

NOTICE OF MEETING

The special meeting of the Incline Village General Improvement District will be held starting at **12 noon** on **Monday, November 23, 2020** in the Boardroom at 893 Southwood Boulevard, Incline Village, Nevada.

In compliance with State of Nevada Executive Department, Declaration of Emergency Directives 006, 016, 018, 021, 026, and 029, this meeting is closed to the public and attendance is limited to members of the Board of Trustees and essential staff. Public comment is allowed and the public is welcome to make their public comment either via e-mail (please send your comments to info@ivgid.org by 10:30 a.m. on Monday, November 9, 2020) or via telephone (the telephone number will be posted to our website on the day of the meeting).

- A. ROLL CALL OF TRUSTEES*
- B. INITIAL PUBLIC COMMENTS* - *Unless otherwise determined, the time limit shall be three (3) minutes for each person wishing to make a public comment. Unless otherwise permitted by the Chair, no person shall be allowed to speak more than once on any single agenda item. Not to include comments on General Business items with scheduled public comment. The Board of Trustees may address matters brought up during public comment at the conclusion of the comment period but may not deliberate on any non-agendized item.*

- C. APPROVAL OF AGENDA *(for possible action)*

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

-OR-

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

- D. GENERAL BUSINESS *(for possible corrective action)*
1. Review, discuss, (and potentially approve) a refund of overcharges of Facility Fees assessed on Parcel Number 124-82-002 in the amount of \$14,643.00 - pages 003 - 0012
- DI. FINAL PUBLIC COMMENTS* - Limited to a maximum of three (3) minutes in duration.
- DII. ADJOURNMENT *(for possible action)*

Incline Village General Improvement District

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

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

www.yourtahoeplace.com



NOTICE OF MEETING

Agenda for the Board Meeting of November 23, 2020 - Page 2

CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Wednesday, November 18, 2020 at 9:00 a.m., a copy of this agenda (IVGID Board of Trustees Session of November 23, 2020) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested; and a copy was posted at the following seven locations within Incline Village/Crystal Bay in accordance with NRS 241.020:

- 1. IVGID Building
- 2. Incline
- 3. Crystal
- 4. Raley's
- 5. Incline County
- 6. IVGID's
- 7. The Chateau at Incline Village

**SUSPENDED – STATE OF NEVADA
EXECUTIVE DEPARTMENT, DECLARATION
OF EMERGENCY, DIRECTIVES 006, 016, 018,
021, 026, AND 029.**

Anne Vorderbruggen
(Administrative Offices)
Village Post Office
Bay Post Office
Shopping Center
Village Branch of Washoe
Library
Recreation Center

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

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

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

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

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

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

MEMORANDUM

TO: Board of Trustees

THROUGH: Indra Winquest
District General Manager

FROM: Paul Navazio
Director of Finance

SUBJECT: Review, discuss, (and potentially approve) a refund of overcharges of Facility Fees assessed on Parcel Number 124-820-02 in the amount of \$14,643.00

DATE: November 18, 2020

I. RECOMMENDATION

Staff recommends that the Board of Trustees review, discuss (and potentially approve) a refund of overcharges of Facility Fees assessed on Parcel Number 124-820-02, in the amount of \$14,643.00.

II. BACKGROUND

This agenda item seeks Board concurrence of Staff's approval of a refund of Facility Fees assessed on Parcel Number 124-820-02, in the amount of \$14,643.00. The refund was authorized upon determination that the single unit, located at 325 Cottonwood Court - Unit 2, has been charged annual District Facility Fees as two units since the 2001/02 tax year.

The property owner first raised questions about the District's Facility Fee charges with the Washoe County Treasurer's Office in late August. The District was subsequently contacted by the Washoe County Assessor's Office to review an apparent discrepancy in the number of dwelling units assigned to this parcel. Formerly a duplex, the property, since 2001/02 has been reflected on Washoe County's parcel database as a duplex with one parcel consisting of one dwelling unit and the other parcel consisting of one dwelling unit and a separate shared common area.

A review of parcel records provided by the Washoe County Assessor's Office has confirmed that parcel number 124-820-02 consists of a single dwelling unit. However, the parcel has been reflected as consisting two dwelling units on the District's parcel database, and thus has been assessed two recreation facility fees and two beach facilities from 2001/02 through 2020/21 (current tax year).

This error results in an overcharge of Facility Fees of \$14,643, including \$12,044 in Recreation Facility Fees and \$2,599 in Beach Facility Fees.

Staff consideration of Refund

Upon determination of the extent of District Facility Fee charges assessed in error, Staff considered how to proceed consistent with existing Board policy related to General Manager authority, and applicable law and in particular statute of limitation considerations.

While the District has internal procedures related to various types of refunds for specific types of transactions, it is acknowledged that there are no existing Board approved policy governing refunds of Facility Fees. However, the present situation results from an error in charges assessed by the District, a situation that is commonly and appropriately handled administratively and, while not common, considered a routine matter.

Board Policy 3.1.0, as amended earlier this year, establishes General Manager discretionary spending authority at \$50,000 (reduced from \$100,000). Staff determined that the amount of the refund is well within the General Manager's spending authority.

Policy 3.1.0 also requires Board approval of ANY unbudgeted expenditure, regardless of dollar amount. In the present case, upon consultation with the District's Independent Auditor, it was deemed most appropriate to post this payment as a "debit" to the District's Facility Fee revenue account (i.e. netted against revenues collected) rather than as an expense. As this accounting treatment does not require a budget appropriation, it is not considered an unbudgeted expenditure.

In relation to consideration of the District's legal obligation to correct the long-standing overcharge of Facility Fees, the District's Interim Counsel had advised that, as a general rule, Nevada law provides for a 3-year statute of limitations. However, application of statute of limitations is not necessarily uniform in that the law takes into account many factors, including when the injured party first became aware (or should have become aware) of the harm. Regardless, any statute of limitations would only establish legal liability, and not determine District policy related to fairness and equity.

Importantly, it should be noted that the property owner has not filed a legal claim against the District, but has merely brought an apparent billing error to the attention of management. As such, the provision of Policy 3.1.0, related to claims, are not applicable.

Upon review of the fact as determined by Staff, and consideration of Board policy and potential application of state law related to statute of limitations,

management exercised its judgement that it is within Staff authority, and within the District's best interest, to approve and process a full refund in the amount of \$14,643.00.

Accordingly, a check request was prepared by the Director of Finance and approved by the General Manager and a refund check was processed with the check run of November 5, 2020.

This agenda item has been prepared at the request of a Board Trustee and the General Manager to review the matter, answer Board questions and, if deemed appropriate, seek Board concurrence with Staff's administrative handling of this matter.

III. COMMENTS

District Parcel Database Audit

While Staff has a high degree of confidence in the integrity of the District's Parcel database, the discovery of this discrepancy with the Washoe County Parcel Database points to the need for a comprehensive review. Current practice provides that on an annual basis, the Washoe County Assessor's Office and the District review and update changes to the parcel databases from year-to-year. The annual database reconciliation warrants closer scrutiny to avoid and/or catch future errors.

Absence of Board Refund Policy

Should the Board determine that a policy should be established related to refunds of overcharges, including application of statute of limitation parameters and clarification of claims, a discussion can be agendized at a future Board meeting.

Review of Board Policy 3.1.0

The circumstances surrounding this matter have highlighted the need for the Board to review sections of Board Policy 3.1.0, specifically related to General Manager authority and expectation that he/she has the ability to exercise professional care and judgement in the administration of District affairs without violating appropriate Board policy.

Attachment:
Board Policy 3.1.0



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

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

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



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

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

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



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

0.5 Rules of Proceedings.

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



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

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

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



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

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

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

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

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

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

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



Conduct Meetings of the Board of Trustees

Policy 3.1.0

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

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

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

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

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



Conduct Meetings of the Board of Trustees Policy 3.1.0

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

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