

MINUTES

AUDIT COMMITTEE MEETING OF NOVEMBER 19, 2020 Incline Village General Improvement District

The Audit Committee meeting of the Incline Village General Improvement District was called to order by Audit Committee Chairman Matthew Dent on Wednesday, November 19, 2020 at 3:00 p.m. at the Boardroom located at 893 Southwood Boulevard, Incline Village, Nevada. This meeting was conducted virtually via Zoom.

A. ROLL CALL OF THE AUDIT COMMITTEE MEMBERS*

On roll call, present were Matthew Dent (Trustee, Chair), Cliff Dobler (At-Large Member), Sara Schmitz (Trustee), Raymond Tulloch (At-Large Member) (absent on roll call and joined the meeting at 3:05 p.m.) and Derrek Aaron (At-Large Member).

Also present was Staff member Director of Finance Paul Navazio.

There were no members of the public present (State of Nevada, Executive Directive 006, 016, 018, 021, 026, and 029).

B. PUBLIC COMMENTS*

Linda Newman said there are a number of verbal reports included on today's agenda that preclude this Committee and our citizens from advance review and analysis. As these matters are of great importance and include the update on the Financial Audit, the status of work on internal controls and staffing as well as the Chart of Accounts, she respectfully requests the Audit Committee Chair require all supporting material to agenda items be provided in all Committee packets. Exceptions should be few and far between. As she is unaware of the content of Ms. Williamson's presentation on materiality, she trusts you will ask whether there have been "misstatements, including omissions that individually or in the aggregate would influence the judgment made by a reasonable user based on the financial statements?" Users are not only regulatory agencies and bond holders, but citizens and the Board that makes budgeting and other decisions based on these financial statements. Then, she hopes you will answer the same question using your own judgment as you reflect upon the District's use of governmental fund accounting for the Community Services and the Beaches rather than Enterprise Fund Accounting –as well as the double booking of revenues and other accounting tricks in the accounting and reporting of punch card utilization. Please also consider the recognition of money collected annually for the future replacement of the 6 miles of failing effluent pipeline as operating revenue in the Utility Fund. Does this impact your judgment of whether or not the Utility Fund has

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adequate working capital to comply with the Board's policies? She trusts you will also request what additional auditing procedures have been employed by the Auditor with respect to the District's public disclosure that there are no written internal controls and therefore no comprehensive framework of internal controls in preparing the financial statements for the auditor's review. According to Policy 15.1 this Committee is charged with reviewing the annual internal control audit plan. Has this been provided for the Committee's review? As internal controls are the bedrock for all of the District's operations from accounting, compliance, through project management, please request the engagement of an independent expert to formulate and implement effective internal controls. Delay, delay and more delay has been the General Manager's mantra. We cannot wait any longer. Please take action now.

Margaret Martini said in light of comments by Trustees and members of our community on the questionable legal opinions provided by interim District Counsel, she is formally requesting the Audit Committee Chair solicit an opinion from the Office of the Attorney General on the legality of IVGID's cash and in-kind donations to non-profits as well as the statutory requirements that must be met before our Board can lease our public land to non-profits or any other entity. The District must have a valid legal opinion on what is and what isn't within its powers. Our Board must comply with Nevada law and observe the limits imposed by Dillon's rule to ensure that our District is being managed properly and our public money is collected and being expended on lawful activities. Too many times in the past, IVGID Board and Management relied on District Counsel opinions to proceed with transactions only to find out later the opinions were worthless. As a result, transactions were cancelled, litigation was wrongfully commenced, real estate was sold which should not have been and our citizens money was wasted. District counsel opinions should not be relied upon because they are not independent of management and these opinions have no legal standing. They are just opinions! She greatly appreciates the time, energy and expertise this Committee is contributing to improving our District's accounting and reporting. It is my hope that you will collectively provide more direction to staff and encourage the acquisition of independent resources to assist you in investigating outstanding issues and taking corrective actions. Engaging an independent internal auditor to assist in establishing a written framework of internal controls, could be a good place to start.

Aaron Katz said he will be submitting written statements and that he has sent two e-mails to the committee which he hopes were read. He thought this committee was going to address items by members of the community – he has two – the details of the fees charged to the beaches and the second one is the administrative remedy of the Rec Fee and the second request is of importance because one

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person has made this request. We have no policy so Staff is able to unilaterally, in Resolution 1879, NRS 318.201(12), not follow the policy therefore this committee needs to create/recommend a policy. He hopes they take this point serious. NRS 43 allows the Board to get an opinion from the court, pay a filing fee and have the court rule.

Joy Gumz said Nevada is a Dillon's Rule state. Under Dillon's Rule, if there is fair, reasonable doubt about the existence of a power it is denied. There are 2 other options: 1) NRS 43.100 provides a governing body a way to obtain a judicial determination through the court. 2) An opinion can be requested of the Nevada Attorney General. See AG opinion 2005-01 as an example. There is no statute in Nevada law that provides a "Safe Harbor" for Dillon's Rule other than NRS 43. The Board of Trustees is not absolved from illegal acts just because it obtains an opinion from a legal firm. The Audit Committee should recommend that the Board obtain a judicial determination as described by NRS 43 to the following questions: Does the Incline Village General Improvement District have the power to: a. make contributions of either cash or in-kind to 501c3 organizations? to other groups? b. give scholarships to private individuals? c. give selected employee gift cards and holiday gifts? d. lease land at below market rates, such as \$1 a year for 35 years for the Land on which the Parasol building sits? e. enter into an agreement with the DPSEF to lease land at Diamond Peak as described in the Board of Trustees 11-18-2020 meeting? Requesting an opinion from the Attorney General is possible, but there is no guarantee the attorney general would respond. Having written a legal opinion, the legal firm of BB&K has a conflict of interest and should not be used for compiling or writing the questions or any related legal work. Why is it so important to understand whether IVGID has these powers? One reason is NRS 197.110 (2) [which states] Every public officer who: Employs or uses any person, money or property under the public officer's official control or direction, or in the public officer's official custody, for the private benefit or gain of the public officer or another, is guilty of a category E felony and shall be punished as provided in NRS 193.130. Another reason is: Gift of public funds will lead to allegations of vote-buying. Put in simple terms: Under Nevada law, gifts of public funds or public property for private gain are ILLEGAL.

Diane Becker said she has a comment on Dillon's Rule. She appreciated the research that showed services are allowed to be provided and the discretion on NRS "...broadly construed." Many of us have expressed concerns about expenditures as to whether or not the amount was excessive, budget was excessive, and asking for the court to get an opinion, both will not get answers quickly. Are there people in the public who would like the Board to set policies, yes and she thinks that would take away a lot of the upset. She has read all the cases

and the Attorney General decisions are very vague and she thinks you need to hear that there are a group of people that thinks it has been excessive and that Board policies are needed.

C. APPROVAL OF AGENDA (for possible action)

Audit Committee Chairman Dent asked for any changes to the agenda. Trustee Schmitz said she is requesting a flexible agenda and that Item D.1.b. be moved after either Item D.7 or D.8 and save the best for last. Audit Committee At-Large Member Dobler asked if Item D.1.a. is a conceptual idea or will we be discussing specific items? Audit Committee Chairman Dent said he didn't know the answer and that you can discuss this with Ms. Williamson when we get there. Audit Committee At-Large Member Tulloch said on Item D.6. he is not sure he understands the terminology - review and discuss. Audit Committee Chairman Dent said he has a call into Mr. Nelson as he had similar questions. He knows that there are few policies that are referenced in there that have not been seen and he is inclined to pull that item and reschedule for December 10 or leave it on and have a discussion. Audit Committee At-Large Member Dobler said he would like to have the policies and the NRS statutes as half of them don't apply. Audit Committee At-Large Member Dent said he agrees and we will see what Mr. Nelson says when he gets on. Trustee Schmitz requested a flexible agenda with Item D.1.b. after Item D.7. Audit Committee At-Large Member Aaron said that there are at least two items that have not been addressed at previous meetings one being Dillon's Rule, Item D.6., and he wants to make sure we get to that. He is fine with the change offered by Trustee Schmitz. Audit Committee Chairman Dent said yes and we all want to get there; the agenda is approved as amended.

D. GENERAL BUSINESS ITEMS (for possible action)

D.1. FY2019/2020 Independent Financial Audit. - Update by the Director of Finance Paul Navazio on the District's 2019/2020 Independent Financial Audit being conducted by Eide Bailly

D.1.a. Review and discuss materiality as it relates to the Comprehensive Annual Financial Report (CAFR) (Presentation by Eide Bailly Auditor Tiffany Williamson)

Eide Bailly Auditor Tiffany Williamson provided an overview of materiality as it relates to the audit. Following are the questions and answers that were provided during this discussion:

- Q: So you see these things and you decide, in your firm minds, that something is wrong but not material; do you disclose that to IVGID in a memorandum or not? *[Asked by Audit Committee At-Large Member Dobler]*
- A: We set that materiality and don't share that with anyone and don't tell them the number. If we identify errors that raise to the level, that is an adjusting journal entry. Below, we note it as a past journal entry that was included in the final communication letter. Do issue a letter that states that.
- Q: Found a major issue on recognizing under income as current income under the utility fund, brought to attention to management, then management came back and said it wasn't material and took a pass on that. Only the CFO, you decided something was material enough (unearned revenue matter), they said no, take a pass and used the representation letter to say ok. *[Asked by Audit Committee At-Large Member Dobler]*
- A: In general, you are correct. Any error will be brought forth to management, and they can decide if they want to post it or not. Below threshold, not as past entry. Above, need to be adjusted. Specific question from last year, it was adjusted in the financial statement. This was about the base rate. A discussion followed with Audit Committee At-Large Members Dobler and Tulloch and Director of Finance Navazio regarding the base rate.
- Q: Have had a big issue here, over the last eight years, the District has been collecting \$2,000,000 for a future project, money was to be set aside, financing transaction, picked up as operating revenue, not so, should have been non-operating income. If it is reflected that way, not covering their costs, blew through their reserves and dipping into pipeline. Like to know if it was materiality. *[Asked by Audit Committee At-Large Member Dobler]*
- A: Understand those amounts are on the bill, that is shown as designated in the footnotes, it doesn't meet the definition to show as restricted net position.
- Q: Not net income, talking about revenues – operating and non-operating; it is financing. Collected money to set aside for a future project so it couldn't be operating. What was the substance and would like Audit Committee At-Large Member

Tulloch to chime in; Audit Committee At-Large Member Tulloch said he agrees with Audit Committee At-Large Member Dobler. Surcharge was authorized by the Board and collected specifically for the purpose of the pipeline, not approved for general funds, approved that it would be restricted financing, not operating revenue. Just as a side bar, no utility commissions wants any utility to collect funds upfront. Blown away by this collection as it doesn't happen anywhere else. Audit Committee At-Large Member Dobler said if you look at the memorandum on that point, GASB said it should be a non-operating revenue. Audit Committee Chairman Dent asked Ms. Williamson to look into that point. *[Asked by Audit Committee At-Large Member Dobler]*

Q: Understands that materiality is a simple calculation, rather surprised by your explanation, different message to different audience which defeats the definition of transparency. Very concerned that materiality has been adjusted to suit the audience. *[Asked by Audit Committee At-Large Member Tulloch]*

A: Don't adjust it and then in the aggregate for the benchmark. We do not have different materiality for different people.

Q: Providing the same information to all. *[Asked by Audit Committee At-Large Member Tulloch]*

A: Yes, how we audit one number in the CAFR, using one number per opinion unit.

Q: As it relates to materiality, are things that aren't financial ever considered material. *[Asked by Audit Committee At-Large Member Schmitz]*

A: Yes, they do. Have to gain an understand of internal controls as relates to financial reporting. If there were issues, they would issue a schedule of findings within the CAFR that would detail what those lapses were and the level that they rose to. Every year, gain an understanding of those processes.

Q: Based on internal controls, if you reviewed nothing, how would you judge if something doesn't exist versus something written. *[Asked by Audit Committee At-Large Member Dobler]*

A: Do have narratives from the District, look at documents, look at journal entries and see that they are reviewed and do testing.

Q: Nothing written, how do you do it? *[Asked by Audit Committee At-Large Member Dobler]*

A: Interview and have narratives that are updated every year. Director of Finance Navazio said we do provide a narrative and evidence of their application. To say we don't have any internal controls is not correct as we have shared documents as we absolutely have written internal controls which is the basis for all that we do.

D.1.b. Review and discuss DRAFT 2019/2020 CAFR audited basic financial statements, notes, and management discussion and analysis (MD&A). (Director of Finance Navazio)

This item was moved to Item D.7.

D.1.c. Update on status of and Moss Adams review of District's financial reporting practices (Audit Committee Chairman Matthew Dent)

Audit Committee Chairman Dent said we have received a draft and have a meeting on that tomorrow. Director of Finance Navazio said 1.0 is a little ahead of the work that you referenced. The Board authorized an engagement on three specific projects that the District has implemented and then District-wide contract process. Have received a draft report late last week, questions are going back and forth, and what they gave us was the fact validation document. Trustee Schmitz said she was real impressed, report was concise, the next step in the process is for management to provide input into their report about processes put into place or are going to put in place, and the commitment was for before Thanksgiving and then Moss Adams will incorporate so it will be a very comprehensive report. Audit Committee At-Large Member Dobler said based on that report, will there be any material impact on the financial statements and we won't see it until January? Director of Finance Navazio said that he doesn't believe that report is going to directly impact the work on the financials. There is some overlap between the scopes of work of the two projects. It is anticipated that it will discuss asset recognition which Eide Bailly is also looking at and there may be some impacts

such as policy discussion related to valuation of capital assets which is a big topic. Trustee Schmitz said that the Moss Adams 1 project really identifies more opportunities on contract management, project management, and deliverables on contracts and the one that might have more of an impact is the one that this committee is working on. Director of Finance Navazio said yes, he agrees but there is some overlap.

D.1.d. Update on request for thirty 30-day extension to file annual audit report made to the Nevada Department of Taxation (Director of Finance Navazio)

Director of Finance Navazio gave an overview of the submitted materials and noted that he has received, unofficially, that the District has received the extension. He did inquire about a longer extension and this would require another request. Right now, the timeline is for the Department of Taxation to receive it by January 30/31, 2021. Trustee Schmitz said by pushing this off does it impede the work on the budget next year? Director of Finance Navazio said Staff continues to work to get the CAFR completed and that there is a chance that we will have it by November 30. It doesn't change the timeline for the work rather it just gives a little more leeway particularly with the Moss Adams report. This is giving ourselves a little cushion and Staff is working as hard as we can.

D.2. Review of and update on Request for Proposal (RFP) for Independent Audit Services

Audit Committee Chairman Dent gave an overview of the submitted materials. Director of Finance Navazio added that the redline version was included and that he incorporated all changes submitted. The RFP went out on November 10 and that it is due back in December. As to the reference on the pre-bid conference, we did have two firms that contacted us and indicated an interest, did set up a Zoom meeting and we answered a few questions. He is also happy to report that a few firms reached out to participate and have received contact with a few more; the ball is rolling. Trustee Schmitz asked if Moss Adams expressed an interest? Director of Finance Navazio said it has been posted, he is not sure, as we haven't heard from Moss Adams so we won't know until we receive them and close the window. Audit Committee At-Large Member Tulloch said on agenda packet page 224, bottom of the page, he asked about submitted a request to include

any additional items and he doesn't see that included. Director of Finance Navazio said he does recall that conversation and that the RFP is to solicit from qualified firms. Regarding scope of engagement and work, his sense is that occurs when we get closer to selecting a firm. Audit Committee At-Large Member Tulloch said he would like to include an opportunity for innovation; it was obviously left out. Director of Finance Navazio said because there is a section that describes their approach, it is typical for them to show us their stuff; your point is well taken. Audit Committee At-Large Member Tulloch said we can agree to disagree. Audit Committee Chairman Dent said when we do go through and review, we can have that as a question even though it is not included in the initial proposal. Audit Committee At-Large Member Dobler said that after we got it done, are you going to provide us a list of the firms that it was sent to? Director of Finance Navazio said that there was a discussion about who it goes out and NRS requires us to do a newspaper ad, on the website, on Planetbid platform and then he is going to send it to a list that he has from the past. He also went to the Nevada Board of Accountancy and that he did do a shotgun as much as possible and happy to provide a list. Trustee Schmitz asked if it got sent to Moss Adams? Director of Finance said he will have to check the list. Audit Committee At-Large Member Dobler said did we decide, at the last meeting, that Staff was going to provide the list to us? Director of Finance Navazio said that he is happy to provide you a list of the firms that we sent it to. Audit Committee At-Large Member Dobler said he would appreciate that list, thank you.

D.3. Verbal update to the Audit Committee on District's Internal Controls and Staffing (Requesting Audit Committee Member: Audit Committee Chairman Matthew Dent)

Audit Committee Chairman Dent said that Audit Committee At-Large Member Aaron requested a little bit of information regarding vacancies and then asked the Director of Finance Navazio to give an overview on both topics which he did. Trustee Schmitz asked what is your target timetable for filling these positions and do you have new job descriptions for the new roles you are creating? Director of Finance Navazio said we do have a job description for Controller and that he made some edits and modifications to that job description so the answer is yes and that he did the same thing with two other classifications and made some modifications which he is happy to share those with you and/or the committee. His goal is for the job description to be less task focused and more focused on the skill set and the type of work to be able to do and less of a job description and more of a

classification. Trustee Schmitz asked if these were union positions? Director of Finance Navazio said no. Trustee Schmitz said so one position? Director of Finance Navazio said he would defer to Human Resources and that he believes the accountant positions are and the Controller is not. Trustee Schmitz asked if there was a target date for filling? Director of Finance Navazio said it is hard to have a date and that he would suspect that we are still three to four weeks from selection and then depending on hire, time to transition into new position. He is hoping that the Controller can be filled before the end of calendar year. Trustee Schmitz asked if it would be appropriate to have someone from the Audit Committee participating in the interviews? Director of Finance Navazio said we have no plan to have folks participate and that is consistent with how we handle our recruitments. Audit Committee At-Large Member Aaron said it is actually something that does kind of fall under Audit Committee for senior levels and something that is practiced within District. Is it something that is done within the Audit Committee? He did express interest in the process and it should come down to the Board on making that decision. Director of Finance Navazio said on management and Director of Finance positions is where it has occurred and that the Controller is a Staff position so it is management's responsibility. Squarely responsibility on management and outside of the charge of this committee and he would argue inappropriate for this committee. Audit Committee At-Large Member Aaron said you bring up a couple of good points as he doesn't know if we are tasked with that duty however it is not uncommon for an Audit Committee to be involved in senior level financial positions. Up to the District to decide the level and he understands the distinction on Staff level. Director of Finance Navazio said that the hiring decision will be his with support of the District General Manager and whatever input we feel is necessary will be used. District General Counsel Nelson said it is not in Policy 15.1. Audit Committee Chairman Dent said that the main purpose of having this discussion was to let everyone know that Audit Committee At-Large Member Aaron was interested in being involved in this hiring process. He sees the Controller as more of a Senior Staff position, he is expressing his professional opinion, and wanted to be heard. Don't think this committee was meant to do a hiring and that he appreciates the comment made by District General Counsel Nelson. Audit Committee At-Large Member Aaron said he was the one who posed the question as he thought he could add some value and offering some assistance.

Audit Committee Chairman Dent moved on to internal controls. Director of Finance Navazio gave a brief overview on internal controls. Audit Committee At-Large Member Dobler said he wanted to get some clarification. On March

20, 2020, there was an authorization of \$45,000 for three obligations, two were fulfilled and internal controls is the most important; it has been 8 months and nothing has been done. Director of Finance Navazio said that the focus on internal controls is appropriate, and that he will say it once again, that it is his perspective of what lead to that March 11, 2020 Board action that authorized funding for that. As he came to the District after that date, it was determined that the new Director of Finance would take a look and then provide a plan on how to proceed. He has attempted that on two opportunities by identifying a work plan and periodic audits of internal controls. What he was hoping to do, with the support of the committee and the Board, was move to forward a comprehensive review of the internal controls and do regular reviews and updates and that is the path he laid out. He has been before this committee on two occasions and it is not moving as fast but that is where it has gone and he is continuing to work on it. If the committee wants to carve it out and go along a different path, that is fine. Audit Committee At-Large Member Dobler said it is within the purview of the Audit Committee Chair - did you acquiesce your authority to not engage an independent expert? Audit Committee Chairman Dent said he doesn't understand your question and that he didn't do anything outside his authority. It started with what you are talking about and it was raised up by looking at construction areas and that is where we focused out of the gate. At that point we didn't know what we wanted to do. Moss Adams 1.0 addresses the construction project and then Moss Adams 2.0 is about the questions regarding the CAFR, etc. which addresses another aspect of internal controls. He feels like we are addressing it and it is not black and white. Is it going as fast as he would like; absolutely not. Would he like it to be done; absolutely. We are awaiting the reports. Audit Committee At-Large Member Tulloch said he is really confused and surprised about some of these things as he has heard there are no written internal controls then it was stated by the Director of Finance that we do have internal controls. We have consistently asked for these and told they aren't available. Can he request that in the next Audit Committee packet they are published so we understand what is there? It is difficult to decide how urgent this project is. He was told there is policy for travel and procurement cards so he would ask that they be included in the next packet. He understands that the Director of Finance wants to look at stuff and he thinks that a management audit could be done very quickly and that should be expedited as a priority. Trustee Schmitz said that she believes that the Director of Finance sent us a document with internal controls and that she does recall that so just resend that as she thinks that would be helpful. As part of the Dillon's Rule, it references the two policies that Audit Committee At-Large Member Tulloch

just talked about – travel and procurement card policies – it addresses those questions. She has reviewed the procurement card policies so maybe put them out on website so as to be more transparent. She would also like to propose, with Moss Adams 1.0, that we really do think about that it may be an opportunity to bring in a resource to help fill those gaps. We can't have the important internal controls pushed by the wayside. Even a short term assignment to have someone come in and help with addressing the gaps. The Director of Finance has a project plan so provide that in the packet so we have something tangible to look at it so we could help move it along. It should be brought back to the Board to request additional resources. Audit Committee Chairman Dent said in building on the travel and procurement policies, getting those out there, as we got the table of contents and there was no substance to them so get them out there and stop the perception that there is nothing. Audit Committee At-Large Member Dobler said on June 30 when District General Counsel Nelson brought forth his presentation on Dillon's Rules, Trustee Schmitz asked if it would be a good idea to forward all the policies so maybe we got them. He said he would create new policies so is the Director of Finance doing them or is District General Counsel? He hasn't seen anything in 5 months. District General Counsel Nelson said that item is on the agenda; his understanding was that he was to review the existing policies and he did do that and happy to discuss that when we get to that item. Audit Committee At-Large Member Aaron said in his mind there are two efforts which are not parallel - there is an effort by District Staff to take a look at internal controls and he thinks there is an expectation that the Audit Committee needs to take its own look. The Director of Finance is working on it and has a lot on his plate. He has a project plan that he is working to, then implement and then enforce them. His expectation is that we are tasked with internal controls oversight and to participate in that effort. It is on the horizon to do, we have a lot going on, and to introduce an internal controls project now would muddy the waters. He would like people to know that he thought there was some funds approved to bring in an external expert to help us from the Audit Committee perspective. Appreciate Staff's efforts but he would like the Audit Committee to have our own look and be supported by an external expert to help us. Audit Committee At-Large Member Tulloch said he concurs with most of the comments made by Audit Committee At-Large Member Aaron. This is a flash point in the community and he thinks people are starting to get concerned.

Audit Committee Chairman Dent called for a break at 5 p.m.; the Audit Committee reconvened at 5:15 p.m.

D.4. Review and discuss timeline and next steps as it relates to moving the District back to Enterprise Fund Accounting (Requesting Staff Member: Director of Finance Paul Navazio)

Director of Finance Navazio gave an overview of the submitted materials. Audit Committee Chairman Dent said he has looked at the budget calendar so what is the first big milestone that we need to do to move this forward? Having seen the draft report from Moss Adams, it is clear that they agree. So what is the first step that needs to be done? Director of Finance Navazio said that the next step is to formally forward the resolution of the intent to the State and request a hearing. Then will then tell us what we need to prepare for that hearing. Having the Moss Adams report may be helpful. Audit Committee Chairman Dent asked if we can have that done by the next Audit Committee meeting? Trustee Schmitz said it needs to be done in November going by the budget calendar. Director of Finance Navazio said that the answer to both questions is yes. He is fine with handling it and want to make sure the District is in the best position. The State will require some information and a hearing so yes we can send it to them post haste. Audit Committee Chairman Dent said what he hears you saying is we put in a request to the State and you want someone from Audit to join you and work alongside you? Director of Finance Navazio said we want to be prepared as can be. Audit Committee Chairman Dent said that he totally agrees and that putting in the request is the first step. Audit Committee At-Large Member Dobler said let's get this all straight, on May 27, 2020, a resolution was adopted, which he read, and then said so if he reads it correctly, we need to find out what the requested change is that they are asking for that is covered by statute and then proceed by having you deliver it to the Department of Taxation four or five months later. So does this mean that no one has asked what the restriction is – you have to ask the question first before you can answer it. Why didn't we ask them that question five months ago and why have we waited until November to ask what you want. Is there a reason? He thinks realistically, we never said we were cancelling the enterprise funds for Community Services and Beaches so he believes they are still alive. We can't do anything until you find out what the Department of Taxation wants so we need to find out what they want and what are we waiting for? Director of Finance Navazio said Staff has had conversations with the State back in early May and have had conversations since. We do have a pretty good idea of the process and what they need so we will put that together as some is fairly straight forward. We will need a letter from the auditors that states it doesn't violate any accounting standards similar to the letter of 2015. Audit Committee At-Large Member Dobler said he challenged this information.

Director of Finance Navazio said one of the pieces of information that is needed is a memorandum from the existing auditor that states that transitioning back from enterprise fund accounting is consistent and that this is the same requirement that the State made 5 years ago so we will be putting together the same checklist and the same rationale. There is another step for the GASB 34 compliance component which is evaluation of assets. There is a checklist and Staff went through it with the auditors in May. When can we do this –in the fall/around this time. There is a reason why didn't formally submit it but had it teed it up and are ready to move forward with the next phase. Audit Committee Chairman Dent said let the State know so we can get the items that are required. We have a list as we had a conversation and everyone wrote down some notes. Director of Finance Navazio said that the list is through conversations and is pretty straight forward but they are needed items. Audit Committee Chairman Dent said that the auditor letter seems easy and a very simple thing. Do know that when we went through this process before that this was a management decision. Trustee Schmitz asked what is the first step and can we make it and what is stopping us and when will the first step be taken? Director of Finance said that the first step is to formally send the resolution to the State then we clarify on what follows and is needed. Then we request that a hearing be scheduled and then hopefully they will formalize what is needed. Trustee Schmitz asked who is the first to notify can we take it and if so, when? Director of Finance Navazio said we can take tomorrow and one of the reasons it wasn't done before is because we were seeking advice from them and we were getting all the information we needed to do so as to have the best possible outcome. Next step is to send this in, he has seen preliminary information from Moss Adams and there is no red light and we will be doing this and would be remiss without an update. Trustee Schmitz asked if the first step will not be taken until it is brought forth to the Board of Trustees or can you take the first step? Director of Finance Navazio said we don't need it to go to the Board of Trustees. He would like support from the Board of Trustees and the Audit Committee to be successful. Trustee Schmitz said she is really concerned about workload and then listed all the ongoing projects. She is very concerned with the ability to keep up with all of it. Director of Finance Navazio said he is focused on these other items as a priority as work has all been asked for and requested by Board of Trustees and the Audit Committee. Happy to do it but want to work on the priority items and continue to ascertain what those are so the most important items get done. Audit Committee At-Large Member Tulloch said in continuing his theme, he is totally confused. In reading the Board memorandum from May 2020, we should have moved forward six months ago. He does have

sympathy for the Director of Finance. There was very clear direction asking Staff to do something yet in the intervening period they have had other things that have appeared out of nowhere – payroll item and then DPSEF – so he would like to understand why Staff is not prioritizing the Board request and going off and doing other pet projects. Director of Finance Navazio said that the timeline for doing this is where we are it. There is a reason we asked for Board support back in May. This was approved and teed up and there was also a desire to resolve some other issues and answer was when we get ready to start the budget process; Staff did not start this effort on the day after approval. Audit Committee At-Large Member Tulloch said he understands and he is venting. He has got to raise questions as he is deeply concerned about the effort to get it into the next budget. He could be cynical and say what is the effort to put it off. He could also be cynical on capital projects going to operating and that is another reason for slow rolling it. He understands the concerns but his huge concern is why is it not being done because if we roll over for another year then we have failed completely. Audit Committee At-Large Member Dobler said it is only a letter and a resolution that could have done on May 28 and all the excuses don't make a difference, there is no reason to stall, no reason to talk the auditors, blah, blah. Trustee Schmitz said we need to focus on going forward in the future. She knows that we were talking about having an opinion by an outside auditor and that we can't be hypercritical so let's go forward as we can't go back and it doesn't do any good to hash it over. We are here where we are and we are going forward. Audit Committee Chairman Dent said that was well put and that on Monday, we did receive a draft and did get a little bit of a conclusion from the auditor.

D.5. Chart of Accounts Review and Update - as it relates to Board of Trustees action taken at their November 9, 2020 Special Board of Trustees meeting. (Requesting Audit Committee Member: Audit Committee Chairman Matthew Dent)

Audit Committee Chairman Dent went over the submitted materials and noted that this was an informational item. Audit Committee At-Large Member Tulloch said it is his understanding, from the Board meeting, that the financial systems were going to be put in place and the chart of accounts would have to be done first. So are we now in a rush and are we going to have the time to review the chart of accounts? Director of Finance Navazio said it is the opposite. We have a need to move HRMS and payroll, so we do have some time but we need to look at some things on those two items so it may be a component. We do have the time to take a look at this and it

would be helpful for this committee to be involved. There may be some minor revisions as we implement a new payroll system and with the assumption of moving to enterprise fund accounting we need to look at going back or have something new. We have the opportunity to improve our chart of accounts and understand how it can help with reporting and transparency; it is a big project and do have some time to do. Audit Committee At-Large Member Dobler said he has given a lot of thought to this District and because we will be going back to enterprise, he would like to see Community Services enterprise include ski, two golf courses, and then remaining which includes everything else. He doesn't want them all mixed together into one and he hopes that we can separate them. Knowing this, does it require us to go to the State and make that statement? Director of Finance Navazio said that is exactly the point as there are different ways we can set this up which will require thoughtful thinking. How do we want to structure the funds is critical and how it rolls up and does it align with operations and the communities need for transparency? Audit Committee Chairman Dent asked if this was going to be brought back on December 10? Director of Finance Navazio said that this might be one that is ripe for a subcommittee to work offline as it is really hard to do it by committee. Staff wants to come up with a process and move it forward with the Audit Committee involved; maybe a work plan at December meeting. Audit Committee Chairman Dent said he likes the idea of separate funds and now Staff has some direction from this committee. Audit Committee At-Large Member Aaron said he does have his thoughts; two-step process and doing them on paper first. He has questions on the project and the way they are doing it because of complications with the mapping. You need to think it through and maybe have a side conversation as it would be helpful to understand the approach. Audit Committee Chairman Dent said it would be good for you and the Director of Finance to have this discussion offline. Director of Finance Navazio said that doing a wholesale chart of accounts conversion is down the road and that we can always be incremental which may impact payroll. For instance, in our payroll system, all wages are in one-line item when it goes into our financial system so at a minimum do we need to break it out and we will look at that in the short term? And then we will look at it at another piece and then possibly again as a final and as a whole. His goal is to take us from where we are to where we could be. Audit Committee At-Large Member Aaron said when you transfer from a sub-ledger and to a ledger you need to store the summary level data there. Director of Finance Navazio said he agrees but it can be summarized in a different way.

D.6. Acknowledge receipt of legal opinion for community correspondence regarding Dillon's Rule (Requesting Staff Member: District General Counsel Joshua Nelson)

Audit Committee Chairman Dent went over the questions asked at the start of the meeting. District General Counsel Joshua Nelson gave an overview of the submitted materials. Audit Committee At-Large Member Tulloch said he read through your opinion and that he follows the logical steps. Assumes there are incidental powers and assumes there are powers that use a back door to circumvent yet some of your arguments leverage incidental powers. District General Counsel Nelson asked to identify an area where he has done that please. Audit Committee At-Large Member Tulloch said it is the general theme. District General Counsel Nelson said he respectfully disagrees as he has identified a statutory requirement, and that a good example would be on agenda packet page 158, with the library case, and if something is related, it is included as an incidental power. Audit Committee At-Large Member Tulloch said he is concerned about donations and Truckee Meadows. District General Counsel Nelson said he double checked that and we don't have that power but look at footnote two on agenda packet page 160. Audit Committee At-Large Member Tulloch asked about the sweetheart deals on rent? He has a lot of highlights and just because it is common practice to exceed the speed limit, it doesn't make it legal. District General Counsel Nelson said he doesn't know where we are headed. Audit Committee At-Large Member Tulloch said just because it is common practice and one is stopped, it doesn't mean it is legal. District General Counsel Nelson said he would agree and that he would add on that sometimes common practice could show it is within practice and that good intention means that it is a commonly accepted. Audit Committee At-Large Member Tulloch said it is assumed throughout this power and that employee birthday parties are way to show appreciation and that he has always done those out of his own pocket so he doesn't agree. District General Counsel Nelson said so is the question is it a form of compensation? Audit Committee At-Large Member Tulloch said is it declared as it relates to the IRS? District General Counsel Nelson said he thinks there is a difference. Audit Committee At-Large Member Tulloch said he would like to talk about the subcontract for Diamond Peak. We provide services for DPSEF not Diamond Peak Ski Resort. He read through the agreement and he didn't see any services provided. District General Counsel Nelson said that we may agree to disagree – it falls under recreational services. Audit Committee At-Large Member Tulloch said he certainly disagrees because it is not provided to all community members and that he does find some convulsive comments

in your opinion. Trustee Schmitz said on agenda packet page 159, very last paragraph, last sentence, it is so far removed – who is defining? There has been a lot of talk about paid parking for boat trailers at Diamond Peak and that she doesn't know who defines that; she sees this as an area of concern. On agenda packet page 160, bottom of the paragraph, regarding DPSEF, she thinks that is incorrect as they provide this service. DPSEF is a non-profit and they pay them for ski racing which they are doing on behalf of the District so to say they are doing it on behalf of themselves is misleading. The reason she asked for Policy 7 and 8 is because in your grid, you make a statement and she doesn't believe your statement is accurate rather she believes there is a choice – turn in receipts or allowed to choose to a per diem but that is going from memory. Wanted 8, Procurement Cards, so we can review it against what is written here as she wants to make sure it is accurate. District General Counsel Nelson said that the policy does state have to submit receipts so he can confirm that item. Trustee Schmitz said going to the very last page which takes us to IVGID Bucks and the PERK program. The PERK program has been replaced with the HERO program which is referenced here and she has no idea what those things include. Audit Committee At-Large Member Dobler said he would like to make a short observation - we didn't authorize an opinion and we didn't vote on it. We got an opinion, he has been here for about 5 years, and he thinks there has been 4 opinions with legal counsel and in each case they were wrong. It has always ended up going nowhere and in every case, every one of the opinions were wrong so he doesn't give much weight to it. Legal counsel will always go with the client and then Mr. Dobler shared a story about representation and getting paid. Doing the right thing or the wrong thing is unimportant as it is the lawyers job to protect the interest of his client. District General Counsel Nelson said that Mr. Dobler is right from some perspective as lawyers also provide and advise in a clear and accurate way. He does feel he was tasked with this task, performed it, and was not shaded to come to any conclusions on the topics. Audit Committee Chairman Dent asked if, on the next agenda, will it include all the policies and write it up as a discussion so the committee can have a discussion? Audit Committee At-Large Member Dobler said he can pick this opinion apart and that he wants to understand what the Audit Committee is supposed to do with this. Are we supposed to turn it over to the two ladies who said IVGID is in violation? There is an opportunity to get a court ruling, under NRS 43, so he doesn't know what to do with this. Audit Committee Chairman Dent said he appreciates the comment. We have heard from several other members regarding NRS 43 and moving forward thus we could have an agenda item for that. Correspondence came in, we listened to them, it was given to our

Legal Counsel, we got an opinion, and now it is time to move it forward. Trustee Schmitz said we need to get some of this language clarified and that her takeaway is to put together a list of Board policies and make a recommendation to the Board of Trustees for some of the policies needed as a next step. Audit Committee Chairman Dent said he keeps hearing this from these communications that come in and that the common theme is that the Board of Trustees needs to do some serious work on their policies and a huge step would be in making the recommendation. Audit Committee At-Large Member Dobler said he agrees 100% and when you use this word “we”, who actually writes them and where is the committee - that is the starting point? Over five years, the Board of Trustees has maybe changed one or two policies so he doesn’t know how to get from point a to point b. Audit Committee Chairman Dent said that the first step is agendize it and then it is up to Legal Counsel. The Board would make recommendations to Staff and then Legal Counsel to help us with the framework and how does that blend together with all the financial policies and the ultimate decision will rely with the Board of Trustees.

D.7. Review, discuss and possibly approve a Whistleblower procedure for financial matters (Requesting Staff Members: District General Counsel Joshua Nelson and District General Manager Indra Winquest)

District General Counsel Josh Nelson gave an overview of the submitted materials. Audit Committee At-Large Member Tulloch said, as written, the proposal looks fine but something that jumps out is that it is all about within the District and it doesn’t refer to any members of the public. District General Counsel Nelson said that direction received was a focus on internal, and that direction to modify or expand, he would defer that to the committee. Audit Committee At-Large Member Tulloch said that if there is a concern within the community, he thinks it should be covered. District General Counsel Nelson said that confidentiality will be difficult under public records. Audit Committee At-Large Member Tulloch said we have to look at the extreme cases as he would hate to see a member of public be retaliated against. Audit Committee Chairman Dent said he thinks that is a beneficial idea as we move forward. Audit Committee At-Large Member Dobler said he has been working so hard on CAFR and accounting issues that he hasn’t had the time to think about it so he would abstain on any vote. Trustee Schmitz said that she agrees with Audit Committee At-Large Member Tulloch and said it was a good suggestion. It was intended to delineate from the public to internal and it does need to be from both sides. The opening paragraph

might be a very helpful preamble which gives an overview and in either event this is how it will be handled. District General Counsel Nelson restated the direction and that is that generally it looks ok, there is a desire to clarify that include both whistleblowing from public and internal, less confidentiality and no retaliation. Audit Committee Chairman Dent said that is correct and that he looks forward to seeing that revision to the policy.

Audit Committee Chairman Dent at 6:40 p.m. called for a break; the Audit Committee reconvened at 6:45 p.m.

D.1.b. Review and discuss DRAFT 2019/2020 CAFR audited basic financial statements notes, and management discussion and analysis (MD&A). (Director of Finance Navazio)

Director of Finance Navazio gave an overview of the submitted materials. Audit Committee At-Large Member Dobler said he has no less than 75 issues with some of them being just bad language and incomplete sentences. His biggest concern, over the last year, is that he has submitted 25 issues with the 2019 CAFR and those would affect this one. He has seen that several of them weren't addressed and it doesn't address what Moss Adams is recommending. Audit Committee Chairman Dent asked for the top five questions. We did talk about them and he does owe you a phone call to discuss the 8 points and the January 17 correspondence so as to work through those. We did have a call last week and we needed additional time to address those. Audit Committee At-Large Member Dobler went over some of his top objections. Audit Committee Chairman Dent asked Staff to address the capitalization question; Director of Finance gave that update. Audit Committee Chairman Dent asked a follow up question regarding PICA. Director of Finance Navazio gave a response. Audit Committee At-Large Member Tulloch gave his opinion on the Effluent Export Pipeline and its capitalization as well as unrestricted funds. Director of Finance Navazio gave a response. Audit Committee At-Large Member Tulloch talked about how the rate increase was added for this reason. Director of Finance Navazio responded. Audit Committee At-Large Member Dobler said that he would like to clarify all of this and proceeded to provide his reasoning. Director of Finance Navazio responded and said he will pursue the reasoning offered. Trustee Schmitz asked how far back do we have to go with this to rectify this? Director of Finance Navazio responded that didn't know how far back and reviewed agenda packet page 15. Trustee Schmitz asked the same question again and noted that you have mentioned doing an asset review or are they completely different? Director of Finance

Navazio responded. Trustee Schmitz asked how many years are we going to have restate? Director of Finance Navazio said that we don't go back and stated that the financial statements are a point in time. Audit Committee At-Large Member Tulloch asked about a write down. Director of Finance Navazio responded. Audit Committee At-Large Member Dobler said he can't approve this financial statement as it is factual wrong and it is with the utility. Audit Committee Chairman Dent said send a list of grammatical changes, etc. to the Director of Finance. Audit Committee At-Large Member Tulloch said he concurs as it is evitable that we will need to bond and that this can impact our ratings. Director of Finance Navazio responded that we are doing work to get that to where it needs to be. Trustee Schmitz then went over a couple of agenda packet pages - agenda packet page 29 and 44. Audit Committee At-Large Member Tulloch said a correction was needed on agenda packet page 8. Audit Committee At-Large Member Dobler, on agenda packet page 33, pointed out an item under defensible space (point #25) and on agenda packet page 29, he went over some of his thoughts. Trustee Schmitz asked, referencing agenda packet page 33, should the medical accounts be listed? Director of Finance Navazio said he didn't think so but will look at it. Audit Committee Chairman Dent said to send any concerns or issues to Director of Finance. Audit Committee At-Large Member Dobler said we need to focus on point 22.

D.8. Review, discuss, and possibly take action related to the following communications that have been received and are included: (Requesting Audit Committee Member: Audit Committee Chairman Matthew Dent)

D.8.a. May 2, 2020 email communication regarding the Engagement Letter, the Audit Committee charter and communications from Mr. Dick Warren

Audit Committee Chairman Dent said he spoke to Mr. Warren and that this is kind of a moot point and that he said we can close it. Director of Finance Navazio said there are several points in that e-mail which he responded to and that the financial statements are being prepared by Staff and reviewed by the auditor.

D.8.b. October 19, 2020 email communication regarding 2018-19 CAFR capitalization, expense notes, and deferred interest received from Audit Committee Member at Large Cliff Dobler

Audit Committee At-Large Member Dobler said on agenda packet page 174, that has been taken care of that. On agenda packet 176 through 180, that is withdrawn and is not a big deal. On agenda packet page 182, this is about a Board policy and the earnings should be set aside on the set aside money and we should pass it to the Board as he thinks it should be restricted as stated in Policy 13.2. The decision needs to be made by the Board and his recommendation is to send a recommendation to be part of the restricted monies. It is about \$538,000 through last year. Agenda packet page 197, it is an estimate and probably a little more through 2020. Trustee Schmitz asked procedurally how do we do a recommendation to the Board? District General Counsel Nelson said by motion or consensus would be one way to handle it.

Audit Committee At-Large Member Tulloch made a motion to have the Board of Trustees follow its own policy in allocating the interest on its collection on restricted funds; reference is agenda packet page 187. Audit Committee At-Large Member Dobler seconded. Audit Committee Chairman Dent called the question - Audit Committee At-Large Member Aaron abstained, Audit Committee Chairman Dent, Audit Committee At-Large Member Tulloch, Trustee Schmitz and Audit Committee At-Large Member Dobler voted in favor; the motion passed.

Audit Committee At-Large Member Dobler went to agenda packet page 198 and said that the repair should be expensed. Audit Committee Chairman Dent said he discussed this with Director of Finance Navazio and Ms. Williamson and it has extended the life of the pool and when we take it out of service, that it when it would get expensed. Audit Committee At-Large Member Dobler said it was never budgeted and that a capital project was created out of thin air so whatever you want to do there. Audit Committee At-Large Member Tulloch asked if it did extend the depreciable life? Trustee Schmitz said it stopped the leaking water. Audit Committee At-Large Member Tulloch said if it still had some depreciable life left then ok, otherwise it should be expensed. Audit Committee At-Large Member Aaron said it sounds like an expense. Director of Finance Navazio said this is about making a decision so as to not compound a problem; we are all on the same page.

D.8.c. November 6, 2020 email communication regarding Air Relief Valves from Audit Committee Member at Large Cliff Dobler

Audit Committee At-Large Member Dobler said that Staff used the pipeline money for an unbudgeted project which is missing \$75,000, and he couldn't find the number which is disturbing because it has to be there and it has to be accounted for. More important are the charges and have no idea how many we did and where they are. Staff took money from the effluent pipeline and used it for an unbudgeted project so he thinks we should do something with this one. We need a complete audit because this is out of control. In looking at the Staff time, it came from the operating department and it is all quite troubling and bad stuff. Trustee Schmitz asked what are the CIP work orders? Audit Committee At-Large Member Dobler said a work order is so someone can go and work on it. His biggest concern is the shift over to capital projects and he doesn't know if the labor is going to all of the capital projects so we don't know if they have been overrunning the operational budget. He knew they charged off engineering and fleet but he didn't know about operating labor. Audit Committee Chairman Dent said it does leave some unanswered questions. Director of Finance Navazio said it is another topic for the next budget process. If we have Staff working on a project, every project is charged Staff time and doing it through the work order process so we should be able to produce those reports. Work orders are very commonly used and appropriate in this case and there is money in the budget for O&M but he doesn't know if we report that therefore it is an issue to look at. Trustee Schmitz said if you look at agenda packet page 210, second line item, there are 10 air relief valves and if you go to agenda packet page 212, seventh line item, it says 14 air relief valves. There is \$40,000 for air relief valves so what is the rest of it? Audit Committee At-Large Member Dobler said it sounds like a good thing to learn. Audit Committee At-Large Member Tulloch said that ten cost us more than the 14 and that he agrees on the work orders. Credited to their budget? Should it be debited? Director of Finance Navazio said it is offsetting revenue. Audit Committee At-Large Member Tulloch asked if it should be removed from operating budget? Director of Finance Navazio explained the accounting. Trustee Schmitz asked what is the action item? Audit Committee At-Large Member Dobler said we need an investigation that is an invoice

by invoice review as it looks like a dumping ground. Trustee Schmitz said there is \$75,000 that was not reported on. Director of Finance Navazio said if the question is what to do, refer this matter to Staff and then come back to the committee with an accounting. Audit Committee Chairman Dent said bring this back at a future meeting; plug it in for January 27, 2021.

E. LONG RANGE CALENDAR (for possible action)

E.1. Review with Audit Committee, long range calendar (Requesting Trustee: Audit Committee Chairman Matthew Dent)

Audit Committee Chairman Dent reviewed the long range calendar and said that the meeting on December 10 would have a 4 p.m. start time and noted two items for future meetings. Audit Committee At-Large Member Dobler said the Moss Adams report needs to address the transfer of money for the punch cards and when is Eide Bailly going to be done and present the report for approval? Director of Finance Navazio said that a reasonable schedule would be an audit report on the agenda of December 9. Audit Committee Chairman Dent asked if that was too optimistic? Director of Finance Navazio said we have an extension until 12/30; more time may be needed when the committee gets the report. Audit Committee Chairman Dent said he thought we were waiting until they review both Moss Adams reports. Director of Finance Navazio said they are not looking at Moss Adams 1 at all. Audit Committee At-Large Member Aaron said that the Audit Committee should be looking at Moss Adams and making recommendations. Audit Committee Chairman Dent said we can push it off a week. Director of Finance Navazio said having an extra week would be helpful. Trustee Schmitz said she would like to have time with Policy 15.1.0 so we can fine tune it and then send it to the Board of Trustees for approval. Audit Committee Chairman Dent said it should be put on for January as a placeholder.

F. APPROVAL OF MEETING MINUTES (for possible action)

F.1. Audit Committee Meeting Minutes of October 27, 2020

Audit Committee At-Large Member Dobler said he hasn't reviewed them. Audit Committee At-Large Member Tulloch said on agenda packet page 224 that he doesn't recall an oh my God moment. Audit Committee Chairman Dent said that the minutes are approved as submitted.

G. PUBLIC COMMENTS*

Linda Newman said before the District directs the preparation of new policies which may or may not comply with Nevada law, she would like to underscore her request for an Attorney General Opinion on IVGID's statutory authority under NRS 318 to make cash and in-kind contributions to non-profits. She is also requesting an opinion from the Attorney General on the statutory requirements for pricing our public land for long term leasing. She is also requesting clarification on whether or not we have any effective internal controls. At a public meeting Staff stated that we do not have written internal controls. At that time, Trustee Wong said written controls were not necessary to have internal controls. At a subsequent meeting we were told we do have written internal controls but many are obsolete or need to be revised. If the latter is the case, what internal controls are effectuated by Staff and what oversight is exercised by their supervisors? You get the point. As she is well aware that we are short staffed –it is really important that this Committee support the engagement of independent resources to accelerate progress on implementing effective internal controls now. She completely supports Mr. Dobler and Mr. Tulloch's assessment of the need to clean up our Financial Statements now, rather than later—especially for the Utility Fund. We will have to bond to rehabilitate or replace the 6 miles of failing pipeline and line the effluent storage pond at some time in the future. This will not be viable until we have complete and accurate financial statements that accurately reflect the operations and financial condition of the Utility Fund. We can't move forward by doing things right in the future without disclosing and fixing what was improperly done in the past. When you add in the significant irregularities in capital project expenditures, she recommends engaging an independent investigator. With all that said, she greatly appreciates the in-depth analysis, discussion and review contributed by everyone this evening. Thank you for taking on these immense responsibilities and demonstrating outstanding progress.

H. ADJOURNMENT (*for possible action*)

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Susan A. Herron
District Clerk

Attachments*:

Minutes

Audit Committee Meeting of November 19, 2020

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*In accordance with NRS 241.035.1(d), the following attachments are included but have neither been fact checked or verified by the District and are solely the thoughts, opinions, statements, etc. of the author as identified below.

Submitted by Aaron Katz – Written statement to be attached to and made a part of the written minutes of the IVGID Audit Committee’s regular November 19, 2020 meeting – Agenda B – Public Comments – Failure to agendaize for possible action citizen inquires of September 14, 2020 and October 6, 2020

WRITTEN STATEMENT TO BE ATTACHED TO AND MADE A PART OF THE WRITTEN MINUTES OF THE IVGID AUDIT COMMITTEE'S REGULAR NOVEMBER 19, 2020 MEETING – AGENDA B – PUBLIC COMMENTS – FAILURE TO AGENDIZE FOR POSSIBLE ACTION CITIZEN INQUIRIES OF SEPTEMBER 14, 2020 AND OCTOBER 6, 2020

Introduction: The Committee has announced that if members of the public have questions regarding District financial matters, it is appropriate to bring those questions to the Committee's attention and they will be addressed. Accordingly,

1. On September 14, 2020 I made e-mail request upon the Committee¹ it recommend creation of an administrative remedy for those local parcel/dwelling unit owners paying the Beach ("BFF") and/or Recreation ("RFF") Facility Fee(s) to seek refund; and,
2. On October 6, 2020 I made e-mail request upon the Committee² it provide the particulars of the revenue categories reported by staff for the 2018-19 Beach Fund.

But the Committee has never agendized either of these matters for discussion and response, nor has it included either of these matters on a long range calendar. As a result, I submit this written statement.

I Am Asking Again That Both of These Matters be Agendized For Future Discussion and Response:

My First Request is Particularly Relevant Given a Local Parcel Owner Has Requested Refund of Past RFFs/BFFs and the Board has Agendized the Request for the Board's November 23, 2020 Special Meeting³: "Each year, the District establishes an annual Recreation Facility Fee and Beach Facility Fee to be collected from property owners within the District through a levy placed on the property tax bill and collected on behalf of the District by the Washoe County Treasurer's Office...The Board traditionally approves a resolution which outlines the billing and collection process set forth in Nevada Revised Statutes 318.197 (establishing standby service charges for services and facilities furnished by the District) and 318.201 (establishing the method of collection), as well as establishing the amount of the Recreation Facility Fee (RFF) and Beach Facility Fee (BFF) to be collected. Upon final

¹ My September 14, 2020 e-mail request and my follow up request(s) that the matter be agendized are attached as Exhibit "A" to this written statement.

² My October 6, 2020 e-mail request and my follow up request(s) that the matter be agendized are attached as Exhibit "B" to this written statement.

³ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/D._._Agenda._.Special_Meeting_-_11232020_-_for_approval.pdf.

approval, the District provides Washoe County Treasurer's Office with appropriate fee amounts to be assessed on each individual parcel within the District, pursuant to the prescribed process."⁴

At its meeting of May 27, 2020, the Board of a Trustees took action (via Resolution 1879⁵) to approve the Final Report for RFF/BFF Collection⁶, and order their collection on the Washoe County tax roll pursuant to the authority of NRS 318.201(9)⁷. ¶8 of Resolution 1879 states, in part, that

“All laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges.”⁸

In other words, the District's policy insofar as claims for refund are concerned is addressed by the “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...**refund**.”

The NRS' Instructions For Refund of a General Improvement District's ("GID's") Rates, Tolls and Charges: According to staff the RFF/BFF represent NRS 318.197(1)⁹ “Recreation Standby and Service Charges.”¹⁰ NRS 318.201(1) instructs that

Whenever “any board...has adopted rates pursuant to this chapter (it) may, by resolution...elect to have such charges for the forthcoming fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. In such event,”

⁴ See pages 102-103 of the packet of materials prepared by staff in anticipation of the Board's May 27, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-27-2020.pdf ("the 5/27/2020 Board packet")].

⁵ That resolution is attached as Exhibit “A” to this written statement.

⁶ See pages 107-116 of the 5/27/2020 Board packet.

⁷ “After the hearing, when the board has made a final decision on a service charge or fee to be collected on the county tax roll, the secretary shall prepare and file a final report, which shall contain a description of each parcel receiving the services and the amount of the charge, with the county assessor for inclusion on the assessment roll.”

⁸ See page 110 of the 5/27/2020 Board packet.

⁹ NRS 318.197(1) instructs that “the board may fix, and from time to time increase or decrease...rates, tolls or charges other than special assessments, including, but not limited to, *service charges and standby service charges*, for...the availability of service.”

¹⁰ See page 111 of the 5/27/2020 Board packet.

NRS 318.201(12) instructs that,

“All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to such charges.”

Laws Applicable to the Refund of General Taxes of the County Mandate Appeal to the County Board of Equalization (“CBOE”): In order to seek county general tax refunds, those taxes must first be paid. Stated differently, “no collection of taxes may be enjoined (or) restrained” (NRS 361.330). After payment, “an owner of any real...property placed on... the secured tax roll...may appeal the assessment...to the county board of equalization” [see NRS 361.356(1) and 361.357(1)].

Therefore Here the Parcel Owner Seeking Refund Should be Appealing IVGID’s Assessments to the Washoe CBOE:

But This Remedy is Illusory Given the CBOE Refuses to Accommodate RFF/BFF Refund Appeals: I and others have attempted in the past, unsuccessfully, to appeal our RFF/BFF refund requests to the CBOE. The CBOE refuses to entertain such appeals because they are not based upon assessed valuation.

The Department of Taxation (“DOT”) Refuses to Adopt Regulations Allowing For RFF/BFF Refunds: I and others have asked the DOT to adopt regulations which would provide an administrative remedy to those seeking RFF/BFF refunds. However, the DOT has refused.

NRS 360.280(1)(a) mandates that County Assessors must “adopt and put in...regulations established and prescribed by the Nevada Tax Commission governing the assessment of property.” Yet although the Commission has the power to adopt such regulations which could extend to RFF/BFF refunds¹¹, it refuses.

Which Means an Administrative Remedy, Through IVGID Directly, is Necessary:

Moreover, Laws Applicable to the Refund of General Taxes Due to Overassessment to Real Property Mandate a Three (3) Year Statute of Limitations: The “laws applicable to the levy, collection and enforcement of general taxes of the county” are set forth in NRS 361.330, et seq. NRS 361.768(1) instructs that “if an overassessment of real... property appears upon the secured tax roll of any county because of a factual error...*within 3 years after the end of the fiscal year for which the assessment was made*, the county assessor shall make a report thereof to the board of county commissioners of the county.” In other words, that report is pre-conditioned upon a three (3) year statute of limitations.

¹¹ “The Nevada Tax Commission shall adopt general and uniform regulations governing the assessment of property by the county assessors of the various counties, *county boards of equalization*, the State Board of Equalization and the Department” [see NRS 360.250(1)].

NRS 361.768(2) goes on to instruct that “if satisfied that the error (giving rise to refund) is factual...the board of county commissioners...shall ...(a) direct the county treasurer to correct the error (and)...(b)...make the necessary adjustments to the tax bill (which)...may be a full refund or a credit against taxes due.”

Therefore Here the Statute of Limitations Bars a Parcel Owner Seeking Refund Due to Overassessment to the Extent That Overassessment Exceeds Three (3) Years:

But Again, an Administrative Remedy, Through IVGID Directly, is Necessary to Apply This Statute of Limitations:

Conclusion: We have an obvious void in our policies. Although GIDs have the power under NRS 318.203 to compel a dwelling unit owner to pay the RFF/BFF, there is no reciprocal refund remedy available to a property owner where his/her/its dwelling unit is forced to pay the RFF/BFF notwithstanding though no services are provided. Which explains why an IVGID policy is necessary, and I asked the request could be considered.

And You Wonder Why the RFF Which Has Financed This Colossal Giveaway to Another Special Interest Group is Out of Control? I've now provided more answers.

Respectfully, Aaron Katz (Your Community Watchdog Because No One Else Seems to be Watching).

EXHIBIT "A"

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

From: s4s@ix.netcom.com
To: Matthew Dent
Cc: Dobler Cliff <cfdobler@aol.com>, Ray Tulloch <raytulloch@munrotulloch.com>, Aaron Derreck <DCA2319@yahoo.com>, Sara Schmitz <trustee_schmitz@ivgid.org>
Subject: The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF - Follow Up
Date: Nov 19, 2020 10:57 AM

Dear Chairperson Dent and Other Honorable Members of the District's Audit Committee:

On September 14, 2020 I made the request below addressed to Matt and Sara on behalf of the Audit Committee.

At the Committee's October 27, 2020 meeting I brought to the Committee's attention the fact that my September 14, 2020 request had not been agendized and I asked the same be placed on a future calendar to be addressed (see page 226 of the packet of materials for this Committee's meeting).

Yet it has not been agendized as a matter for this afternoon's meeting.

Will it be agendized and if so, when?

A substantive response to this request is particularly timely in light of the special meeting the Board has noticed for November 23, 2020.

I thank the Committee in advance for its cooperation. Aaron Katz

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

>From: s4s@ix.netcom.com
 >Sent: Sep 14, 2020 11:31 AM
 >To: Sara Schmitz
 >Cc: Matthew Dent , Dobler Cliff , Ray Tulloch , Aaron Derreck
 >Subject: Re: The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

>Hello Sara and Matt -

>>Several months ago I brought to your attention the due process problems with adopting a RFF/BFF ordinance which provides for the remedy to seek refund, yet not adopting an administrative process which allows those seeking to exercise that remedy the process to do so (see below).

>>Yet so far nothing more than an "acknowledgment."

>>Is this an issue the audit committee can pursue with the District's attorney?

>>And by the way, the process I suggest is really the same type of process which is already included in Ordinance 7. There staff and the Board are allowed to suspend and/or revoke a parcel owner's recreation privileges, however, only after providing a due process remedy (see section 67 at pages 11-13 of ordinance 7). This remedy was provided for a purpose. And the same purpose would be to provide an administrative remedy for those seeking refund of the RFF/BFF to actually exercise it.

>>Thank you for your cooperation and hopeful positive response. Aaron Katz

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

>>>>From: s4s@ix.netcom.com
 >>>>Sent: Jul 2, 2020 9:30 PM
 >>>>To: Sara Schmitz
 >>>>Cc: Matthew Dent
 >>>>Subject: Re: The Need For a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

>>>>Thank you Sara.

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

>>>From: Sara Schmitz

>>>Sent: Jul 2, 2020 6:08 PM

>>>To: "s4s@ix.netcom.com" , Sara Schmitz

>>>Cc: Matthew Dent

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

>>>

>>>Mr. Katz,

>>>

>>>Thank you for your email. I'm acknowledging receipt and will review in thorough detail.

>>>

>>>Sara

>>>

>>>Get Outlook for iOS

>>>

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

>>>Sent: Saturday, June 27, 2020 8:51 AM

>>>To: Schmitz Sara

>>>Cc: Dent Matthew

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

>>>

>>>Hello Sara -

>>>

>>>As you know on June 18, 2020 I sent all board members the e-mail string below wherein I asked the board to create an IVGID administrative process to allow those seeking refund of their RFF/BFF to pursue/exhaust.

>>>

>>>There has been no acknowledgment of receipt of my e-mail, nor am I aware of any board member's intent to agendize the issue for determination.

>>>

>>>In contrast, I have received the agenda for next week's audit committee meeting. There the committee has agendized legal responses to two citizen inquiries similar to mine - IVGID's permissible powers in light of the limitations of Dillon's Rule, and the propriety of the RFF/BFF.

>>>

>>>My question is why not the same type of response to my e-mail request of June 18, 2020?

>>>

>>>Assuming the answer is nothing more than "timing," can you or Matt please agendize our attorney's response to the RFF/BFF refund matters set forth in my June 18, 2020 e-mail for the next audit committee meeting?

>>>

>>>Thank you for your cooperation. Aaron Katz

>

>>>-----Forwarded Message-----

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

>>>Sent: Jun 18, 2020 11:24 AM

>>>To: Callicrate Tim

>>>Cc: Wong Kendra Trustee , Dent Matthew , Morris Peter , "ISW@ivgid.org" , "Susan_Herron@ivgid.org"

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

>>>

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

>>>

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

>>>

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

>>>

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

>>>

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

>>>

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

be held liable.

>>>

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

>>>

>>>Respectfully, Aaron Katz

>

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

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

>>>Sent: Jun 11, 2020 5:39 PM

>>>To: Callicrate Tim

>>>Cc: Wong Kendra Trustee , Dent Matthew , Morris Peter , Schmitz Sara

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

>>>Thank you Indra -

>>>

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

>>>

>>>So let's try again.

>>>

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

>>>

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

>>>

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

>>>

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

>>>

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

>>>

>>>First, there is a right to review before a Department Head: After the filing "of an incident report, the Department Head...shall provide the user with written notice of the accusation(s) and the possible sanction/penalty which may result. The notice shall also provide the user with the date, time and place at which the user may appear before the Department Head...to respond to the claims and to explain the user's position concerning the incident."

>>>

>>>"Within five (5) business days of mailing the written notice...the Department Head shall hold a hearing to determine the accuracy of the representations contained in the Incident Report and to determine what, if any, further action shall be taken by the District...The Department Head shall deliver a written decision concerning the allegations and any resulting suspension or revocation within two (2) business days following the hearing...The Department Head shall inform the user in the decision of the user's right to appeal the decision to the District's General Manager."

>>>

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

>>>

>>>"Within five (5) business days of the user's notice of appeal letter, the General Manager shall hear the user's appeal...The General Manager shall render his/her written decision within two (2) business days of the appellate hearing. In the decision, the General Manager shall uphold, modify, or reverse, in whole or in part, the Department Head's decision (and)...shall advise the user...of the user's right to appeal the General Manager's decision to the District's Board of Trustees. In order to avail him/herself of the right of final appeal to the Board of Trustees, the user must so inform the Board by letter...within five (5) business days of issuance of the written opinion from the General Manager."

>>>

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

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

>>>

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

>>>

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

>>>

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

>>>

>>>Thank you for your cooperation. Aaron Katz

EXHIBIT "B"

Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches - Follow Up

From: s4s@ix.netcom.com
To: Dent Matthew
Cc: Schmitz Sara <schmitz_trustee@ivgid.org>, Dobler Cliff <cfdobler@aol.com>, Ray Tulloch <raytulloch@munrotulloch.com>, Aaron Derreck <DCA2319@yahoo.com>
Subject: Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches - Follow Up
Date: Nov 19, 2020 10:58 AM

Dear Chairperson Dent and Other Honorable Members of the District's Audit Committee:

On October 6, 2020 I made the request below addressed to the Audit Committee.

At the Committee's October 27, 2020 meeting I brought to the Committee's attention the fact that my October 6, 2020 request had not been agendized and I asked the same be placed on a future calendar to be addressed (see page 226 of the packet of materials for this Committee's meeting).

Yet it has not been agendized as a matter for this afternoon's meeting.

Will it be agendized and if so, when?

I thank the Committee in advance for its cooperation. Aaron Katz

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

From: s4s@ix.netcom.com
Sent: Oct 6, 2020 10:55 AM
To: Dent Matthew
Cc: Schmitz Sara , Dobler Cliff , Ray Tulloch , Aaron Derreck
Subject: Fw: RE: Records Request - Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches - Follow Up

Dear Chairperson Dent and Other Honorable Members of the IVGID Audit Committee -

Look at the records request (for financial records) below.

After waiting nearly a month for the requested records, look at Ms. Herron's response: "IVGID has no public records in response to your request. This completes your records request in its entirety."

This response has to be UNTRUE. If not, then how can IVGID report \$1,085,884 of "admissions and fees" assigned to the Beach Fund?

I want the Audit Committee to look into this matter and secure the records and answers which respond to my request.

Note that on September 10, 2020 I sent a copy of my request to the Audit Committee with a notation that "I (was) sending a copy of this records request to the audit committee inasmuch as staff's response to this records request is going to be the subject of future communication. So maybe staff wants to share the requested records with that committee as well."

Please secure the requested records and report your findings to me and the public.

Thank you for your cooperation. Aaron Katz

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

From: "Herron, Susan"
Sent: Oct 6, 2020 9:03 AM
To: "s4s@ix.netcom.com"
Cc: "Winquest, Indra S." , Tim Callicrate , Matthew Dent , "Wong, Kendra" , Peter Morris , Sara Schmitz
Subject: RE: Records Request - Break Down of 2018-19 Charges for Admissions and Fees, Contra

Revenue and Other Expenses For the Beaches - Follow Up

Dear Mr. Katz,

In response to your records request, dated September 10, 2020 which reads as follows, I am responding that IVGID has no public records in response to your request. This completes your records request in its entirety.

Susan

>Another records request.

>

>Open Gov discloses that for 2018-19 there was \$1,492,687 assigned to the Beach Fund for "charges for services." Of this amount, \$1,085,884 was assigned to "admissions and fees."

>

>I would like to examine records which evidence a break down of this \$1,085,884 by admittæe. In other words,

>

>1. The amount reflected by PPH access paid by PPHs;

>2. The amount reflected by punch card access paid by punch cards;

>3. The amount reflected by cash payment or cash payment for daily tickets;

>4. The amounts paid by every other means;

>5. The amount of contra revenue reflected by PPH access;

>6. The amount of contra revenue reflected by punch card access;

>7. The amount of contra revenue reflected as a result of any other access.

>

>Open Gov discloses \$334 of contra revenue assigned to "parcel owner allowances." I would like to examine records which break down each and every entry which goes into this \$334 number together with evidence of the bases for these allowances.

>

>Open Gov discloses \$5,119 of contra revenue assigned to "employee sales allowances." I would like to examine records which break down each and every entry which goes into this \$5,119 number together with evidence of the bases for these allowances.

>

>Open Gov discloses \$144 of contra revenue assigned to "personal services." I would like to examine records which break down each and every entry which goes into this \$144 number together with evidence of the bases for these allowances..

>

>Open Gov discloses \$6,113 of revenue assigned to "program registration income." I would like to examine records which break down each and every entry which goes into this \$6,113 number together with evidence of the bases for this revenue.

>

>Open Gov discloses \$177,282 of revenue assigned to "rental income." I would like to examine records which break down each and every entry which goes into this \$177,282 number together with evidence of the bases for this revenue.

From: s4s@ix.netcom.com [mailto:s4s@ix.netcom.com]

Sent: Tuesday, October 6, 2020 8:50 AM

To: Herron, Susan <Susan_Herron@ivgid.org>

Cc: Winquest, Indra S. <ISW@ivgid.org>; Tim Callicrate <callicrate_trustee@ivgid.org>; Matthew Dent <dent_trustee@ivgid.org>; Wong, Kendra <Wong_trustee@ivgid.org>; Peter Morris <morris_trustee@ivgid.org>; Sara Schmitz <trustee_schmitz@ivgid.org>

Subject: Re: Records Request - Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches - Follow Up

Hello Ms. Herron -

Well another one for the scorecard in case anyone is counting.

As you can see on Sep 10 I made the records request below.

As you know, NRS 239.0107 obligated staff to respond in writing to the request within five (5) business days.

So five (5) business days elapsed and neither you nor any of your IVGID colleagues responded, let alone in writing.

So the burden fell on me to follow up and ask, what's up? Which is what I did on Sep 18 (see below).

Only then did you respond by suggesting that if I were lucky, staff might provide the requested records by Oct 2 (see below).

Well Oct 2 has come and gone and surprise. I've heard nothing.

Or did you provide some of the requested records and somehow they didn't make it into my in box?

I shouldn't have to do this but for the benefit of the Board I call to your attention NRS 239.0107(1)(c) which states that "if the governmental entity is unable to make the public book or record available by the end of the fifth business day after the date on which the person who has legal custody or control of the public book or record received the request: (1) provide to the person, in writing, notice of the fact that it is unable to make the public book or record available by that date and the earliest date and time after which the governmental entity reasonably believes the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person."

This you did on Sep 18 (see below).

But let's go on with NRS 239.0107(1)(c)(1) which reads that "if the public book or record or the copy of the public book or record is not available to the person **by that date and time, the governmental entity shall provide to the person, in writing, an explanation of the reason the public book or record is not available and a date and time after which the governmental entity reasonably believes the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person.**"

Since you didn't provide the requested records by Oct 2, you were obligated ("shall") to provide a written explanation of the reasons why you could not make those records available along with notice of another date and time after which they would be available for my examination.

But you didn't (at least the third NPRA violation so far just insofar as this request is concerned). In other words, another NPRA violation made by someone who is supposed to be a NPRA expert.

So when are you going to fulfill your public responsibilities? When is your supervisor (Indra) going to insist that you comply with the NRS or replace you with someone else who will? How long is the Board going to accept less than acceptable conduct from one of our overpaid and over benefited public employees?

And now that Mr. Navazio is on vacation for three weeks, even though he has only been employed for only roughly six (6) months, how does staff reasonably expect to be able to provide the requested financial records for my examination before his return? Which means another month or longer delay. And this is supposed to be acceptable? Mr. Navazio couldn't complete this task as the custodian of the District's financial records before leaving on his vacation? And this is supposed to be acceptable?

And since a copy of this e-mail is being sent to Indra, if the District were truly as "transparent" as it represents, members of the public like me wouldn't even have to make records requests like this one because ALL of those records would be easily retrievable. So because they're not, how about being truthful on the District's web site? How about eliminating the adjective "transparent" and instead, truthfully describe the various links provided therein?

So where are the records Ms. Herron?

Respectfully, Aaron Katz

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

>From: "Herron, Susan"

>Sent: Sep 18, 2020 3:17 PM

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

>Cc: "Winquest, Indra S." , Tim Callicrate , Matthew Dent , "Wong,

> Kendra" , Peter Morris , Sara Schmitz

>Subject: Re: Records Request - Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches

>

>Dear Mr. Katz,

>

>Staff is working on your request and I hope to have a response/update to you by 10/2/2020.
>
>Have a nice weekend.
>
>Susan
>
>On Sep 18, 2020, at 1:30 PM, "s4s@ix.netcom.com" wrote:
>
>Hello Ms. Herron -
>
>I made the requests below more than five (5) business days ago, and so far no response [as you know NRS 239.0107 requires responses to public record requests within five (5) business days].
>
>Are you planning on providing the answers and records requested and if so, when?
>
>Since I am sending a copy of this e-mail to the Board, when exactly are you going to put your collective feet down and either compel staff to comply with the law, or compel Indra to terminate their employ?
Yesterday I sent you copies of FOUR other episodes where again, Ms. Herron did not comply with the law insofar as making requested records available for my examination.
>
>Each of you realizes, don't you, that the reason for the delay is to give staff sufficient opportunity to fabricate or alter records which don't currently exist? The purpose of records requests like these are not to give staff the opportunity to fabricate records. But rather, to get to the truth. And when you members give staff a pass, you're acting just as improperly as your staff. And that's supposed to be O.K?
>
>Thank you for your cooperation. Aaron Katz
>
>-----Original Message-----
>From: s4s@ix.netcom.com
>Sent: Sep 10, 2020 1:00 PM
>To: "Susan_Herron@ivgid.org"
>Subject: Records Request - Break Down of 2018-19 Charges for Admissions and Fees, Contra Revenue and Other Expenses For the Beaches
>
>Hello Ms. Herron -
>
>Another records request.
>
>Open Gov discloses that for 2018-19 there was \$1,492,687 assigned to the Beach Fund for "charges for services." Of this amount, \$1,085,884 was assigned to "admissions and fees."
>
>I would like to examine records which evidence a break down of this \$1,085,884 by admittee. In other words,
>
>1. The amount reflected by PPH access paid by PPHs;
>2. The amount reflected by punch card access paid by punch cards;
>3. The amount reflected by cash payment or cash payment for daily tickets;
>4. The amounts paid by every other means;
>5. The amount of contra revenue reflected by PPH access;
>6. The amount of contra revenue reflected by punch card access;
>7. The amount of contra revenue reflected as a result of any other access.
>
>Open Gov discloses \$334 of contra revenue assigned to "parcel owner allowances." I would like to examine records which break down each and every entry which goes into this \$334 number together with evidence of the bases for these allowances.
>
>Open Gov discloses \$5,119 of contra revenue assigned to "employee sales allowances." I would like to examine records which break down each and every entry which goes into this \$5,119 number together with evidence of the bases for these allowances.
>
>Open Gov discloses \$144 of contra revenue assigned to "personal services." I would like to examine records which break down each and every entry which goes into this \$144 number together with evidence of the bases for these allowances.
>
>Open Gov discloses \$6,113 of revenue assigned to "program registration income." I would like to

examine records which break down each and every entry which goes into this \$6,113 number together with evidence of the bases for this revenue.

>

>Open Gov discloses \$177,282 of revenue assigned to "rental income." I would like to examine records which break down each and every entry which goes into this \$177,282 number together with evidence of the bases for this revenue.

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>I am sending a copy of this records request to the audit committee inasmuch as staff's response to this records request is going to be the subject of future communication. So maybe staff wants to share the requested records with that committee as well.

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>Thank you for your cooperation. Aaron Katz