exchange transaction thus not qualifying for special revenue accounting.

**ENTERPRISE VS SPECIAL REVENUE
ATTACHMENT 9**

Memorandum

Date: March 17, 2017

To: Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services - Department of Taxation

From: Clifford F. Dobler and Linda Newman

Re: Errors and Misrepresentations in DOT Guidance Letter 15-002 Special Revenue Funds and Enterprise Funds dated October 27, 2015

On January 4, 2017 via telephone conferencing Mr. Dobler reported to the Committee on Local Government Finance that he had not received a response to a Memorandum sent to Terry Rubald on June 4, 2016 and hand delivered on June 6, 2016. He followed up with an email request for a response on July 6, 2016 and did not receive a reply before Ms. Rubald retired from the Department.

Mr. Dobler's Memorandum addressed two inadvertent errors and four material misstatements in the above referenced Guidance Letter. Of particular concern was the factually incorrect statements in the Example of a Nevada General Improvement District. Within the follow-up July 6, 2016 email he had asked for the source of this Example. As Nevada Revised Statutes and GASB Statements were misinterpreted and all the appropriate criteria for establishing a Special Revenue Fund was not met, it was apparent that this Example could not have been composed by the Department of Taxation.

As these errors and misstatements stand uncorrected, we respectfully request your review of the Memorandum to address the six items in the Guidance Letter which warrant revision. We also request the courtesy of a response with your findings.

Unfortunately, we must report that Senior Management of our District, the Incline Village General Improvement District (IVGID), has improperly cited the Guidance Letter Example as validating the conversion of two Enterprise Funds to

Special Revenue, Capital Projects and Debt Service Funds. It has been cited by Senior Staff and the Trustee Chair of the Audit Committee at public meetings to arrest any challenges to the propriety of this conversion and may have been instrumental in gaining the necessary Trustee votes to approve the District's 2016 CAFR.

Treasurer Trustee Dent was kind enough to provide an excerpt from an email sent by IVGID General Manager Steve Pinkerton. Presumably this email was also sent to the entire Board of Trustees prior to their meeting to approve the 2016 CAFR. In this email, General Manager Pinkerton highlighted the Nevada General Improvement District Example used on Page 7 and 8 of Guidance Letter 15-002 to substantiate the justification, validation and authority for the District to use Special Revenue Funds to account and report the activities of the Community Services and Beach Funds.

Trustee Audit Committee Chair Horan even stated at the February 8, 2017 IVGID Board Meeting that the District's practices are in compliance with the Guidance Letter. At the same time the Guidance Letter states in the Summary that it does not change any interpretation of any existing general accounting principles followed by a local government. As such, **compliance** was not the purpose of the Guidance Letter although the example was used to validate the District's use of Special Revenue Funds.

During the past 18 months, we reviewed all documentation relating to the Incline Village General Improvement District's implementation of the change of accounting and reporting for the Community Services and Beach Funds from Proprietary Enterprise Funds to Governmental Special Revenue, Capital Projects and Debt Service Funds. Based upon all our research, including specific sections of the Guidance Letter, there can be no doubt that the change could not have been made if factual and complete information had been presented by IVGID Senior Management to the Department of Taxation, the Committee on Local Government Finance, the Board of Trustees, and the District's Auditors.

We have submitted several comprehensive memorandums to the Committee on Local Government Finance, the Department of Taxation, the IVGID Board of

Trustees, the IVGID Trustee Audit Committee and Eide Bailly, the District's Independent Auditing Firm. These memorandums contained ample evidence of the District's misapplication of accounting principles and noncompliance with Nevada Revised Statutes and GASB Statements 33, 34 and 54. All these memorandums have failed to receive Trustee Audit Committee or Full Board Review and we have never received a written response.

In place of addressing our allegations of the District's failure to meet the criteria for establishing Special Revenue Funds required by GASB Statements 33, 34 and 54 and NRS 354, Senior Management has used the DOT's approval of the District's 2016 Budget and the Guidance Letter as its defense when publicly questioned by Trustees and other members of the community. It has also cited the Auditor's rendering of a "clean opinion" on the District's financials. The scope of the Audit did not include rendering an opinion on the District's use of Special Revenue Funds, nor, according to the Audit Engagement Letter, independently report upon the District's compliance with Generally Accepted Accounting Principles and compliance with Nevada Law. On two occasions at Trustee Audit Committee Meetings convened in December 2014 and December 2015 to approve the District's CAFR, the Audit Engagement Partner when questioned would not opine on the change in accounting claiming it was a "management decision" and stated the auditors would only audit the "back end" after the accounting change was made.

Two of our Trustees, Matthew Dent and Tim Callicrate have taken the time to review our Memorandums and relevant statutes and are convinced that the accounting change was not appropriate. In fact, at the time these Governmental Special Revenue Funds were established in May of 2015 on the same day the Board approved the District's FY 2016 Budget, Trustee Callicrate voted against both motions.

On December 14, 2016 an IVGID Board of Trustees meeting was held to approve the 2016 Comprehensive Annual Financial Report ("CAFR") which presented the financial statements of the Community Services and Beach Funds as governmental accounting Special Revenue funds for the first time. Both Trustee

Dent and Trustee Callicrate voted not to approve the CAFR based upon the District's improper formation of Special Revenue Funds and the abandonment of Proprietary Enterprise Fund accounting .

From the time the Board approved the accounting change in December of 2014 for the preparation in late 2015 of the preliminary FY 2016 budget, only ONE of the Board members that approved the accounting and reporting change remained on the Board to vote on the approval of the 2016 CAFR. Over the two year period EIGHT different Trustees either ended their term of service, resigned before the completion of their term, were appointed to fill a vacancy or were newly elected. It is quite apparent to us that most Trustees who were familiar with the District's historic Enterprise Fund accounting and reporting for the Community Services and Beach Funds had serious questions about the District's creation of Special Revenue Funds and were skillfully misled into believing that the Guidance Letter 15-002 Nevada General Improvement District Example on pages 7-8 provided the validation to tacitly accept the change and to approve the CAFR.

We believe that in the interest of accuracy and clarity, corrections be made to the Guidance Letter. In the interim, we respectfully request that the Department of Taxation alert the IVGID Board of Trustees that the Guidance Letter is a resource to raise awareness of the difference between Special Revenue Funds and Enterprise Fund accounting and does not provide validation for the propriety of any local government's change in accounting and reporting.

cc: IVGID Trustee Treasurer Matthew Dent

cc: IVGID Trustee Secretary Tim Callicrate

cc: Committee on Local Government Finance

EXHIBITS

- #1 Guidance Letter 6-4-16 Memo to Terry Rubald from Cliff Dobler
- #2 Guidance Letter Follow-Up 7-6-16 Email to Terry Rubald from Cliff Dobler
- #3 Guidance Letter February, 2017 Emails Between Trustee Matthew Dent and Cliff Dobler
- #4 IVGID 2016 CAFR Note 20

Exhibit #1

Memorandum

Dated: June 4, 2016

To: Terry E. Rubald, Deputy Executive Director, Department of Taxation

From: Clifford F. Dobler

Subject: October 27, 2015 Guidance Letter 15-002 Special Revenue Funds and Enterprise Funds

Sent via e mail

Attached is a copy of the first eight pages of Guidance Letter 15-002.

After a detailed review, I noted six items which may warrant revision.

I have underlined the items in Red for easy identification:

1. Page 2, Second Complete Paragraph: The quote from footnote #5 - the words "but not always" was added. These three words are not found on page 9 of GASB Statement No. 34
2. Page 2, Footnote #1: The reference in Footnote #1 for GASB Statement No. 34 refers to pp25-26. Page 27 relating to pricing policies was omitted although it is part of the text
3. Page 8, Second Complete Paragraph, Line 2: "since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197 an enterprise fund is not required to be used." This statement cannot be found in any part of NRS 318.197 nor does the content of the Statute even imply such a statement.
4. Page 8, Second Complete Paragraph Lines 1-3: "Applying GASB Statement 34 Paragraph 67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. " Taken in context with the misstatements noted above in item 3, neither NRS 318.197 nor GASB 34 Paragraph 67(a-c) substantiates this correlation and conclusion.
5. Page 8, Third Complete Paragraph, First two lines: "If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, Paragraph 67, then standard governmental fund reporting **MUST** be used." This is incorrect. The first sentence of GASB Statement No. 34 Paragraph 67 actually states: "Enterprise funds may be used to report any activity for which a fee is charged to external users for goods or services." The balance of this Paragraph 67 establishes the activities required to be reported as enterprise funds if any of the criteria in clauses (a) – (c) are met. This Paragraph 67 also states: "Governments should apply each of these criteria in the context of the activity's principal revenue sources." There is no inference in this Paragraph 67 to suggest that any government that is not "required" to use Enterprise Fund accounting and reporting **MUST** use standard governmental fund reporting. GASB No. 34 Paragraph 67 and its clauses clearly state when Enterprise Funds are mandatory and when their utilization is an option.

6. Page 8, Third Complete Paragraph, Line 3: "If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created." There is no footnote to source this statement.

I respectfully request your review of the above with emphasis on items #3 through #5 as it has a major impact on how Incline Village General Improvement District or any GID may have interpreted the Guidance Letter. It may be apparent from an in-depth analysis, that the provider of these almost breathless paragraphs for the Example of a Nevada GID may not have a complete and accurate understanding of Nevada Revised Statutes and relevant GASB Statements. There appears to be minimal evidence presented by the provider to substantiate that proper criteria has been applied to determine if a Nevada General Improvement District Fund qualifies as a Special Revenue Fund.

Thank you in advance for your consideration.

Clifford F. Dobler

Resident of Incline Village, NV

775-722-4487

A handwritten signature in black ink, appearing to read "Clifford F. Dobler", with a long horizontal flourish extending to the right.



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DEPARTMENT OF TAXATION

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Guidance Letter 15-002

Date: October 27, 2015

To: County Finance Officers

From: Terry E. Rubald, Deputy Executive Director, Department of Taxation

CC: Committee on Local Government Finance, Marvin Leavitt, Chairman
Deonne Contine, Executive Director, Department of Taxation
Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services

Subject: Special Revenue Funds and Enterprise Funds

SUMMARY:

This Guidance Letter recognizes Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34, "Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles. In addition, this Guidance Letter discusses the nature and use of special revenue funds and enterprise funds, and provides examples.

This Guidance Letter does not change any interpretations of any existing general accounting principles followed by a local government. The purpose in issuing this Guidance Letter is to raise awareness about differences between using special revenue fund and enterprise fund accounting, by highlighting and discussing certain GASB statements in relation to Nevada law.

AUTHORITY FOR THIS LETTER:

NRS 354.472(1)(d): One of the purposes of the Local Government Budget and Finance Act is to provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money. NRS 354.612(2) requires fund financial statements and other schedules to be prepared in accordance with generally accepted accounting principles.

Guidance Letter 15-002 was approved by the Committee on Local Government Finance on October 27, 2015.

APPLICATION:

The Department finds that Governmental Accounting Standards Board ("GASB") Statements, including but not limited to, No. 33, "Accounting and Financial Reporting for Nonexchange Transactions;" No. 34,

"Basic Accounting Standards and Management's Discussion and Analysis" and No. 54, "Fund Balance Reporting and Governmental Fund Type Definitions" are appropriate standards for the preparation of financial statements for all funds and comply with the requirements of NRS 354.612(2) as generally accepted accounting principles.

Based on the definitions of proprietary fund and special revenue fund found in NRS 354.553 and 354.570, as well as GASB No. 34, a special revenue fund is a type of governmental fund, whereas an enterprise fund is a type of proprietary fund.¹ In either case, the level of financial reporting must be based on a determination of whether the special revenue fund or the enterprise fund is a major or non-major fund.² The criteria for designation as a major fund is measured by whether the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund are at least 10 percent of the corresponding total for all funds of that category or type. In addition, the total assets, liabilities, revenues, or expenditures/expenses of the individual special revenue fund or enterprise fund must be at least 5 percent of the corresponding total for all governmental and enterprise funds combined.³

When establishing a new fund, it is important to examine the activities that meet the criteria for using a particular kind of fund. For example, a governmental fund, such as a special revenue fund, generally has activities which are financed through taxes, intergovernmental revenues, and other non-exchange revenues. In a *nonexchange* transaction, a government gives (or receives) value without directly receiving (or giving) equal value in return, as opposed to an *exchange* transaction, in which each party receives and gives up essentially equal values.⁴ Business-type activities financed in whole or in part by fees charged to external parties for goods or services are usually, but not always, reported in enterprise funds.⁵ An enterprise fund essentially reports exchange transactions.

GASB No. 34, ¶78 outlines the financial statements required for governmental funds, including a balance sheet and statement of revenues, expenditures, and changes in fund balances. GASB No. 34, ¶91 indicates the required financial statements for a proprietary fund include a statement of net assets or balance sheet; a statement of revenues, expenses, and changes in fund net assets or fund equity; and a statement of cash flows.

Enterprise Funds

NRS 354.517 defines an enterprise fund as a fund established to account for operations (1) which are financed and conducted in a manner similar to the operations of private business enterprises, where the intent of the governing body is to have the expenses (including depreciation) of providing goods or services on a continuing basis to the general public, financed or recovered primarily through charges to the users; or (2) for which the governing body has decided that a periodic determination of revenues earned, expenses incurred and net income is consistent with public policy and is appropriate for capital maintenance, management control, accountability or other purposes.

Similarly, ¶67 of GASB Statement No. 34 states that an enterprise fund may be used to report any activity for which a fee is charged to external users for goods or services. In addition:

Activities are *required* to be reported as enterprise funds if any one of the following criteria is met. Governments should apply each of these criteria in the context of the activity's *principal revenue sources*.

¹See complete statutory reference for NRS 354.553 and 354.570 at the end of this Guidance Letter. See also, ¶63, ¶64, ¶66, ¶67, GASB Statement No. 34 (June 1999), pp. 25-26.

²¶75, GASB Statement No. 34 (June 1999), p. 28.

³¶76, GASB Statement No. 34 (June, 1999), p. 28.

⁴¶7, GASB Statement No. 33 (December, 1998), p. 3.

⁵¶15, GASB Statement No. 34 (June, 1999), p. 9.

- a. The activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity. Debt that is secured by a pledge of net revenues from fees and charges *and* the full faith and credit of a related primary government or component unit—even if that government is not expected to make any payments—is not payable solely from fees and charges of the activity. (Some debt may be secured, in part, by a portion of its own proceeds but should be considered as payable “solely” from the revenues of the activity.)⁶
- b. Laws or regulations require that the activity’s costs of providing services, including capital costs (such as depreciation debt service), be recovered with fees and charges, rather than with taxes or similar revenues.
- c. The pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).

Footnote 33 to ¶67 states that:

These criteria do not require insignificant activities of governments to be reported as enterprise funds. For example, state law may require a county’s small claims court to assess plaintiffs a fee to cover the cost of frivolous claims. However, taxes, not fees, are the principal revenue source of the county’s court system, and the fees in question cover only the cost of frivolous small claims court cases. In this case, the county would not be required to remove its court system or the small claims court activity from its general fund and report it in an enterprise fund. Conversely, a state department of environmental protection regulation may require a water utility to recover the costs of operating its water plant, including debt service costs, through charges to its customers—the utility’s principal revenue source. Because these charges are the activity’s principal revenue source and because the water utility is required to recover its costs, the utility should be reported as an enterprise fund.

In explaining enterprise fund reporting requirements, GASB 34, ¶387 states that:

Perhaps most significantly, this Statement makes clear that enterprise fund reporting should be used for any activity that is financed with *debt secured solely by net revenue* from its fees and charges to external users. Enterprise fund reporting is also required for any activity that operates under *laws or regulations* requiring that its costs of providing services, including capital costs (depreciation or debt service), be recovered with fees and charges. The final criterion—requiring enterprise fund reporting for any activity for which management establishes fees and charges, pursuant to its *pricing policies*, designed to recover its costs of providing services, including capital costs—is similar to the existing criterion. However, it adds an element of objectivity by basing the standard on established policies rather than management’s intent. Further, this Statement makes clear that all criteria for required use of enterprise fund reporting should be applied only in the context of an activity’s principal revenue sources. For example, paragraph 67a requires an activity to be reported as an enterprise fund if the activity is financed by debt secured solely by a pledge of the net revenue from fees and charges of the activity. To apply the principal revenue source test in relation to this criterion, a government should compare an activity’s pledged revenues to its total revenues.

⁶ In practice, there are exceptions. For example, sometimes general obligation (GO) backing is needed for enterprise funds in small rural communities so a lower interest rate can be obtained from the state bond bank. Using GO backed revenue bonds does not automatically require a change from an enterprise fund to a special revenue fund.

Examples of an Enterprise Fund

Background

A general power of a county is acquire, improve, equip, operate and maintain a variety of projects, including sewerage and water projects. *NRS 244A.057*. The Board of County Commissioners may issue special obligation bonds to acquire, improve and equip any sewerage or water project. *NRS 244A.0587*. A county may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 244A.063*.⁷

For example, the Douglas County Board of County Commissioners established the Carson Valley Water Utility Fund by resolution adopted May 3, 2012. See *Appendix for Exhibit 1, Resolution No. 2012R-037*. The Board resolved to use the existing working capital from four individual water utility funds to establish a consolidated water utility fund and further resolved to recover the costs of operation of the water system, including overhead, through user charges, without producing any significant amount of profit in the long run. The new Water Utility Fund is designed to account for all revenues and all charges related to the consolidated operations, management and rate setting of four legacy utilities.

Analysis

In this example the Douglas County Board of County Commissioners has the authority to establish an enterprise fund pursuant to *NRS 354.612*. The resolution meets the conditions in *NRS 354.612* for an enterprise fund. For instance, subparagraph 4 requires the local government to furnish working capital for the fund which the resolution addressed by transferring the working capital from four legacy utilities to the current fund. In addition, *NRS 354.612(4)* requires the recovery of the costs of operation, including overhead, without “producing any significant amount of profit in the long run.” This objective was also included in the resolution and specifically referenced “user charges” as the means by which operation costs would be recovered. The resolution was consistent with the authority provided in *NRS Chapter 244A*.

“User charges” take the form of water usage fees and connection charges. Payment by water users of usage fees and connection charges are exchange transactions because each party gives up and receives something of equal value. Rates are typically set to recover costs of operation and maintenance. This meets the definition of *GASB 34 ¶ 67(c)* requiring the use of an enterprise fund when pricing policies for fees and charges are designed to recover costs.

Special Revenue Funds

GASB Statement No. 54 “Fund Balance Reporting and Governmental Fund Type Definitions,” updates the definitions of governmental fund types, with the most significant changes related to special revenue funds. The nature of a special revenue fund is discussed at Paragraph 30:

30. Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term “*proceeds of specific revenue sources*” establishes that one

⁷ Cities have similar authority. A general power of a city is to acquire, improve, equip, operate and maintain a variety of projects including sewerage and water projects. *NRS 268.730*. A city may defray the cost of acquisition, improvement and equipment through general obligation bonds, which may be payable from taxes and further secured by a pledge of other revenues derived from any other income-producing project of the city. *NRS 268.732*. A city may charge license fees or other excise taxes to acquire, operate and maintain a project, and ensure that revenue obligation bonds are paid. *NRS 268.738*.

or more specific restricted or committed revenues should be the foundation for a special revenue fund. Those specific restricted or committed revenues may be initially received in another fund and subsequently distributed to a special revenue fund. Those amounts should not be recognized as revenue in the fund initially receiving them; however, those inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes. Special revenue funds should not be used to account for resources held in trust for individuals, private organizations, or other governments.

GASB Statement No. 54 abandons the reserved and unreserved classifications of fund balance and replaces them with five new classifications: non-spendable, restricted, committed, assigned and unassigned. These classifications will indicate the level of constraints placed upon how resources can be spent and identify the sources of those constraints.

The terms “restricted” or “committed” are references to constraints placed on the use of the revenue source. For example, a fund balance is “restricted” when the constraints are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.⁸ A “committed” fund balance includes amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority. “Committed” amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action, such as legislation, resolution, or ordinance, which was employed to previously commit those amounts. A committed fund balance also should incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.⁹

In the past, special revenue funds were reported in instances where there was a specific spending purpose, but not necessarily a specific revenue source. The new definition of a special revenue fund means that local governments need to evaluate resources *received* to determine if they qualify for reporting in a special revenue fund. An activity may no longer be reported as a special revenue fund based only on management’s desire to account for it separately. For all major special revenue funds reported, local governments will need to disclose the purpose of the fund and the revenues and other resources reported in the funds in the notes to the financial statements.

Please note that the change in classifications of fund balance and special revenue fund financial statement reporting requirements detailed in Statement No. 54 does not require changes in the way a local government budgets and internally accounts for special revenue funds; and the Department has not changed the budget reporting forms to reflect the new classifications.

In addition, GASB Statement No. 54 states at Paragraph 31:

The restricted or committed proceeds of specific revenue sources should be expected to continue to comprise *a substantial portion* of the inflows reported in the fund. Other resources (investment earnings and transfers from other funds, for example) also may be reported in the fund if those resources are restricted, committed, or assigned to the specified purpose of the fund. Governments should discontinue reporting a special revenue fund, and instead report the fund’s remaining resources in the general fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

Local governments may use the following calculation to determine whether an activity would qualify for reporting as a special revenue fund:

$$\underline{\text{Substantial portion of inflows}} = (\underline{\text{restricted revenues}} + \underline{\text{committed revenues}})$$

⁸ ¶34, GASB Statement No. 34 (June 1999), p. 16. See also ¶8, GASB Statement No. 8 (February 2009), p. 4.

⁹ ¶10, GASB Statement No. 10 (February 2009), p. 5.

Total Inflows reported in the fund

In the calculation, restricted revenues are defined as resources externally restricted or having restrictions imposed by internal enabling legislation (same definition as restricted net assets used in government-wide reporting). The committed revenues are resources with constraints imposed by the highest level of the government, where the constraints can be removed only by a similar action of the same governing body. Total Inflows are defined as the inflows of all financial resources. Total inflows will include transfers and other financing sources such as debt issuances.¹⁰

"Substantial portion" of inflows is not defined in Statement No. 54, however, the Government Finance Officers Association has indicated "around 20 percent" is reasonable for justifying a special revenue fund; and it is a commonly used threshold. Local governments also need to consider factors such as past resource history, future resource expectations and unusual current year inflows such as debt proceeds.¹¹

An example of how to analyze or "prove up" whether the total revenue sources are substantially restricted, committed or assigned to the specified purpose of the fund is attached as Exhibit 2 from Churchill County. If the analysis shows that the restricted and committed resources are less than 20%, then the local government can take action to remedy the situation by going through the process of formally committing additional resources so that the inflow of restricted and committed resources represent a substantial component of the total inflow.

Examples of Special Revenue Funds

Two examples of a special revenue fund may be found in the Appendix of this Guidance Letter. The first example is a special revenue fund for a landscape maintenance district created by resolution adopted by the Douglas County Board of Commissioners. See *Exhibit 3 in the Appendix*. In this case, the initial financing source is a developer funded security deposit and subsequent revenue will be annual assessments levied on benefiting property owners. The revenue will be restricted to expenditures for improvements or maintenance of parcels within the district.

A second example of a special revenue fund is the "Infrastructure Fund" created by resolution adopted by the Carson City Board of Supervisors. See *Exhibit 4 in the Appendix*. The revenue source is a sales tax of one-eighth of one percent (0.125%). The proceeds of the tax may only be used to fund certain public infrastructure projects identified in the Plan of Expenditure adopted by the Board of Supervisors on April 17, 2014.

In both examples, the revenue source meets the definition of a "committed" fund source because the governing board took formal action to restrict the use of the revenue. However, we would need more information to determine whether those committed funds represent a "substantial" portion – at least 20% - of the total revenue inflow.

Example of a Special Revenue Fund – Or is it? – Fire Districts

Background

A fire protection district formed pursuant to NRS Chapter 474 may sue and be sued; arbitrate claims; and contract and be contracted with. *NRS 474.125*. In addition, a fire protection district may impose a property tax rate not to exceed 1 percent of the assessed value within the district, including net proceeds, to cover the costs of establishing, equipping and maintaining the district with fire-fighting facilities. *NRS 474.190*. Under *NRS 474.200(3)*, two separate funds must be created for the district,

¹⁰ Washington State Auditor's Office, "GASB Statement 54 – Focusing on Special Revenue Funds," page 37, accessed 4-17-15 at http://digitalarchives.wa.gov/WA_Media/do/BE1679E72F5484784D2834ACA64AE00E.pdf

¹¹ Ibid, p. 37 and New York Division of Local Government and School Accountability, "Fund Balance Reporting and Governmental Fund Type Definitions," p. 5, accessed 4-17-15 at <https://osc.state.ny.us/localgov/pubs/releases/gasb54.pdf>

an operating fund and a district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. In addition, the district may issue bonds for purchase of equipment and acquisition of property; and may levy a tax sufficient to pay for the bonds. Under NRS 474.300(4), proceeds of the tax levied for debt service must be placed in a special fund to pay the principal and interest on the bonds.

Analysis

Clearly the property taxes in this example are imposed non-exchange revenues resulting from an assessment on property. This is a characteristic of a governmental fund rather than a business-entity type fund.

Next, the analysis should consider whether the governmental fund is a special purpose fund. As discussed in GASB No. 54, ¶ 30, a special revenue fund is used to account for and report the proceeds of specific revenue sources which are restricted or committed to expenditure for specified purposes other than debt service or capital projects. In this example, the district may levy a tax to pay for bonds for equipment and property, so the revenue received for debt service does not necessarily mean the fund is a special revenue fund.

NRS 474.200(3) requires a portion of the property tax to be deposited in the district emergency fund, and the fund must be used solely for emergencies. In this case, the property tax revenue source appears to be restricted for a specified purpose other than debt service or capital projects. "Money collected to meet unforeseen emergencies" appears to be a restriction.

Further analysis is needed, however, because the emergency fund may still not qualify as a special revenue fund. This is so because the uses which may be made from the emergency fund need to be defined in order to determine whether the fund balance should be reported as restricted or committed.

Some governments formally set aside amounts in governmental funds under formal stabilization-type policies that can be expended only when certain specific non-routine circumstances exist. For example, typical purposes for which stabilization funds are set aside include emergency situations; unanticipated significant revenue shortages or budgetary imbalances; working capital needs; contingencies; and others. The authority for such funds generally is derived from statute, ordinance, resolution, charter, or constitution¹², as in this example.

For purposes of reporting fund balance, stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria set forth in GASB Statement No. 54, as amended, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In this example, the source of the emergency fund is a portion of the property tax rate and is restricted. However, GASB 54 states that "a stabilization amount that can be accessed in an emergency would not qualify to be classified within the committed category because the circumstances or conditions that constitute an emergency are not sufficiently detailed. If the revenue from the property tax is restricted or committed, then the emergency fund qualifies as a special revenue fund. If the source is not restricted or committed, then the stabilization arrangement discussed above applies.

Example of Application of Criteria to determine whether Fund is an Enterprise Fund or a Special Revenue Fund

Nevada General Improvement District

¹² ¶20, GASB Statement No. 54 (February 2009), p. 9.

NRS 318.197 permits a governing board of a general improvement district to fix rates, tolls or charges other than special assessments, including but not limited to, service charges and standby service charges, for services or facilities furnished by the district. NRS 318.197 is permissive rather than mandatory in that the governing board "may" fix rates, tolls or charges to cover the costs of services or facilities furnished.

The board may "pledge the revenue for the payment of any indebtedness or special obligations of the district." Such rates and tolls constitute a perpetual lien on and against the property served, and may be collected on the tax roll together with the county's general taxes (NRS 318.201). In addition, NRS 318.225 grants the governing board the power and authority to levy ad valorem taxes. NRS 318.275 permits the district to borrow money and issue GO bonds, revenue bonds, and special assessment bonds. Revenue bonds issued for the purpose of acquiring or improving facilities appertaining to the basic purpose of the district must be made payable solely out of the net revenues for any and all of the income-producing facilities and services provided by the district (NRS 318.320). General obligation bonds and other general obligation securities payable from general property taxes may be additionally secured by a pledge of and lien on net revenues. (NRS 318.325).

Applying GASB Statement 34, ¶67(a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used. However, if the general improvement district's activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity, then it would be required to use the enterprise fund accounting. This would be the case if the district issued revenue bonds pursuant to NRS 318.320. If the district's activity is financed with debt secured by both taxes and user fees, then it is not required to use enterprise fund accounting, as would be the case under NRS 318.325 for GO bonds secured by taxes or a combination of taxes and fees. Finally, under ¶67(c), if the pricing policies of the district for the fees and charges are designed to recover its costs, including capital costs (such as depreciation or debt service), then enterprise fund accounting must be used.

If the general improvement district did not meet the conditions requiring the use of enterprise fund accounting pursuant to GASB Statement No. 34, ¶67, then standard governmental fund reporting must be used. If the general improvement district contemplated creating a major special revenue fund, then at least 20% of the total inflows reported in the fund must be restricted and/or committed to the purpose for which the fund was created. The restricted and committed revenue must be recognized as revenue of the special revenue fund rather than the general fund. Total inflows include restricted revenues, committed revenues, transfers in and any other financing sources.

If you have any questions about this guidance letter, please call the Local Government Finance Section of the Division of Local Government Services, Department of Taxation at (775) 684-2100.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>

Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select "Publications;" then select Assessment Standards Publications and "Guidance letters."

From: cfdobler <cfdobler@aol.com>

To: trubald <trubald@tax.state.nv.us>

Subject: Fwd: Agenda for CLGF

Date: Wed, Jul 6, 2016 7:34 am

Attachments: Letter to Terry Rubald of DoIT -6-6-2016.pdf (437K)

Terry - It has been almost a month since I provided the attached letter and hand delivered to you on June 6, 2016 the backup pages from Guidance Report 15-002 which support the letter.

I have been waiting for a response and would like to inquire when I might obtain one.

Could you please provide me the name of the person who wrote the Example of Application of Criteria to determine whether Fund is an Enterprise Fund or a Special Revenue Fund for a Nevada General Improvement District on page 7 and 8 of the Guidance Letter 15-002 dated October 27, 2015.

Thanks in advance for your cooperation

Cliff Dobler

—Original Message—

From: cfdobler <cfdobler@aol.com>

To: trubald <trubald@tax.state.nv.us>

Sent: Mon, Jun 6, 2016 9:26 pm

Subject: Re: Agenda for CLGF

attached is a memorandum which I prepared regarding some items in the Guidance Letter 15-002 dated October 27, 2015.

I was unable to sent the redlined first 8 pages from the Guidance letter, however the items in the memorandum are fully described as to where they are located in the guidance letter..Take a look at it and please provide a response. Thanks

Cliff Dobler

—Original Message—

From: Terry Rubald <trubald@tax.state.nv.us>

To: cfdobler <cfdobler@aol.com>

Sent: Thu, Jun 2, 2016 1:37 pm

Subject: Agenda for CLGF

http://tax.nv.gov/Boards/Committee_on_Local_Govt_Finance/CLGF_Meeting_Documents/

Terry E. Rubald
Deputy Executive Director
Department of Taxation
1550 College Parkway
Carson City, NV 89701
(775) 684-2095

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited.

From: Matthew Dent <matthew.ivgid@gmail.com>

To: cfdobler <cfdobler@aol.com>

Cc: linda <linda@marknewman.net>

Subject: Re: Guidance Letter - Special Revenue & Enterprise Funds 15-002

Date: Wed, Feb 8, 2017 6:28 am

Cliff,

Thank you for your email, attachments, and the in-depth analysis. I found the timing of GM Pinkerton's email quite troubling. At the time, Trustee Hammerel's ability to vote was in question since he moved to Wyoming with his family a month earlier and this seemed like nothing more than an attempt to persuade me to vote in favor of the 15-16 CAFR.

You have my permission to forward this thread to the Department of Taxation and feel free to CC me on the email to Ms. Langley. As the Board Treasurer and I look forward getting some of these outstanding public questions and concerns resolved. I plan on reaching out to Ms. Langley in coming weeks to get some clarification.

I have a busy next couple days and will review the attachments in more detail later this week and will follow-up. I appreciate your help and commitment to our community. Thank you. Matthew

Trustee Matthew Dent

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GENERAL IMPROVEMENT DISTRICT

On Tue, Feb 7, 2017 at 11:39 PM, <cfdobler@aol.com> wrote:

Linda Newman and myself spent considerable time reviewing the Guidance Letter 15-002 which was published by the Department of Taxation on October 27, 2015. We spoke before the Committee on Local Government Finance last spring regarding the improper conversion of the IVGID Community Service Fund and the Beach Fund from reporting under GASB as Proprietary Enterprise Funds to Governmental Special Revenue, Capital Projects, and Debt Service Funds. We wrote a memorandum on March 15, 2016 to the Board of Trustees regarding the unlawful conversion and never heard a word back. Since you were new on the Board you may have assumed the Board Chairman would have forwarded to the Staff for a response. I attach that memorandum.

We discovered later on that the Guidance letter had six items which needed revisions and on June 4, 2016 I wrote a memorandum to Terry E Rubald, Deputy Executive Director of the Department of Taxation (the author of the Guidance Letter) asking her to review the six items and also indicated that we believed that the Example of a GID may have been provided by an outside source rather than her. We saw no basis for the conclusions reached in the example or why she may have drawn such conclusions. I expected some sort of a response however did not receive one. In September I provided another e mail to Ms. Rebold and received no response.

On January 12, 2016 I spoke by telephone conference to the Committee on Local Government Finance about our continuing punch card fictional sales. I learned at that meeting that Ms. Rebold was no longer employed by the Department of Taxation. I did askif someone would respond to my June 4, 2016 memorandum. Ms. Kelly Langley asked that I forward it to her which I have not yet done.

It is quite clear from your e mail below that IVGID General Manager is using the GID example in the Guidance Letter as justification for their conversion from Proprietary Funds to Government Funds accounting.

I attach my June 4, 2016 memo to Ms. Rebold for your review.

It is also quite clear from Note 20 of the 2015-2016 CAFR that there was no legitimate basis for making the conversion. The Note states two reasons: IVGID "**changed its approach to the pricing of services and recognizes that the use of the facility fee revenue includes providing resources for capital expenditures and debt service that were not being displayed in a readily understandable fashion under enterprise accounting, for its constituents**". We know of no change in approach to pricing and have asked via a public record request for any information which would support this 'approach to pricing' which to our knowledge was never presented and enacted by the Board of Trustees. (you were not on the board at the time the new Funds were established. The second reason has no support under NRS or GASB for making the conversion

There is simply no support under the NRS or GASB for making a change in accounting and creating the new governmental funds.

Our concerns are the same as yours. I assume the false analysis in the Guidance Letter may have been one of the reasons that you properly voted NO when a request for approval of the 2015-2016 CAFR came before the Board of Trustees on December 14, 2016.

With your permission could I forward these e mails to Ms Langley at the Department of Taxation. In addition I would highly recommend that you contact her regarding this matter.

I have copied Linda Newman on this as she and I have worked closely on this inappropriate change in reporting financial information. .

Clifford F. Dobler

—Original Message—

From: Matthew Dent <matthew.ivgid@gmail.com>

To: cfdobler@aol.com

Sent: Mon, Feb 6, 2017 1:33 pm

Subject: Guidance Letter - Special Revenue & Enterprise Funds 15-002

Cliff,

Your concerns regarding Enterprise Fund or a Special Revenue Fund have been noted and I appreciate the time you are putting into the IVGID financials. I am not sure if you have seen the attached Guidance Letter 15-002. General Manager Pinkerton emailed me this letter from the State Department of Taxation a couple days before we voted on the CAFR. He referenced the bottom of page 7 as justification for the District's authority to choose Special Revenue Funds for our Community Services and Beach Fund. I had hoped this letter would be "very enlightening" as the GM stated in his email, however, it raises more questions.

Please see the excerpt examples below from an email I received from GM Pinkerton:

"This section specifically address our situation and points out that NRS 318.197 is permissive rather than mandatory in that the governing board "may" fix rates, tolls or charges to cover the costs of services of facilities furnished."

"Applying GASB Statement 34, Sec 67 (a-c) to the Nevada statutory framework for general improvement districts, since a general improvement district is not required to recover costs through rates, tolls, or charges under NRS 318.197, an enterprise fund is not required to be used."

"The entire letter is very enlightening and I believe clearly gives us the ability to choose to use Special Revenue Funds for our Community Services and Beach Funds."

The representation seems to promote the change and implementation by management as proper. I am not sure I agree. I do not see how NRS 318.197 has anything to do with GASB. It appears the statute was taken out of context. What are your thoughts?

I appreciate your input and I look forward to hearing from you. Thank you. Matthew

Trustee Matthew Dent

Incline Village GID

(775) 530-1345 | www.yourtahoeplace.com/ivgid

893 Southwood Blvd. Incline Village, NV 89451



INGID 2016 CAFR - Note 20

Exhibit #4

Community Services Fund:

As of June 30, 2016 there is \$2,248,500 of identified projects in the carryover. The most significant portion is \$248,564 for the Incline Creek Culvert Rehabilitation and \$395,858 for the Diamond Peak Master Plan Implementation and \$250,000 for the Community Services Master Plan.

Beach Fund:

As of June 30, 2016 there is \$155,000 of identified projects in the carryover.

As a part of the budgeting for the fiscal year ending June 30, 2017, the District reported \$751,000 of capital expenditures for the Community Services Fund and \$343,000 of capital expenditures for Beach Fund as coming from operating transfers from those Funds to the Capital Projects Fund. The source of those transfers is presumably fund balance which is reported as Unrestricted Net Position.

The District has committed to these capital improvement projects through contractual arrangements:

	Contract Award	Completed at June 30, 2016	Remaining Commitment
Utility Fund			
Water Disinfection Plant CH2M Hill	\$124,853	\$ 59,533	\$ 65,320
Wastewater Treatment Plant FARR Construction Corp	111,155	11,235	99,920
Community Services Fund			
Incline Creek Culvert Restoration CH2M Hill	259,278	1,327	257,951
Creek Restoration Cardo, Inc.	442,727	338,075	104,652
Ski Rental Shop Equipment Amer. Sports Winter & Outdoor	187,000	-	187,000
Incline Beach Facility Bull Stockwell Allen	222,000	14,261	207,739

19. EXTRAORDINARY EXPENSE FOR UTILITY FUND

In April 2014, a leak occurred in the District's effluent pipeline that results in damage to an area highway. Leaks of this magnitude and consequence are not expected in the normal course of operations and thus the repairs costs have been reported as an extraordinary expense. In July 2014 the District incurred repair costs to complete paving of the State highway affected by the leak. In September 2015 the final paving repairs were made for \$47,600.

*

20. CHANGE IN FUND TYPE AND APPLICATION OF ACCOUNTING PRINCIPLES

Effective July 1, 2015, with a new fiscal and budget year, the District began utilizing Special Revenue, Capital Project and Debt Service governmental fund accounting for the Community Services Fund and the Beach Fund. Through June 30, 2015, they were accounted for as enterprise funds. The District changed its approach to the pricing of services and in particular the change recognizes that the use of the facility fee revenue includes providing resources for capital expenditure and debt service, that were not being displayed in a readily understandable fashion under enterprise accounting, for its constituents.

The Board of Trustees approved a 2015-2016 budget, which was filed with the State of Nevada Department of Taxation, reflecting this change. The State required the Board of Trustees to authorize the new funds and to approve the transfer of the Fund Balance of the Community Services Fund and the Beach Fund as of July 1, 2015. The amounts were authorized based upon the prior year audit and the acceptance of that report. The budget document filed with the State estimated Fund Balance to be \$5,294,138 for the Community Services Fund, and \$1,302,486, for the Beach Fund. No Net Position was considered directly related to either the capital projects funds or debt service funds at July 1, 2015.

Reconciliation of Net Position of Enterprise Funds as of June 30, 2015 to Special Revenue Funds, versus amounts estimated for the State of Nevada (under their definition of Residual Fund Equity Transfer) as of July 1, 2015:

	Community Services Fund	Beach Fund
As previously reported at June 30, 2015: Net Invested in Capital Assets, to be reported as reconciling items for District-wide Statement of Net Position	<u>\$39,404,756</u>	<u>\$4,593,502</u>
Restricted by Third Party	\$ 86,421	\$ -
Unrestricted Net Position	<u>5,271,334</u>	<u>1,107,786</u>
Fund Balance, July 1 (Special Revenue)	5,357,755	1,107,786
Other reconciling items:		
Grants receivable collected after 60 day modified accrual period	(203,764)	-
Retirement sick leave accrual which is not a liability expected to be paid from current resources	<u>52,500</u>	<u>2,500</u>
District approved Residual Equity Transfer	<u>\$5,206,491</u>	<u>\$1,110,286</u>
Budgeted Residual Equity Transfer	<u>\$5,294,138</u>	<u>\$1,302,486</u>