

MINUTES

REGULAR MEETING OF MAY 26, 2021 Incline Village General Improvement District

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Thursday, May 26, 2021 at 6:00 p.m. This meeting was conducted virtually via Zoom.

A. PLEDGE OF ALLEGIANCE*

The pledge of allegiance was recited.

B. ROLL CALL OF TRUSTEES*

On roll call, present were Trustees Tim Callicrate, Sara Schmitz, Matthew Dent, Kendra Wong, and Michaela Tonking.

Also present were District Staff Members Director of Finance Paul Navazio, Director of Public Works Brad Underwood, Interim Director of Human Resource Erin Feore, Director of Golf/Community Services Darren Howard, and General Manager Diamond Peak Ski Resort Mike Bandelin.

No members of the public were present in accordance with State of Nevada, Executive Directive 006, 016, 018, 021, 026 and 029.

C. INITIAL PUBLIC COMMENTS*

Dick Warren said this is a terribly concocted Budget, and it should not be approved, period. He will point out 3 examples of why it makes no sense. Pages 123/124 of the Budget Packet delineates Non-Capitalized Items included in the 2022 Capital Improvement Plan. Isn't this a dichotomy? If they are non-capitalized items, what are they doing in the Capital Improvement Plan? They should be expensed! And he understands that they were expensed. But why include them here? They should not be here! Are you deliberately trying to confuse the reader? He thinks so. Page 116 (CIP Summary Report) for 2022 shows CIP for Utilities of \$4.279M; however, Page 75 (Form 4404LGF) the Final Approved Budget column for 2022 shows \$5.216M in cash flows relating to the CIP in the Utility Fund, and page 138 (Cash Flow Statement for Utilities) also shows \$5.216M in cash flows; why the difference? And then on page 130 (CIP Report), for the Utility Fund why isn't the Carry Forward amount of \$3.241M included in Acquisition of Capital Assets shown on page 75? It is his understanding that you started with \$4.279M from the CIP Report, expensed \$612k of utility expenses shown on the Non-Capitalized Items list, and then you added only ONE Carryover project of \$1.550M, which gets you back to the \$5.216M amount. Two questions: isn't this a bit convoluted, and two, why didn't you add back the entire \$3.241M of Carry Forward items? You should have. Additionally, the Utility Fund

(page 137) includes in Charges for Services \$2M related to future projects concerning the Effluent Pipeline. That's not really a current revenue, it's more of a financing for future projects and should be shown as a Non-Operating Revenue. If the Utility Fund's Income Statement on page 137 was adjusted for this, Operating Income would go from \$36k to almost a \$2.0M loss. This is lousy accounting, and quite frankly, it seems to be almost deliberately done to confuse and mislead any reader of these financial statements. As he said upfront, this Budget must be rejected by the Board. Hey District General Manager/Director of Finance, are you ever going to address the fact that you aren't even close to breaking even in the Venues without the subsidization of the Facility Fee? District General Manager, does that cut into the good deals you give your buddies in the Venues? It certainly highlights your inability to manager IVGID properly. Thank you.

Iljosa Dobler said since her comments on 5/12 were not included on the live stream for a while, she wants to repeat a portion of her comment. Most important, she stated that under Board Practice 13.2 regarding Capital Expenditures, District General Manager Winqest chose to ignore the Trustees responsibilities to award and execute design contracts for the Recreation Center lobby bathrooms. Also he asked Trustees to approve a construction contract exceeding \$50,000 prior to Trustees accepting regulatory permit conditions. Trustees Dent and Schmitz brought this up during this May 12th meeting. District General Manager Winqest attempted to trivialize their request by asking if the Trustees wanted every project brought to them even if it's \$ 500. This is not a \$500 project, but far from it. The revised estimate is over \$222,000. Trustee Wong chimed in that it was necessary to be done as quickly as possible since the lobby bathrooms were small and difficult to maneuver. Not a good reason to bypass this practice. Our Director of Public Works helped clarify the project at this time and informed us of the ADA upgrades that would be done with any new construction and due to that, they will eliminate one stall making the remaining ones wider and easier to navigate. There's no doubt in her mind that District General Manager Winqest was familiar with this Board Practice since he followed it in the past for projects such as the Burnt Cedar Pool, Tennis Center clubhouse, Mountain Golf Center clubhouse; to name a few. A threshold of \$50,000 is already established in Board Practice 13.2, so Capital projects over \$50,000 must be brought to the Board for approval. Why not this one? Until you have a new Practice, you follow this one, period. There is no ambiguity. On another matter, referring to page 186 of the Board Packet, note that in Resolution 1889, approving the collection of the Recreation Standby and Service charges, that item 4B of the resolution fails to include the Parks and community programs. These 2 venues are almost fully supported by this Stand-by Fee. So, why are they not mentioned?

Cliff Dobler submitted his written comments which are attached hereto.

Frank Wright said he is wondering if anybody that has power to run our District reads our Board packet. On agenda packet page 191 there is an outline of how we are going to give the beaches away to various groups. This is in violation of the beach deed and assigning this authority to the District General Manager. Being on the GM's Ordinance 7 Committee, it doesn't come up. We see them later on which is unconceivable. We are supposed to be making policy about how the access to our venues is given, there is a free for all, and our Board has lost all power. The Board needs to take back control. Slipping it in the Board packet, the Board will approve, and then District General Manager will do whatever and he can't because it is in violation of the beach deed. We give away so much to those that don't pay. What is the purpose of the Board and the Board packet if it is not read? When will it be pointed out to you? This is insane. The Board is supposed to be our watchdogs and oversee, he doesn't think that happens and it just keeps on coming at you. Eventually, someone will come in and clean it up. We are residents and we are paying for it. Where is our money going – free food, lawyers, lobbyists. Who is overseeing this and when is the Board going to say enough is enough?

Aaron Katz said he is against the budget and wants his e-mail attached to the minutes.

Judith Miller said she just wanted to restate her problem with having the central services cost allocation plan looking just like it has looked in prior years or pretty much like it has. The reason she brings this up is because she thinks it throws off everything. When you use a simplistic, she is sorry but the word simplistic is accurate, plan to distribute these costs, you are getting a very inaccurate estimation of what these costs are for the venues. And when you are not including all of the central services, you are doing the same thing. How can we possibly determine whether or not the services provided are done so in the most efficient way? We can't compare them to any other service because they are not all there, they are not accurately distributed. When you base HR costs just on full time equivalents when you have a Staff that could consist of almost 8 times or 4 times as many part timers, no, it is probably 8 times as you have 100 full time and you have 1,000 employees so you have a lot of part time employees. Those take quite a bit of time to process. 2 part time employees is probably a lot more processing time than 1 full time even though they don't have all the associated benefits. The other thing is the estimating the accounting. Because again when you just say okay it is based on services and supplies, that is not an accurate measure. Get some real world measures and it doesn't necessarily have to be an expensive consulting job and she thinks our new Controller is familiar with central services cost allocation and she thinks the Director of Finance is too. Maybe Moss Adams came up with their determination too late in the year to change it but going forward, this really needs to change. We need accurate central services cost allocations that include all costs that should be distributed to the enterprises. Thank you.

D. APPROVAL OF AGENDA (for possible action)

Chairman Callicrate asked for changes to the agenda; no changes were requested; the agenda is approved as submitted.

E. REQUIRED PUBLIC HEARINGS*

E.1. REQUIRED PUBLIC HEARING ON THE DISTRICT'S OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS, FISCAL YEAR 2021/2022 (this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)

Trustee Tonking made a motion to open the scheduled public hearing on the District's Operating and Capital Improvement Program Budgets, Fiscal Year 2021/2022. Trustee Dent seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

Director of Finance Navazio, when asked, stated that the District complied with the required notices. Director of Finance Navazio gave a verbal overview of the submitted materials. Chairman Callicrate opened the matter for comments from the public.

Frank Wright said again we are proposing to approve something that really doesn't include everybody in this community. The people in Crystal Bay don't have a park, they don't really have any kind of amenities, they have nothing that they are getting for their Rec Fee and even if they do get something, it costs more than it should. So he would suggest that maybe the Board take a look at what it isn't in the budget and what isn't in there for capital improvements and what needs to be in there and then come back to the Board, the General Manager and Staff and tell them you need to change the way you do things but the chance of that happening are slim and none but he would like to see maybe there's a chance.

Aaron Katz said but he is confused, is this the public hearing on the budget or on the Rec Fee. Chairman Callicrate said that this is on the budget. Mr. Katz said he was confused because he couldn't get in before and he gave public comment on the budget and he did not give public comment on his public comment – can he give public comment on his public comment now? Chairman Callicrate said go ahead since you were confused as that is fine. Mr. Katz said okay and that he hopes that the clock starts now. Since the failings of the last 50 years are being repeated tonight, all of this talk, from the Board about

bringing a fresh new approach to our problems or rectifying the problems we have had in the past is nothing more than talk. Trustee Tonking is just another version of Peter Morris and Bruce Simonian and he is asking her to take a fresh new approach which is what she represented she would do. The reasons for all of this are because you Board members don't understand what a GID is all about. You don't understand how it differs from a true municipality so you make decisions as if you were providing for the health, safety and welfare of our community when you have no power to do that. That's the power of the county. If you were supposed to do that, you would have been granted the power, you never have. So you refuse to understand the GID's provides services to property not to persons. You refuse to understand that your number 1 obligation is to property owners not to people. You aren't here to provide for the community health and safety. Take a look at NRS 318.201 which is going to deal with the Rec Fee. It specifically states that you are to collect fees that deliver benefits to property not to persons yet what you are doing is proposing to adopt a Rec Fee that provides benefits to people. What benefits to people? You are the ones that told us that you get 5 picture passes or punch cards for your Rec Fee and those are not redeemable by property, they are by people. You refuse to take the side of the property owner. Whenever there is a dispute with Staff, 2 of you don't even have standing to make decisions on community issues for property because you are not property owners who don't pay the Rec Fee. But don't confuse him with the facts, just do because the ends justify the means. He reminds you that 2/3's of the property owners can't vote or against Trustees, you refuse to meaningfully survey property owners as to projects they want like the beach house. Whenever have you ever asked property owners if they are willing to pay \$3.5 to \$5 million for the beach house and increase your Rec Fee to \$680 just for the beaches? Of course you haven't so how can you expect to know what they want. Until you start acting responsibly you can't expect to make responsible decisions; please act responsibly for once. Thank you.

Hearing no further public comments, Chairman Callicrate asked for a motion to close the public hearing.

Trustee Tonking made a motion to close the scheduled public hearing on the District's Operating and Capital Improvement Program Budgets, Fiscal Year 2021/2022. Trustee Schmitz seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

E.2. REQUIRED PUBLIC HEARING ON THE REPORT FOR COLLECTION OF RECREATION STANDBY AND SERVICE CHARGES, FISCAL

YEAR 2021/2022 *(this public hearing will be held no earlier than 6:00 p.m. and as soon thereafter as practicable)*

Trustee Tonking made a motion to open the scheduled public hearing for Collection of Recreation Standby and Service Charges, Fiscal Year 2021/2022. Trustee Schmitz seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

Director of Finance Navazio, when asked, stated that the District complied with the required notices. Director of Finance Navazio gave a verbal overview of the submitted materials. Chairman Callicrate opened the matter for comments from the public.

Frank Wright said he wanted to ask a couple of questions – standby service charge for recreational ability for the parcel owners – so you are saying it is for his recreation and we have a standby service charge for recreation. We don't know what a standby service charge is because you are supposed to provide something to the people who live here who are paying it. So let's see, does Tri-Strategies fit under that qualification for recreational venue – no. Does the land under the Parasol building that we spent all that money for and we rent it to them for \$1 per year – does that fit under the recreational standby service charges – no. Does the maintaining of public parks or County parks at the end of Village or Lakeshore, both ends of Lakeshore, does that count as a recreational ability for him – no. Do we get recreation from the paving Tyrolian Village's road to their units – no. So why do you lie? Why is this a lie that is perpetuated year after year after year after year? If you charge the people who live here for their recreation, the costs wouldn't be anywhere where they are. But when you start taking and using this money for other things other than for the recreation of the people living here and he has got another one for you – he doesn't think that the amount of money that is being spent for maintaining the lawns and grass are anywhere near what you are charging for because he thinks you are also comingling the beaches with the other assessment and he doesn't think you have any kind of accurate measurement tool. So again, the standby recreation fee is a lie. Everything you do is a lie and it has been a lie for a long time. When is this Board going to say wait a minute, how are we providing the residents of this community recreation when we are lobbying for stuff, you can't hire lobbyists, lobbyists aren't something that are a part of anybody's recreation. Now how about lawsuits Trustee Wong? Why are we covering your inability to give public records? Massive lawsuits but we don't stop there we have got to go to Mark Smith's lawsuit too don't we? That is still going on and you are still trying to keep the public records from becoming

public. What is in there that is part of his recreation? What is in there that you are hiding? Unbelievable, do your job Board. Thank you.

Aaron Katz said he submitted an e-mail he wants added to these minutes and wanted to know if his questions were going to be answered because you can't pass this resolution. There is a section that states that amounts are required but at the May 5 meeting, Trustees Dent and Schmitz very clearly stated that no amounts are required so why are you adopting a report that is a lie? This is the same kind of lie you did on the budget report. Resolution states that the rec and beach fees are standby service charges which they are not. The only reason for their labels is because the ends justify the means. What evidence do you have that it is a standby service charge? He asked for that and you provided nothing. He has provided evidence that millions of expenses do not pay to make recreation facilities available for his use. Yet they are paid for and in the short for are covered by the rec fee. He challenges the number of assessed parcels which would lower the rec fee for everyone but Staff has ignored him. The report and the resolution both have parcel owners as a right to seek a refund yet the process stated in the resolution doesn't allow for refund so he has asked the Board to adopt an administrative procedure that is fair that provides for a refund; he has been ignored. NRS 318.015 states that the beach fee cannot be adopted to develop private property. 3 court cases have determined that the beaches are private, Trustees Wong and Callicrate have stated on the record that the beaches are private so what is the authority for the beach fee to develop private property? Isn't the Burnt Cedar pool development of property? What about the beach house you want? What about the bathrooms at Ski Beach? These are all development. The beach deed restricts access that Section 1.F. of the report gives away to favored groups that aren't entitled to beach access – why? And why would you ever approve it? The only solution is to force Staff to operate within its means and if that means eliminating the IVGID Quarterly or legislative lobbyists or Communications Coordinator or \$1 million worth of marketing or getting rid of the freebies, that's what you need to do.

Yolanda Knaak thanked the Board for lowering our fees that we pay on our taxes every year and said that she appreciates them going from \$830 to \$780.

Hearing no further public comments, Chairman Callicrate asked for a motion to close the public hearing.

Trustee Wong made a motion to close the scheduled public hearing for Collection of Recreation Standby and Service Charges, Fiscal Year 2021/2022. Trustee Tonking seconded the motion. Chairman Callicrate called the question and the motion was passed unanimously.

F. DISTRICT GENERAL MANAGER UPDATE (for possible action)

District General Manager Winqest gave an overview of his submitted report. Following are the highlights:

- Had a meeting with the United States Forest Service regarding the parcel across the street from the high school that ended with him being very pleased and optimistic and with both parties working through next steps of issuing the special use permit.
- Strategic plan will be on the agenda on June 9. Feedback will be presented at that same time to the entire body.

Trustee Schmitz asked for an update on the Ordinance 7 survey and that she wanted to share with fellow Trustees that she was grateful to have this opportunity to review the District's Strategic Plan and asked that the Board of Trustees consider adding another section called Administrative because there are a lot of Information Technology incentives which would be objectives for the District and then asked the District General Manager to potentially considering adding that Administrative section. District General Manager Winqest said Staff will include that idea as feedback on June 9. District General Manager Winqest gave a brief update on the General Manager's Ordinance 7 Committee activity to date and noted that the survey launch date was to be May 28 but that he may push it out but that he is going to send out the draft survey to the Board. It is a parcel owner survey that the committee has worked hard on. Trustee Tonking said, regarding the survey, are we sending out in both English and Spanish and are you trying to keep it open for a period of 21 days or until you achieve a certain percentage or are you closing it on a specific target date? District General Manager Winqest said that the committee felt like 21 days was enough and that we can hold it open as we are looking for 20-25% response but we are hoping to hear from as many people as we can. We will also have hard copies available at a variety of locations. There is no reason to be in any hurry on this survey. We will keep you posted on the progress of the survey.

G. REVIEW OF THE LONG RANGE CALENDAR (for possible action)

District General Manager Winqest went over the long range calendar. Trustee Schmitz said she will be out of town on June 9 so she can attend but not in person. Trustee Wong said on July 29, she will be traveling and unable to attend. Trustee Tonking said she is gone the week of July 26. Chairman Callicrate said so let's have one meeting, mid-July, and then we usually only have one meeting in August. District General Manager Winqest said Staff will try to hold that meeting on July 21 and that Staff may ask to call a special meeting for Ordinance 7 sometime in July. Trustee

Schmitz asked about a detailed financial review of the Utility Fund as we are using funds that have been set aside for the effluent pipeline so we need to understand the financial situation on the Utility Fund at an upcoming meeting. Trustee Wong asked that the Board Chairman let her know when the discussion about removing Mr. Dobler from the Audit Committee will be scheduled. Chairman Callicrate said he will discuss that with Trustee Wong as no decision has been made on that topic and, yes, the whole Board will be informed. Trustee Tonking asked that the Board revisit Policy 3.1.0 regarding Staff time and amend it to address that issue. Chairman Callicrate said we need to have some type of template to address them holistically and perhaps that would be once a quarter so we can attack a couple at a time.

H. GENERAL BUSINESS (for possible action)

H.1. Review, discuss and possibly Approve Fiscal Year 2021/2022: Budget, Capital Improvement Project Budget, Recreation Facility Fee, Beach Facility Fee and Central Service Cost Allocation (Requesting Staff Member: District General Manager Indra Winquest and Director of Finance Paul Navazio)

- a. **Review and approve the Central Services Cost Allocation Plan for Fiscal Year 2021/2022 allocating a total of \$1,546,624 in costs from the General Fund to the Utility Fund, Community Services Funds and Beach Fund;**
- b. **Review and adopt the proposed Fiscal Year 2021/2022 Recreation Facility Fee of \$100 per parcel/dwelling unit and the Beach Facility Fee of \$680 per parcel/dwelling unit;**
- c. **Review and approve the Incline Village General Improvement District's Final Operating Budget for Fiscal Year 2021/2022 (Form 4404LGF) as prescribed by the State of Nevada Department of Taxation, and authorized positions; and**
- d. **Review and approve the Incline Village General Improvement District's Capital Improvement Project Budget for Fiscal Year 2021/2022**

District General Manager Winquest gave a brief overview of the submitted materials. Director of Finance Navazio went over the submitted materials and did so via a PowerPoint presentation which is incorporated herewith by reference.

Chairman Callicrate called for a break at 8:00 p.m.; the Board reconvened at 8:11 p.m.

Chairman Callicrate thanked Director of Finance Navazio for his presentation and especially the next steps slide which was very informative. Trustee Schmitz said regarding carry forward, agenda packet page 110, and then agenda packet page 130, looking specifically at carry forward for the Effluent Pipeline, on page 130, has \$11,536,000 but on agenda packet page 110 it is only carrying forward the \$2 million; can you please explain? Director of Finance Navazio explained that the larger number is reserved/restricted within the Utility Fund, not in the current year budget, and will be appropriated once we come up with a spending plan. Trustee Schmitz said thank you for the very thorough presentation and what we are doing going forward. Trustee Dent said on agenda packet page 75, Utility Fund, at the end of next fiscal year, we are showing \$1.7 million but saying we have \$11.8 million for the Effluent Pipeline? Director of Finance Navazio said that is included the budget and in the acquisition of capital assessments – we are spending some of the money in this budget for pond lining, \$3.5 million is actually being appropriated and that Staff will bring back the Utility Fund for full review. Trustee Tonking said thank you for answering all her questions and stated that the Director of Finance did a great job addressing some of the public comments made today. Trustee Wong said she is good with the budget and that all of her questions were answered. Trustee Dent said with next year's budget, he would like to recommend for Staff and the Board, that we have our budget workshop prior to filing our tentative budget; perhaps in April. District General Manager Winqest said that is a great idea and we will have that discussion very early on. Director of Finance Navazio said we have had a number of workshops, both this year and last year. The Recreation and Beach Facility Fees were late and we should move that up in our calendar. Trustee Schmitz said if we could all look at agenda packet page 33, consider for D., request that consider 2021/2022 final capital budget summary, which was page 38 of the Director of Finance's presentation; that this form will tie to the 4404 form and ties to the individual venue budgets. Director of Finance Navazio said the intent is to exclude those items that have expensed. Chairman Callicrate asked, if we were to modify to incorporate page 38 of the Director of Finance's presentation, are there any legal ramifications or alter what we are doing? District General Counsel Nelson said from, an open meeting law perspective, it is legal from that perspective. Chairman Callicrate said ok and that he will leave it up to whomever wants to make the motions for the Board.

Trustee Schmitz made a motion to:

- a. Approve the Central Services Cost Allocation Plan for Fiscal Year 2021/2022 allocating a total of \$1,546,624 in costs from the General Fund to the Utility Fund, Community Services Funds and Beach Fund;
- b. Adopt the proposed Fiscal Year 2021/2022 Recreation Facility Fee of \$100 and the Beach Facility Fee of \$680;
- c. Approve the Incline Village General Improvement District's Final Operating Budget for Fiscal Year 2021/2022 (Form 4404LGF) as prescribed by the State of Nevada Department of Taxation, and authorized positions; and
- d. Approve the 2021/2022 Final Capital budget summary highlighted on agenda packet page 38 of Director of Finance's presentation to the Board of Trustees.

Trustee Dent seconded the motion. Chairman Callicrate asked for further comment, receiving none, he called the question and the motion was unanimously passed.

Director of Finance Navazio thanked all of the Staff who got us here. Chairman Callicrate agreed and hope that next year's process can be tightened up and shortened.

H.2. Review, discuss and possibly approve Resolution Number 1889: A Resolution Approving the Report for Collection, on the Washoe County Tax Roll, of Recreation Standby and Service Charges per parcel of \$780 with beach privileges and \$100 without beach privileges, Fiscal Year 2021/2022 (Requesting Staff Member: District General Manager Indra Winquest and Director of Finance Paul Navazio)

Director of Finance Navazio reviewed the submitted materials and noted that one modification to the resolution language, which he shared with the Board, is that the resolution will be modified to mirror the one that preliminary approved the fees. Director of Finance Navazio said that we are substantially complete with our parcel audit and will be working with Washoe County to work out the identified differences. Trustee Schmitz said that there was a comment, made in public comments, regarding paragraph B., such that it excluded Parks. Parks doesn't belong in that paragraph and that she wanted to confirm that she wasn't misunderstanding that paragraph. Director of Finance Navazio said that he

would concur with that understanding. District General Manager Winqest said he too concurs. Director of Finance Navazio said it should be approved as shown; District General Counsel Nelson said that he too concurs. Trustee Schmitz said, on agenda packet page 188, the document is called “Procedure for Collection under NRS 318.201”, there is a paragraph on agenda packet page 191, paragraph F., and that she is recommending that we strike paragraph F. as it talks about access to the beaches which is incorporated into Ordinance 7 or another resolution. She also stated that she knows that it has been there for years however it has nothing to do with collection and thus she is recommending that it be removed. Director of Finance Navazio said that agenda packet page 181, intends to do two things – (1) billing and collection process and (2) establish method of collection but neither of those impact what Trustee Schmitz is recommending. District General Manager Winqest said he has no issue with striking it. In response to the public comment made about this topic, he hasn’t opened up the beaches and it is not something that we practice. Should we have a request like that, it would go in front of the Board of Trustees. Chairman Callicrate said it belongs in Ordinance 7 so he has no issue in removing it.

Trustee Schmitz made a motion to approve Resolution Number 1889 with language corrections to correspond with Resolution 1887 that is dated May 5, 2021: A Resolution Approving the Report for Collection, on the Washoe County Tax Roll, of Recreation Standby and Service Charges per parcel of \$780 with beach privileges and \$100 without beach privileges, Fiscal Year 2021/2022 and with paragraph I.f. stricken from the attached report. Trustee Wong seconded. Chairman Callicrate asked for further comments, none were received, so he called the question – the motion was passed unanimously.

H.3. Review, discuss and possibly approve Resolution 1885: Policy and Procedure Resolution No. 140, Resolution Number 1885, An Emergency Resolution to amend Resolution Number 1884 to temporarily limit employees’ access to the beaches, located in Incline Village, Nevada known as Incline Beach, Burnt Cedar Beach, Ski Beach and Hermit Beach (Requesting Trustees: Sara Schmitz and Matthew Dent; Presenting Staff Member: District General Counsel Josh Nelson)

District General Counsel Nelson gave an overview of the submitted materials. Chairman Callicrate said he would like to have an independent property rights attorney or an attorney of that nature go in and thoroughly vet the beach deed to settle some lingering questions that seem to be out there. He respects District

General Counsel's opinion but would like to have a third party, who is an independent party, take a look at this and noted that he is trying to strike a middle pose here. District General Counsel Nelson said this is something that he and the District General Manager have discussed and it would be of value to explore; the question was when would be the appropriate time? You can have that review as a part of Ordinance 7 and that would be the most efficient time to do that action and that is just one thought. Chairman Callicrate said that there are a lot of issues surrounding this, employee retention being one, and that it is hard to keep the service level that we have as we don't have a huge pool of people to come up and work here. The precedent that was set was done thirty some years ago. He would like to have a legal expert weigh in and get this answered definitively. Trustee Dent said he understands wanting to look at this from a legal perspective and that he is trying to understand where you are going. He is all for having an attorney do this and do so in the fall so he is trying to understand where Chairman Callicrate is coming from. Chairman Callicrate said he is talking about the temporary situation as we are going into peak season and he doesn't know if this will impact our staffing but he knows that we aren't fully staffed. He is trying to find a way to have our emergency resolution and he would like more immediate feedback from an independent attorney and limiting employees. Trustee Schmitz said that this is not about limiting employees, it is about no guests and that this is only about not bringing guests. Chairman Callicrate said it is a volatile situation but that he would like an independent lawyer to weigh in. Trustee Wong said based on what is in the packet, it does take access to on call employees therefore Chairman Callicrate is right and Trustee Schmitz is wrong. Chairman Callicrate said that we are limiting the access to the employees and it needs clarity. District General Counsel Nelson said as proposed on call employees would not have access and all others would keep access but not be able to bring guests. Trustee Schmitz said procedurally how is it that employees bring guests? Procedurally how it is handled, what do they pay and is there a limit? District General Manager Winquest said employees that bring guests and pay the applicable rate so no guests are free. There is no limit on the number of guests they can bring. The impact would be if you have grandkids because they aren't classified as spouse/dependent. Trustee Wong said she wants to circle back to Chairman Callicrate's original comment, thank you for making, as she too has similar concerns especially as it relates to employee morale, recruitment, and retention. It is a prudent move to get another opinion and to get that opinion before we make any changes. If we are going to make changes to employee benefits, it should be a part of larger conversation, and there should be a conversation with our employees before at a Board level. Chairman Callicrate said these are verbal contracts or are parts of the package of benefits. He doesn't want to get us into the situation of a promise that is taken away. If these

are not to be continued in the future, and that is based on legal feedback, then fine. But until we get that feedback, he is hesitant to move forward with these changes. He is fine with the initial resolution but don't want to move forward with these restrictions until he hears from legal. Trustee Tonking said she has a conflict of interest so she won't be voting. Trustee Wong said we should not vote on this item, seek advice from a separate legal counsel who has property rights expertise, and do so with the Ordinance 7 discussion. Chairman Callicrate asked District General Counsel Nelson if a motion was needed or could the Board table this item until next Board meeting without effecting the emergency resolution. District General Counsel Nelson said we can have a motion to pass or a motion to table and that legal counsel will need to be a separate agenda item. Further, he would appreciate if the motion would provide clarification on timing – do now or do with Ordinance 7. Trustee Dent said he was all for going in that direction when we dive into Ordinance 7 but feels like this is two separate issues as this has to do with COVID. If the Board isn't interested in doing that, this won't pass. He won't make a motion if it is dead on arrival. Trustee Schmitz said when this came up, Trustee Dent had his perspective and where she was coming from was specific to COVID. Our parcel owners have been asked to make changes and have some procedures changed for them and she was concerned about the beach deed and access to the beach. We starting talking about non-resident employees at the beach and that this language was a compromise, was the direction that the majority was comfortable with, the root was having all of us feel a little bit of the pain as all of us are in this together, and asking Staff to make a compromise and the other side was the beach deed. If what we need to do is get Ordinance 7 input, do the survey, and let legal weigh in, as the intention was not to punish Staff, rather it was COVID and beach deed related. She agrees a motion is dead on arrival. It is wise to get legal advice and at this point, it is what it is, we are not moving forward. What do we want to move forward with has been pretty clear. District General Manager Winquest said we have received direction about third party counsel at a minimum for non-resident employee access and if there are other things we want them to look at, he will discuss that and timing with the Board Chair. District General Counsel Nelson said, regarding the third party legal review, it will depend upon the scope and there are a couple of options we can talk about and if it is just an opinion, it could be thirty days but we can make sure it fits with the schedule. Trustee Wong asked for a timeline on Ordinance 7 for us to review which will help us with looking at the future and help the public understand what is coming up. Trustee Schmitz said that is a great suggestion and could we put that on our long range calendar? District General Manager Winquest said we can't do for June 9 and that right now the plan for Ordinance 7 is a presentation with recommendations in July and then the Board will be deliberating for 10-12 weeks.

I. MEETING MINUTES (for possible action)

I.1. Meeting Minutes of April 29, 2021

District Clerk Herron said that on agenda packet page 227, near the bottom, Trustee Wong has asked that the words “racist and sexist” be revised to “homophobic and sexist”; those changes have been made and if accepted, the minutes will be reposted to the website. No Trustee objected to the change and the minutes were approved as amended.

J. FINAL PUBLIC COMMENTS*

Yolanda Knaak said she wanted to thank everyone for their hard work and do want to just mention that Cliff Dobler has been a great asset to the Audit Committee and she knows everyone makes mistakes and says something goofy and she doesn't personally think he should be removed from the Audit Committee.

Aaron Katz said he wanted to go to the Director of Finance's explanation of the General Fund because he doesn't think it was accurate. The Director of Finance stated that he didn't reflect the loss of property tax revenue because it will be paid by an excess fund balance – this is not true. The County is going to reduce the tax revenues that IVGID receives by the amount of the tax refund i.e. he can't read. Maybe the loss will be offset by transfers from the excess fund balance but there is going to be a loss of revenue nevertheless and that's not demonstrated at all on the financials. Now look at the fund balance of the General Fund at agenda packet page 61. Beginning fund balance is estimated at \$5.16 million with no indication of a reduction for the property tax refund. In contrast, look at the expenses of the General Fund, agenda packet page 62, there we see a \$100,000 contingency expense. Now Staff doesn't tell us what this is for but he believes it to be future Mark Smith litigation cost so why no similar contingency for the loss of property tax revenues? No one other than the Director of Finance knows there is going to be a \$1.36 million reduction in the fund balance and he is sorry but that is not being honest depicting what is going on in the General Fund. The public wouldn't have a clue that there is going to be \$1.36 million less in the General Fund had people like him not raised the issue and it's not our job to raise the issue, it is the Director of Finance's job to accurately depict what he knows is going to be the revenue in our funds and he has not done his job. He is sorry and thank you very much for considering.

K. ADJOURNMENT (for possible action)

The meeting was adjourned at 9:18 p.m.

Respectfully submitted,

Susan A. Herron
District Clerk

Attachments*:

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

Submitted by Cliff Dobler: Public Comment 5-26-2021 with exhibit A

Submitted by Aaron Katz: Agenda E(2) – Public Hearing on the RFF/BFF For 2021-22

Submitted by Aaron Katz: Written statement to be included in the written minutes of this May 26, 2021 regular IVGID Board meeting – Agenda Items E(2) and H(2) – Opposition and protest to proposed Resolution 1889 approving report adopting 2021-22 Recreation (“RFF”) and Beach (“BFF”) facility fee(s) and electing to have them collected by the Washoe County Treasurer on the County tax roll

From: Cliff Dobler

I request my written statement be included as correspondence in the minutes of this meeting.

I think it would be worthy to provide some historical data on the Diamond Peak Ski resort as it relates to past budgets and actual revenue and expenses. We learn from history. From studying history we can very simply see how wacky the proposed budget is for next fiscal year.

For the five year period from 2016 to 2020 Revenues exceeded the budgets by 29% or \$11.9 million or \$2.4 million per year. Related expenses exceeded budgets by only 5% or \$1.7 million or \$340,000 per year. So for every extra dollar of revenue, expenses were only \$14 cents. Money flowed into the coffers of IVGID.

During this past season of 2021, Revenues hit the budget dead on but remarkably expenses were 25% less than budget and \$2,000,000 was not needed. Good job being able to achieve budgeted revenues with 25% less in expenses. Why? We should find out. We know approximately \$225K in advertizing was severely axed and apparently was well worth it. Diamond Peak never needed advertizing. The reasonable ticket and pass rates is the advertizing. Could it be that various ancillary services are just not needed?

Now comes next year's budget.

It seems management has decided that revenues can only be increased by \$800,000 over the historical 6 year average. In order to accomplish this minor revenue increase management needs an extra \$2.1 million in expenses over last season's estimate.

So for every dollar of increased revenues it will take \$2.68 in expenses. Is this good business? Budget a minor increase in revenues to make less? \$225K for advertizing is back in the budget.

The gross margin defined as operating revenues less operating expenses will only be \$2.7 million far below the 6 year average of \$3.5 million. Last season with COVID, masks, distancing, extra costs and every other inconvenience the gross margin was over \$4,000,000 highest ever.

The budget assumes 130,000 visits which is only 3,000 more visits than last season. So for each additional visit \$700 extra will be spent on expenses.

Conclusion - The budget for this venue should not be approved. In my opinion, based on history revenues are set too low and expenses are set too high. From 2016 to 2020 property owners have been assessed over \$9.8 million in Facility Fee which was never needed to operate the various Community Services venues (which includes Diamond Peak). It is unconscionable not to review recent history and develop a reasonable budget for Diamond Peak .

EXHIBIT "A"

**Incline Village General Improvement District
Diamond Peak Ski Resort**

Summary of Revenues, Expenses compared to original budgets

OPERATIONS ONLY - NO CAPITAL PROJECTS OR DEBT SERVICE COSTS

Fiscal Year	Revenues - Charges for Services		Operating Expenditures		Operating Margin	Expenses Percentage of Revenues		
	Budget	Actual	Budget	Actual				
2016	6,498,000	10,202,972	5,602,106	6,441,024	3,761,948	63%		
2017	7,482,600	11,326,968	6,228,251	6,810,598	4,516,370	60%		
2018	8,268,215	9,155,646	6,701,155	7,024,327	2,131,319	77%		
2019	8,915,000	11,778,871	7,353,714	7,830,948	3,947,923	66%		
2020	9,222,300	9,781,499	7,565,368	7,011,524	2,769,975	72%		
	<u>\$ 40,386,115</u>	<u>52,245,956</u>	129%	<u>33,450,594</u>	<u>\$ 35,118,421</u>	105%	<u>\$ 17,127,535</u>	67%
Five year average	8,077,223	10,449,191		6,690,119	7,023,684		3,425,507	67%
2021	Estimated actuals	10,186,735	10,165,250	8,075,342	6,084,214	4,081,036	60%	
2022	Budget	10,958,399		8,214,784		2,743,615	75%	
		5% increase from average actuals		22 % increase from average actuals				

2022 Increase from 2021 \$ 793,149 for revenues \$ 2,130,570 for expenses

TO OBTAIN ONE DOLLAR IN EXTRA REVENUES IT REQUIRES \$2.68 IN EXPENSES

DOES THIS MAKE ANY SENSE?

FOR EVERY DOLLAR RECEIVED IN EXCESS OF THE BUDGET OVER THE PAST FIVE YEAR PERIOD THE COST TO DELIVER THE EXCESS REVENUE WAS ONLY 14 CENTS

Revenues exceeding budget for the five year period	\$ 11,859,841
Expenditures exceeding budget for the five year period	\$ 1,667,827
Cost per dollar of excess revenues	\$ 0.14

Sources - 2016 to 2020 CAFR
 Diamond Peak end of season update provided to Board on 5-7-2021
 Diamond Peak budget for fiscal 2021 provided to Board on 5-7-2021

Other data Tickets and Season Passes are 50% of revenues For 2021 Revenues were 29% higher than budget
 F&B, Ski & Ride Center, Child Ski Center, Equipment Rental are 50% of Revenue For 2021 Revenues were 29% lower than budget

Herron, Susan

From: s4s@ix.netcom.com
Sent: Wednesday, May 26, 2021 12:40 PM
To: Info_at_IVGID
Cc: Tim Callicrate; Matthew Dent; Wong, Kendra; Michaela Tonking; Sara Schmitz; Winquest, Indra S.
Subject: Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

The agenda for tonight's public hearings/board meeting states that members of the public may make comments via e-mail to this address by 4 P.M. this afternoon. So I am making a couple of comments I trust the attorney will address this evening.

A. The proposed Report on the Collection of the RFF/BFF (pages 188-193 of the Board packet) which proposed Resolution 1889 seeks to adopt states matter of factly that the RFF/BFF are "recreation standby...charges" for the availability to access and use the District's public recreational and private beach facilities, and involuntary "recreation...service charges." I would like to hear Mr. Nelson's explanation of what facts support the conclusion the RFF/BFF represent these charges? Because I and others I know are of the opinion the RFF/BFF DON'T represent these charges.

In support, I've created a number of past expenditures staff have made with past RFFs/BFFs which are not these charges:

1. Appearance Fees (\$5,000/each) to Tennis Professionals For a Tennis Center Event Open to the Public at No Charge;
2. Fourth of July Fireworks (we used to donate \$10K annually);
3. Litigation Fees. Not just defending Frank Wright's, Steve Kroll's, Aaron Katz's and Mark Smith's lawsuits, but prosecuting litigation against Kevin Lyons;
4. The \$100K "contingency" in the proposed 2021-22 budget assigned to the General Fund reflecting additional litigation fees/possible settlement in the Mark Smith lawsuit;
5. Litigation settlement fees (the \$10K contribution to "we the people");
6. Court Mandated Ad Valorem Tax Refunds. The previous refunds were reflected as "extraordinary expenses" under where does your RFF go, for three (3) years. The current refunds will create a shortage in the District's General Fund which will have to be made up from somewhere assuming staff do not cut their overspending. And that shortage will be made up from disingenuous "central services costs" charged in part to the RFF and the BFF;
7. Private Memberships in Third Party Golf Organizations. I previously provided evidence that IVGID paid for private golf club memberships in the NCGA. Although staff claimed the costs of those memberships were reimbursed, they have refused to provide any written evidence of the same notwithstanding I have asked to examine that evidence. So until staff comply, the private memberships have NOT been reimbursed;
8. Employee Meals Because They've Had a Tough Week (or Season). Or it's someone's birthday. Or someone's going away party. Or someone's welcome on board party. Or you select the improper reason whatever it may be;
9. Vendor Meals and Entertainment. You remember when our staff to SE Group principals out to a \$200 dinner at the Lone Eagle Grill. How many more of these meals and entertainment have staff made/propose making with our RFF/BFF?
10. Consultant Fees For Recreation Master Plans. You know, the plans which come up with a generic wish list of capital improvements which you and I could have come up with in half an hour if we sat around a table and threw out wish list recommendations. And BTW, how did the Global Golf Advisors plan work out given we've ignored most of the recommendations? Or the DPMP which is now 8 years old and we're no closer to doing anything than we were 8 years ago - and the timing was so critical for that plan, wasn't it?
11. Memberships in Dozens of Meaningless Third Party Organizations like the Bear League, STOKE and almost POW;
12. Defensible Space Expenses to Protect the Visitors and Guests to Incline Village. Know these efforts are not targeted to protecting IVGID's recreational facilities from catastrophic fire. They're targeted to creating a halo surrounding IV and CB to protect EVERYTHING including "things" belonging to those who don't pay the RFF;
13. The giveaway of approximately 2.3 acres under the Parasol Community Center restricted to recreation and park purposes only. \$1/year for up to 99 years;
14. The giveaway of approximately .5 acres under the Visitor's Center building restricted to recreation and park purposes only. \$1/year for up to 99 years;

15. Maintenance and upgrades to the Reno-Sparks Visitors' and Convention Authority's park adjacent to the Visitor's Center;
16. Maintenance and repair of the two Washoe County parks at either end of the intersections of Lakeshore Blvd. and State Highway 28. Since at least 1994, if not before;
17. Maintenance, upgrades and use of the athletic fields for the Washoe County School District's Middle School's physical education programs - i.e., Incline Park;
18. Maintenance and repair of the WCSD's upper high school athletic field. Staff claims IVGID owns this field. But it does not. Staff claims its costs are reimbursed by the WCSD. But the reimbursement amount is insufficient to cover IVGID's actual costs. And besides, are IVGID staff so under utilized so we can make them available to every private Tom, Dick and Harry who wants to avail itself of those services?
19. Maintenance, repair and renovation of public parks such as Preston Field, Village Green, Incline Park, Incline Skateboard Park, the Disc Golf Course, the Incline Bike Park, the Bocce Ball Park, and the Incline Fitness Trail. We lose more than \$1 million annually maintaining and repairing these public parks which in essence generate no user fee revenues;
20. Regional Transportation System. Hundreds of thousands of dollars of vehicles providing all sorts of mostly free transportation in/from/to our community including on demand shuttles to/from the Reno-Tahoe Airport;
21. Over 100 money losing community programs operated Out of the Recreation Center including pre and post school child care;
22. Maintenance, repair, upgrades and renovations to Ski Way for the benefit of approximately 330 Tyrolean Village homeowners, their tenants, invitees and guests;
23. Massive public philanthropy so local non-profits can use the public's recreational facilities to generate funds for their flavors of the month at local parcel/dwelling unit owners' expense. The most recent example is the TFC's June 6, 2021 Champ Golf tournament where the public's costs are \$41K+ per day, on average, and the revenue received from the tournament will be \$2K;
24. And don't forget DPSEF. I've already documented where the cost to the public totals \$200K+ per year. And now they want another Parasol/Visitor's Center \$1/year sweet deal at Diamond Peak;
25. CMAR costs because our professional engineering staff are not competent to perform construction management duties notwithstanding the cost of every CIP reimburses for such staff under the guise of "unreimbursed staff time." Don't we remember the \$200K+ of unreimbursed staff time assigned to the pond lining project which it turns out was never prosecuted?
26. Public relations for staff propaganda purposes. First it was Misty Moga as Communications Coordinator. Then it was Tri-Strategies at \$4K/month. And now it's Kari Ferguson as Communications Coordinator;
27. Lobbyist fees to influence legislation. \$3K/month to Tri-Strategies for what? And nearly \$5K/month to Marcus Faust for what?
28. The IVGID Quarterly (another staff propaganda tool). I've already documented where our costs are at least \$10K/issue, and there are at least six (6) issues/year (so why do we call it the "quarterly?") I guess our staff are so "under-utilized" that we have to find meaningless extraneous jobs for them to do to justify the fact they are full time, fully benefited employees;
29. Our Marketing Department. Notwithstanding NRS 318.015(1) instructs that our recreational facilities are supposed to be here for our use, staff spend \$1M or more annually on billboard, television commercial, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways selling IV to the world's tourists;
30. Credit card processing charges. Over \$425K annually and for the benefit of what?
31. Loomis armored car bank transporting charges. Over \$1,700/month and for the benefit of what?
32. Restaurants and food courts. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?
33. Bars selling alcoholic beverages. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?
34. Food and beverage/catering department(s). Food is not recreation for most of us;
35. The Hyatt Sport shop retail sales;
36. Acting as an insurer for Village Ski Loft merchandise sold in the Sport Shop by IVGID employees which is lost, stolen or damaged;
37. Retail clothing/soft good sales. Besides the Hyatt Sport Shop, both golf pro shops, the Tennis and Recreation Centers. I guess shopping is now recreation.
38. Wedding and event facilities sales. And staff won't tell you they have used paragraph I(F) of the proposed Rec Fee Report to SELL our beaches for weddings. Some employee with beach access declares that a wedding customer is his/her guest for beach access which opens the beaches to wedding sales; and,
39. IVGID currencies. IVGID bucks, Diamond Peak bucks, "PERK" program bucks, and when all else fails, fully transferable Diamond Peak ski lift vouchers.

NONE of this has anything to do with making the public's recreational facilities available for my use, as opposed to anyone else's use, yet you Board members call the RFF which finances all of this an alleged standby service charge. Or a plain old involuntary service charge.

B. Or let's take the BFF.

40. Ordinance 7 says the BFF pays for my ability to access and use the beaches and if I don't pay, I don't get access. Really? Since the beach deed grants local property owners as well as their properties the grant of easement, how can the Board and staff state that the BFF is a legitimate standby service charge?

41. Or let's go one step further. 3 court cases have determined that the beaches are private. Trustees Callicrate and Wong have both announced on the record that the beaches are private. So how can the BFF be used to develop the beaches (Burnt Cedar Pool, the Beach House, the Incline Beach bathrooms, the beach overflow parking lot) given NRS 318.015(2) expressly prohibits this?

C. Seeking Refund of the RFF/BFF.

42. Section VI of the proposed Report for the collection of the RFF/BFF as well as paragraph 8 of proposed Resolution 1889 both declare that those who are assessed the RFF/BFF are entitled to seek its refund yet there is no administrative means of so doing? I have demonstrated that since the laws pertaining to refund of a county's general taxes do not apply to IVGID's RFF/BFF, because the RFF/BFF are uniform in amount and not dependent upon an assessed parcel's valuation, there is no remedy to seek their refund. So I am asking the Board create its own administrative remedy the way it has done in Ordinance 7 whenever a picture pass or punch card holder's recreation privileges are proposed to be suspended or revoked. Or is the language nothing more than "hollow words?"

Thank you for accommodating my request.

And please include this e-mail as an attachment to the written minutes to be prepared of tonight's meeting.

Aaron Katz

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS MAY 26, 2021 REGULAR IVGID BOARD MEETING – AGENDA ITEMS E(2) AND H(2) – OPPOSITION AND PROTEST TO PROPOSED RESOLUTION 1889 APPROVING REPORT ADOPTING 2021-22 RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEE(S) AND ELECTING TO HAVE THEM COLLECTED BY THE WASHOE COUNTY TREASURER ON THE COUNTY TAX ROLL

Introduction: On May 5, 2020 the IVGID Board of Trustees (“the Board”) passed Resolution 1887¹ which preliminarily adopted a “Report For Collection on the County Tax Roll of...the RFF and BFF” (“Report”) which: proposed a not to exceed \$100 RFF and not to exceed \$680 BFF for the upcoming 2021-22 fiscal year²; and, ordering their involuntary collection on the county tax roll³ against all non-exempt parcels/residential dwelling units within IVGID’s boundaries. The Board labeled the RFF/BFF “recreation standby and service charges” purportedly paying for nothing more than *those parcels which have been assessed’s*⁴ “use of Burnt Cedar and Incline Beaches as well as the availability of use⁵ of the Incline Village Championship and Mountain Golf Courses, Diamond Peak Ski Resort, Recreation Center, Tennis Center, Event Facilities, Parks, and other recreational properties, facilities and programs,”⁶ respectively, as well as the services offered thereat. This agenda item now proposes adoption of a final Report⁷ which proposes a \$100 RFF, \$680 BFF⁸, and orders their collection on the county tax roll⁹. As a resident and local property owner proposed to be assessed, I protest and object.

¹ See pages 263-269 of the packet of materials prepared by staff in anticipation of the Board’s May 5, 2021 special meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505_-_Special_-_Searchable.pdf (“the 5/5/2021 Board packet”)].

² See page 182 of the packet of materials prepared by staff in anticipation of this May 26, 2021 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/H.2._-_Rec_Roll.pdf (“the 5/26/2021 Board packet”)].

³ “The charges contained in said report (are to) be collected by the District in accordance with the provisions of NRS 318.201(11)” (see page 263 of the 5/5/2021 Board packet, and <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec201>).

⁴ NRS 318.201(1) and (7) make clear that the rates adopted by the Board pursuant to this chapter NRS 318 which may be collected pursuant to NRS 318.201, et seq. are for facilities and services *received by “parcel(s) of real property” rather than persons*. In my opposition I have included a more detailed discussion of this topic hereafter.

⁵ “Available” means “capable of use for the accomplishment of a purpose” [see *McMillan v. Texas National Resources Conservation Comm'n*, 983 S.W.2d 359, 363 (1998) - <https://www.casemine.com/judgement/us/59148012add7b0493446c701>].

⁶ See pages 265-266 of the 5/5/2021 Board packet.

⁷ See pages 188-193 of the 5/26/2021 Board packet.

⁸ See ¶II at page 191 of the 5/26/2021 Board packet.

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⁹ See ¶IV at page 191 of the 5/26/2021 Board packet.

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Because IVGID Staff Will Offer No Evidence in Support of Any of the Findings Incorporated Into Proposed Resolution No. 1889, the Board's Adoption of the Resolution Represents a Voidable Abuse of Discretion: A careful examination of proposed Resolution 1889¹⁰ reveals a series of factual findings will be made that are incorporated thereunto:

1. Although Proposed Resolution 1889 recites that the District's Recreation and Beach Facility Fees are "Recreation Standby and Service Charges" (see page 184 of the 5/26/2021 Board packet), protestor predicts no evidence will be presented to support either conclusion;

2. Although ¶¶4 and 4(b) of proposed Resolution 1889 at pages 185 and 186 of the 5/26/2021 Board packet recite that "the Board of Trustees finds that each parcel assessed...is specially benefited," protestor predicts no evidence will be presented to explain how each parcel to be assessed, rather than its owner(s) is so benefited. Although ¶4(a) of proposed Resolution 1889 at page 185 of the 5/26/2021 Board packet recites that "Ordinance No. 7¹¹ sets forth...the specifics of the benefits available to property *owners*," the Board knows that Ordinance No. 7 sets forth *nothing whatsoever* insofar as the alleged benefits available to the assessed *parcels* themselves;

3. Although ¶4(b) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet goes on to recite that benefits "which inure to the *owners* of properties assessed...are provided to said *properties*" themselves, protestor predicts no evidence will be presented to explain how exactly each parcel is so benefited;

4. And because of ¶4(c) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet, the Board has really *not* proposed a finding that "each parcel assessed...is specially benefited." Rather, it proposes a finding that "the *owners* of the parcels set forth (t)herein are (the ones)... benefited;"

5. Although ¶4(c) of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites that "the owners of the parcels (assessed) are directly benefited in a fair and reasonable way," protestor predicts no evidence will be presented to explain how exactly it is fair and reasonable to involuntarily assess an owners' property for charges imposed for the lack of benefits provided;

6. Although ¶5 of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites that "the rates charged" to an owners' property are "reasonable in their relation to the object of the charges imposed," protestor predicts no evidence will be presented to explain how exactly those rates are "reasonable in their relation to" anything, let alone "the object of the charges imposed;"

7. Although ¶III of the Report's assertion of fact at page 191 of the 5/26/2021 Board packet "ha(ve) been apportioned among...(assessed) lots, pieces or parcels of real property, and dwelling

¹⁰ See pages 183-187 of the 5/26/2021 Board packet.

¹¹ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/rec_ordinance_7_1998.pdf.

units within the District,” protestor predicts no evidence whatsoever will be presented to demonstrate any apportionment whatsoever;

8. Although ¶15 of proposed Resolution 1889 at page 186 of the 5/26/2021 Board packet recites “that said charges have been apportioned in relation to said natural, intrinsic, fundamental and reasonable distinctions among said rates,” protestor predicts no evidence whatsoever will be presented to explain what those “natural, intrinsic, fundamental and reasonable distinctions” actually are, how they have been apportioned, and how that apportionment is fair and reasonable;

9. Although ¶12 of proposed Resolution 1899 at page 185 of the 5/26/2021 Board packet recites that the proposed RFF/BFF will have been “equitably distributed among the (assessed) parcels of property contained” in the Report, protestor predicts no evidence whatsoever will be presented to demonstrate that the proposed distribution is equitable;

10. Although ¶13 of proposed Resolution 1899 at page 185 of the 5/26/2021 Board packet recites that the Report “contain(s)...all of the properties within the District that will (allegedly) be benefited by being charged” the proposed RFF/BFF, protestor already knows this representation is false and he predicts no evidence whatsoever will be presented to demonstrate that the representation is true;

11. Although ¶18 of proposed Resolution 1899 at page 187 of the 5/26/2021 Board packet recites that “all laws applicable to the levy, collection, and enforcement of general taxes of the District, including but not limited to, those pertaining to...refund...are applicable to such charges,” given they are not applicable, protestor predicts no evidence will be presented to explain how one whose property is assessed can seek refund;

Without such evidence, notwithstanding the burden to produce the same falls squarely upon IVGID staff, the Board’s adoption of proposed Resolution 1889 will be arbitrary, capricious, and a voidable abuse of discretion. Protestor and others he knows therefore protest and object.

Because IVGID Staff Will Offer No Evidence That the RFF/BFF Pay For "Services" or "Facilities" Delivered or Capable of Being Delivered to Those Parcels/Dwelling Units Which Are Proposed to be Assessed¹², the Board Has No Power to Assess Those Parcels/Dwelling Units Nor to Involuntarily

¹² For instance, ¶14 of proposed Resolution 1899 recites that “the Board...finds that each parcel assessed ...is specially benefited (and that)...Ordinance No. 7 sets forth in detail the specifics of th(os)e benefits” (see page 185 of the 5/26/2021 Board packet). ¶14(b) of proposed Resolution 1899 recites that persons’ “availability of the use of IVGID’s beach (and recreation facilities)...are...benefits...provided to said properties” (see page 186 of the 5/26/2021 Board packet). ¶11(E) of the Report adopted by ¶16 of proposed Resolution 1899 recites that “each parcel which is charged a (RFF) and/or (BFF) is entitled to recreation privileges as described in...Ordinance No. 7” (see page 191 of the 5/26/2021 Board packet).

Collect the Subject Charges on the County Tax Roll: Although NRS 318.201(1)¹³ allows the Board to elect to have any *rates* it adopts collected on the county tax roll, this election is *only* available where “each parcel of real property (assessed is capable of actually) *receiving...services and facilities*” [also see NRS 318.201(9)¹³]. But here no recreation facility, beach facility, nor service IVGID offers thereat is delivered or capable of being delivered to real property. And for this reason, IVGID staff will fail to present evidence to the contrary. Moreover, no recreation or beach facility is physically connected to private property (similar to a sewer or water lateral) nor for the vast majority of properties, none is adjacent to and thus capable of being physically connected to private property. Given proposed Resolution 1899’s representations to the contrary are false, the Board has no power to collect the RFF/BFF against parcels of real property. The undersigned protests and objects.

Moreover, the RFF/BFF Are Not “Standby Service Charges:” Although NRS 318.197(1)¹⁴ allows a GID Board to fix “standby service” and “service charges,” *nowhere* in the NRS is the term “standby service charge” defined. Putting aside the fact IVGID staff have an incentive for the RFF/BFF to be such charges (“the ends justify the means” because other than *ad valorem* taxes¹⁵, standby service fees are the *only* kinds of charges general improvement districts (“GIDs”) are arguably authorized to *involuntarily* assess), just because IVGID staff affix this “label” *doesn’t* necessarily mean that is what they are. For these reasons, “courts will (instead) determine and classify (exactions such as these) on the basis of realities” [*Hukle v. City of Huntington*¹⁶, 134 W.Va. 249, 58 S.E.2d 780, 783 (1950)] looking to their “operative effect” [*Emerson College v. City of Boston*¹⁷, 39 Mass. 415, 462 N.E.2d 1098, 1105 (1984)].

Notwithstanding Nevada has not defined the terms, other states have as some sort of property levy imposed for the mere availability of water/sewer [*State v. Medeiros*¹⁸, 89 Haw. 361, 367, 973 P.2d 736, 742 (1999); *Chapman v. City of Albuquerque*¹⁹, 65 N.M. 228, 335 P.2d 558, 562 (1959); *Graham v. City of Lakewood Village*²⁰, 796 S.W.2d 800, 801 (1990); *Lakeside Utilities Corp. v. Bernum*²¹, 5 Ohio.St.3d 99, 449 N.E.2d 430, 431 (1983)] *services* [*Kellerman v. Chowchilla Water Dist.*²², 80 Cal.App.4th 1006, 1011, 96 Cal.Rptr. 246, 250-51 (2000)] delivered or capable of delivery to property

¹³ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec201>.

¹⁴ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec197>.

¹⁵ See NRS 318.225 (go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec225>).

¹⁶ Go to <https://www.casemine.com/judgement/us/5914a0d7add7b0493467f97d>.

¹⁷ Go to <https://www.casemine.com/judgement/us/59148f70add7b04934565682>.

¹⁸ Go to <https://www.casemine.com/judgement/us/59148001add7b0493446b7b7#p364>.

¹⁹ Go to <https://www.casemine.com/judgement/us/59149dfdadd7b04934655896>.

²⁰ Go to <https://www.casemine.com/judgement/us/5914896dadd7b04934502465>.

²¹ Go to <https://www.casemine.com/judgement/us/5914901cadd7b04934571125>.

²² Go to <https://www.casemine.com/judgement/us/5914ba6badd7b04934790b07>.

[*State v. City of Port Orange*²³, 650 So.2d 1, 3 (1994); *Chapman, supra*, at 335 P.2d 561], whether or not *those services* are actually used [*San Diego Cty. Water Auth. v. Metro Water Dist.*²⁴, 117 Cal.App.4th 13, 27, 11 Cal.Rptr. 446, 457 (2004)]. In other words, charges assessed where a landowner has the ability to become an actual customer of a municipal corporation's health or sanitation services²⁵ which are capable of being delivered⁶ to the landowner's real property due to the fact those services are immediately available because that property is either physically connected or immediately adjacent to (i.e., abutted²⁶) and capable of physical connection (*Chapman, supra*, at 335 P. 564) to a municipal corporation's public health or sanitation system, and the landowners have elected to not become actual customer(s) for those services.

Here protestor's property as well as the overwhelming majority of other Incline Village/Crystal Bay properties proposed to be assessed, are neither physically connected or capable of physical connection to Burnt Cedar and Incline Beaches, or the Incline Village Championship and Mountain Golf Courses, Diamond Peak Ski Resort, the Recreation or Tennis Center(s), Event Facilities, Parks, and other District recreational properties or facilities. And if they were, the District would be compelled to "prescribe and enforce regulations for the connection with and...disconnection from properties of the facilities of the district and the taking of its services" [NRS 318.197(3)¹⁴] which it has not (see discussion *infra*)..Nor do the facilities and services offered thereat address public health or sanitation such as water and sewer. Consequently, the RFF/BFF are not "standby service charges." And if not standby service charges, the Board cannot elect to have them collected on the tax roll pursuant to NRS 318.201¹³, et seq., or otherwise²⁷.

²³ Go to <https://www.casemine.com/judgement/us/59148472add7b049344b73d3>.

²⁴ Go to <https://www.casemine.com/judgement/us/5914b74badd7b0493477e437>.

²⁵ Namely public water, sewerage and solid waste disposal services.

²⁶ This is a concept incorporated into NRS 318.350(1) [go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec350>] insofar as levying special assessments "upon lands and premises abutting upon that part of the street or alley so improved or proposed so to be, or the lands abutting upon the improvement and the other lands as in the opinion of the board may be specially benefited by the improvement."

²⁷ See *McMillan, supra*, at 983 S.W.2d 365. Moreover, I have previously commented that because Nevada is a *Dillon's Rule* State [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 341-43, 65 P.2d 133 (1937) - <https://www.casemine.com/judgement/us/5914cc62add7b0493480a220>], IVGID's basic powers are limited to those "stated in (its) initiating ordinance (as long as)...one or more of those authorized in NRS 318.116, as supplemented by the sections of...chapter (NRS 318) designated therein" [NRS 318.055(4)(b)] *and none other* [A.G.O. 63-61, p.102 (August 12, 1963)]. And should there be "any fair, reasonable (or) substantial doubt concerning the existence of power (it) is (to be) resolved...*against* the (municipal) corporation...[see NRS 244.137(4) - <https://www.leg.state.nv.us/nrs/nrs-244.html#NRS244Sec137> (and)] all acts beyond the scope of...powers (expressly) granted are void" (*Ronnow, supra*, at 57 Nev. 343).

Nor Are the RFF/BFF “Service Charges:” Given the RFF/BFF purportedly pay for the availability to use recreational *facilities*, no actual *service* is being provided. Moreover if a *service* were actually being provided, it must [“benefit the payers of the charge...rather (than as here)...society at large” (*Medeiros, supra*, at 89 Haw. 368)]. And if not service charges, the IVGID Board cannot elect to have them collected on the tax roll pursuant to NRS 318.201, et seq., or otherwise²⁷.

Nevertheless, Protestor Gave the Board and Staff Every Opportunity to Make the Case That the RFF/BFF Are Legitimate “Standby Service” or “Service” Charges: Because the proposed Report labels the RFF/BFF “Recreation Standby and Service Charges,”²⁸ and the agenda for this meeting instructs that “public comment is allowed...via e-mail (please send your comments to *info@ivgid.org* by 4:00 p.m. on Wednesday, May 26, 2021), on May 26, 2021 at 12:40 P.M. I sent an e-mail as instructed to *info@ivgid.org*²⁹ asking the Board through its attorney: to explain “what facts support the conclusion the RFF/BFF represent...recreation standby charges for the availability to access and use the District’s public recreational and private beach facilities and involuntary recreation...service charges because I and others I know are of the opinion the RFF/BFF don’t represent these charges;” and, to recommend inclusion of an administrative remedy (in proposed Resolution 1889) for those seeking refund of the RFF/BFF given although “section VI of the proposed Report...as well as paragraph 8 of proposed Resolution 1889 both declare...entitle(ment) to seek...refund yet there is no administrative means of so doing.” Notwithstanding, I have every reason to believe both requests will be ignored.

With That Said, and Contrary to ¶I of the Report’s Assertion of Fact³⁰, the RFF Does Not Pay For the “Availability of Use of the (District’s) Recreational Facilities:” because *all* of IVGID's recreation venues *are public facilities*. In other words, they are just as “available” to be used by *any* member of the public whether or not a local resident or property owner, as those whose parcels/dwelling units are involuntarily assessed (the RFF).

Nor Does the BFF Pay For the “Availability of Use of the (District’s) Beach Facilities:” Has the reader of this written statement ever read the deed to the beaches³¹ by which IVGID asserts ownership? In case you haven’t, the beach deed states that all property that was within IVGID’s boundaries in June of 1968 when the beaches were conveyed, as well as their then owners, successors and assigns, were and are all granted a beach *use easement* which runs with their lands. In other words, the owners, successors and assignees of properties with beach access have the right to access and use the beaches *not* because of their forced payment of the BFF. But because of a property right (the grant of a beach deed easement)!

²⁸ See page 188 of the 5/26/2021 Board packet.

²⁹ A copy of that e-mail is attached as Exhibit “A” to this written statement.

³⁰ See page 190 of the 5/26/2021 Board packet.

³¹ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach_Deed.pdf.

Moreover, the availability to access and use the beaches is neither monitored nor staffed but for approximately four (4) months of the year³² at best, between the hours of 8:00 o'clock A.M. and 7:00 o'clock P.M. This means that outside of these days/hours, the beaches are just as "available" to be used by *any* member of the public whether or not a local property owner with beach access, or his/her successor, as those whose parcels/dwelling units are involuntarily assessed the BFF.

Moreover still, NRS 318.015(2)³³ prevents IVGID from using "the provisions of this chapter (NRS 318)...to provide a method for financing the costs of developing *private* property."³⁴ At least three courts have determined IVGID's beaches are in essence "private property" [see *Wright v. Incline Village General Improvement District*³⁵, 597 F.Supp.2d 1191, 1197 (2009); *Kroll v. Incline Village General Improvement District*³⁶, 598 F.Supp.2d 1118, 1126-28 (2009); and, *Wright v. Incline Vill. Gen. Improvement Dist.*³⁷, 665 F.3d 1128, 1137-38 (9th Cir. 2011)]. And at least two current Board members have admitted, on the record no less, that our beaches are "private." At the Board's May 7, 2020 workshop meeting Trustee Wong expressly described the beaches as "private property" ("because our beaches *are private...*"³⁸). And then at the Board's May 19, 2020 meeting Chairperson Callicrate similarly referred to the beaches at least three times:

"I understand we have an odd or peculiar situation obviously at the beaches *because they are private...*I agree with you it would be great if we could say 'yah, let's pay for this over the course of several years.' I don't believe we have the luxury at the beaches to do that. The rest of the community I believe we do, but at the beaches we're precluded because *of the private nature...*(Question to attorney Alex:) What are we able to do as far as long term debt for our *beaches...because they are private?*"³⁹

³² Traditionally Memorial Day through Labor Day weekends.

³³ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec.015>.

³⁴ Does not reconstruction of the Burnt Cedar Pool represent development of private property? What about the planned Beach House? And what about the recent Incline Beach restrooms?

³⁵ Go to <https://www.courtlistener.com/opinion/2447540/wright-v-incline-village-general-imp-dist/>.

³⁶ Go to <https://www.casemine.com/judgement/us/5914b204add7b0493475d247>.

³⁷ Go to <https://www.casemine.com/judgement/us/5914f589add7b0493498adbe>.

³⁸ IVGID livestreams its Board meetings (<https://livestream.com/accounts/3411104>). The livestream of the Board's May 7, 2020 meeting where Trustee Wong made the admission quoted appears at 2:44:16-19 at <https://livestream.com/ivgid/events/9119222/videos/205728870> ("the 5/7/2020 livestream").

³⁹ See 2:20:59-2:21:53 of the livestream of the Board's May 19, 2020 meeting [<https://livestream.com/ivgid/events/9139017/videos/206286426> ("the 5/19/2020 livestream")].

Moreover, it's not just our trustees. Listen to two esteemed pairs [for a total of four (4)] local real estate agents who assert the same thing. First, agents Chris and Patti Plastiras of Lakeshore Realty:

"Incline Village is a master planned community featuring 3 *private beaches* ...Crystal Bay property owners enjoy all of Incline's amenities with the exception of the *private beaches*."⁴⁰

And second, Don Kanare and Sebrina Belleci of RE/Max Realty:

Property owners in Incline Village are entitled to partake in a broad array of recreational facilities...(For instance) there are three *private beaches*..."⁴¹

If our Trustees and the esteemed real estate licensees/professionals in our community don't even know that our beaches are *not* public property, then who does? Therefore contrary to the Report's representations, I submit these facts demonstrate that the BFF does *not* and *cannot* pay for the availability of use of the District's private beach facilities as staff represent. Moreover,

COVID-19 Clearly Demonstrated That the RFF/BFF Do *Not* Pay For Access to and Use of *Anything*: When the Governor issued his emergency order on April 8, 2020⁴², if not before⁴³, which ordered the closing of the District's recreation and beach facilities in response to the COVID-19 pandemic, we all learned firsthand that the RFF/BFF really do *not* pay for "the availability to use" *anything*! That's because the public's recreation and beach facilities were closed to local property owners, notwithstanding the District continued to charge the RFF/BFF. If these fees do not pay for the "availability to use" recreation and beach facilities, *then exactly what do they pay for?*

Moreover, Contrary to Article 4, §§20 and 21 of the Nevada Constitution, Proposed Resolution 1889 Must Fail Because it Represents Creates Impermissible Local and Special Taxes: Article 4, §20 of the Constitution instructs that "the legislature shall not pass local or special laws in any of the following enumerated cases — that is to say...for the assessment and collection of taxes for state, county, and township purposes."⁴⁴ Article 4, §21 of the Constitution instructs that "in all cases enumerated in

⁴⁰ I have attached as Exhibit "B" to this written statement a sales brochure for one of the Plastiras' past listings on Cristina Drive, and I have placed an asterisk next to the language quoted.

⁴¹ I have attached as Exhibit "C" to this written statement a copy of an article authored by these agents at page 22 of the July 19, 2020 edition of the Tahoe Daily Tribune Newspaper, and I have placed an asterisk next to the language quoted.

⁴² Go to [http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-08_-_COVID-19_Declaration_of_Emergency_Directive_013_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-08_-_COVID-19_Declaration_of_Emergency_Directive_013_(Attachments)/).

⁴³ Go to http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/.

⁴⁴ Go to <https://www.leg.state.nv.us/const/nvconst.html#Art4Sec20>.

the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.” Putting aside the fact that GIDs have no power to legislate nor pass laws, *Clean Water Coalition v. The M Resort, LLC*⁴⁵, 127 Nev. 301, 255 P.3d 247, 254 (2011) instructs that a law represents “special legislation if it confers particular privileges or imposes peculiar disabilities, or burdensome conditions in the exercise of a common right, upon a class of persons arbitrarily selected, from the general body of those who stand in precisely the same relation to the subject of the law.”

In *Clean Water Coalition, supra*, at 255 P.3d 255 “The CWC and The M Resort argue(d) that because A.B. 6, section 18 applie(d) in only a single Nevada county, and only to users of the municipal or county sewer systems in that county, it (wa)s a local law. And because it applie(d) specifically and directly to a single entity in the state to the exclusion of all others similarly situated, it (wa)s a special law.” Our Supreme Court agreed (*Id.*, at 255 P.3d 256). Here because proposed Resolution 1899 applies only to parcels/dwelling units within IVGID’s boundaries, to the exclusion of all others similarly situated⁴⁶, proposed Resolution 1899 is both a local and special law. Moreover, the purpose of proposed Resolution 1899 is to help correct the District’s revenue shortfall. Since revenue-raising acts are defined as taxes (see discussion *infra*), proposed Resolution 1899 takes the revenue obtained from the RFF/BFF collected from local parcel/dwelling units with the intention of applying those exactions to unrestricted broad-range-intended uses, the charges are impermissible local and special taxes prohibited under Article 4, §20 of the Nevada Constitution (*Id.*, at 255 P.3d 258-259).

Staff and the Board Fail to Acknowledge That the Costs to Merely Make the Public’s Recreation and Beach Facilities “Available For Use” by Those Who Are Assessed Are *Not* the Same as the Costs “For the Proper Servicing of (Outstanding)…Bonds (Nor)…the Administration, Operation, Maintenance and Improvement of (District) Real Properties, Equipment and Facilities:” And for this reason protestor predicts that staff will fail to provide evidence of the former costs in the Report. Without such evidence, notwithstanding the burden to produce the same falls squarely upon IVGID staff, the Board’s proposed finding that a greater sum than is actually required will be arbitrary, capricious, and a voidable abuse of discretion.

In Point-of-Fact, the RFF/BFF Are Nothing More Than Financial “Subsidies.” They Subsidize the Difference Between Budgeted Revenues and Overspending Unilaterally Assigned by Staff to “Recreation” and the “Beaches,” Respectively: Protestor has demonstrated this truism so many times before⁴⁷. Contrary to the Board’s representations, the RFF pays for nothing more than the estimated

⁴⁵ Go to <https://www.courtlistener.com/opinion/2460291/clean-water-coalition-v-the-m-resort-llc/?q=Clean%20Water%20Coalition%20v.%20The%20M%20Resort%2C%20LLC%2C%20127%20Nev.%20301>.

⁴⁶ The public’s recreation venues are just as available to be accessed and used by the world’s tourists, as the owners of those parcels/dwelling units which are proposed to be assessed expressly for that availability.

⁴⁷ See page 339 of the packet of materials prepared by staff in anticipation of the Board’s July 22, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722_-_Regular_-_Searchable.pdf] (“the

annual difference between revenues and overspending⁴⁸ assigned by staff to the District's various recreation venues. And the BFF similarly pays for nothing more than the estimated annual difference between revenues and overspending assigned by staff to the District's beaches. Therefore as budgeted overspending increases, so do the RFF/BFF. If the reader would like further evidence of this truism, he/she need look no further than page 113 of the 5/26/2021 Board packet.

This page depicts proposed 2021-22 capital improvement project ("CIP") costs assigned to the Beach Fund. The first such CIP is Burnt Cedar Swimming Pool where \$3.35 million in new appropriations are proposed. Where does staff propose the money come from? Go to page 164 of the 5/26/2021 Board packet. There the reader will find a summary of income ("sources") and expenses ("uses") proposed by staff to be assigned to the District's Beach Fund⁴⁹. I have placed asterisks next to "Facility Fees," total expenses, "Capital Improvements" and net revenues ("sources") left over. The reader can see where compared to the current 2020-21 fiscal year, budgeted expenses are proposed to *increase* by \$3,689,451 (the difference between \$5,595,750 and \$1,906,299 in expenses). And whereas expenses have exceeded revenues by \$404,514 in the current fiscal year, revenues are proposed to exceed expenses by \$571,015 (a net difference of \$975,529) for fiscal year 2021-22. Add these two changes and one gets \$4,664,980. Now to pay for this increase in spending compared to the current 2020-21 fiscal year, the reader can see where facility fee revenues are proposed to increase by \$4,610,060 (the difference between \$5,268,640 and \$658,580 in revenues). In other words, staff have proposed that the BFF be increased from \$125 in fiscal year 2019-20 to \$680 in fiscal year 2021-22⁵⁰ to offset an almost identical increase in expenditures. In other words *just as I have represented*, here the BFF pays for nothing more than the estimated annual difference between revenues and overspending assigned to the District's beaches!

Moreover, the RFF/BFF Pay For *More* Than Simply the Difference Between Budgeted Revenues and Overspending: How else can one explain the excess build-up of fund balances in the Community Services and Beach Funds? Listen to Trustee Schmitz:

7/22/2020 Board packet"). Or footnote 5 at pages 468-469 of the packet of materials prepared by staff in anticipation of the Board's April 10, 2019 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_4-10-19.pdf ("the 4/10/2020 Board packet"). Or pages 82-83 of the packet of materials prepared by staff in anticipation of the Board's June 13, 2018 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_6-13-2018.pdf ("the 6/13/2018 Board packet").

⁴⁸ A nice way of saying what the Incline Village/Crystal Bay parcel owner market will bear.

⁴⁹ This page is attached as Exhibit "D" to this written statement.

⁵⁰ See page 183 of the 5/26/2021 Board packet.

“Every year we keep building [our fund balance(s)] up. *That’s not how we’re supposed to be using these fees...*We need to spend down this fund balance in Community Services”⁵¹ rather than continuing to assess *more* than what is actually required.

This sentiment was similarly stated by Trustee Dent:

“We’ve been *over collecting*...our standby services charge for several years and I think the right thing to do is...(if) we don’t need it *we don’t collect it*... I don’t like the idea of somehow (saying)...we need this money and then at the end of the year we don’t need the money.”⁵²

For Instance, the RFF/BFF Have Become the Funding Source For a *Lifetime* of Never Ending CIPs: In recent years staff have been successful in reducing the deficiency between operational revenues and expenditures at some recreation venues⁵³. Not wanting to reduce the RFF/BFF, staff have advanced the narrative that the RFF essentially pays for debt service and CIPs. In this regard staff maintain a 20 year CIP plan⁵⁴ whereby they “practice *perpetual* asset renewal, replacement and improvement,”⁵⁵ whether reasonable or necessarily “required.” Listen to staff’s description:

⁵¹ See 3:42:00-3:42:52 of the 5/5/2021 livestream.

⁵² See 3:37:39-3:38:42 of the 5/5/2021 livestream.

⁵³ For instance, for 2021-22 staff have budgeted \$1,798,720 of revenues and \$1,828,688 of operating expenses less depreciation, CIPs and debt service without any RFF subsidy for the Facilities sub-fund (see page 150 of the 5/26/2021 Board packet). Similarly, staff have budgeted \$10,973,384 of revenues and \$8,214,874 of operating expenses less depreciation, CIPs and debt service without any RFF subsidy for the Ski sub-fund (see page 152 of the 5/26/2021 Board packet).

⁵⁴ See page 60 of the 2017 Budget (https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016-2017_Operating_Budget_2.pdf).

⁵⁵ See page 98 of the 2017 Budget.

“The District’s capital improvement plan is the culmination of input... from groups such as District managers...Senior Team, and public input...The...process identifies essential projects and procurements ...to maintain or enhance...District facilities and physical assets to meet...service levels...The Senior Team, in cooperation with... Department Managers, puts together a Multi Year Capital Plan (‘MYCP’) that addresses capital infrastructure, operational equipment...rolling stock and other requests *over the next 20 years*...The MYCP process...identifies funding source(s) as cash, charges for services/user fees, the Recreation (and)...Beach Facility Fee(s), debt issuance or grant funding and sets the budget for each...project budget from the first year of the MYCP...Considerable effort has gone into reviewing the scheduling for projects, with a goal of scheduling...*while maintaining...current Facility Fee levels.*”⁵⁶

Although staff used to publish their 20MYCP, now it is hidden from the public as an alleged “internal document.” When it was last published it evidenced *in excess of \$125 million of CIPs* (in excess of \$6.25 million annually)! Please understand that following this schedule, according to staff, rather than paying for “the administration, operation, maintenance and improvement of (District Recreational) real properties, equipment and facilities,” as well as the proper servicing of recreation bonds, the RFF/BFF are expected to fund CIPs for *the remainder of local parcel/dwelling unit owners’ lives, and well beyond!* In other words, each year staff budget CIPs to a constant, level and reliable RFF/BFF subsidy meaning they cannot *ever be reduced or eliminated.*

Don’t believe me? The current 5/26/2021 Board packet (pages 115-128) includes schedules for the next five (5) years’ worth of CIPs/quasi-CIPs broken down into CIPs proper; maintenance, repair and studies; and, rolling stock. Pages 121, 124 and 128 include summaries of these budgeted items for the District’s Community Services and Beach Funds. And here’s a spreadsheet (below) depicting all of those proposed CIP costs in one place:

⁵⁶ See pages 98-99 of the 2017 Budget.

Five Year Proposed CIP Schedule Reliant Upon RFF/BFF For Funding						
Fund	2021-22	2022-23	2023-24	2024-25	2025-26	5 Year Totals
Community Services Capital ⁵⁷	\$ 3,870,130	\$ 6,299,700	\$ 3,796,020	\$ 3,553,820	\$ 4,445,853	\$ 21,965,523
Community Services Maintenance ⁵⁸	\$ 326,700	\$ 364,000	\$ 842,000	\$ 271,500	\$ 459,900	\$ 2,264,100
Community Services Rolling Stock ⁵⁹	\$ 1,227,050	\$ 231,000	\$ 1,011,300	\$ 1,165,500	\$ 2,038,700	\$ 5,673,550
Total Reliant Upon RFF For Funding	\$ 5,423,880	\$ 6,894,700	\$ 5,649,320	\$ 4,990,820	\$ 6,944,453	\$ 29,903,173
Annual Amount Per 8,203 Parcels⁶⁰	\$ 661.21	\$ 840.51	\$ 688.69	\$ 608.41	\$ 846.57	\$ 729.08
Beaches Capital ⁵⁷	\$ 3,520,060	\$ 349,000	\$ 449,500	\$ 283,100	\$ 1,757,700	\$ 6,359,360
Beaches Maintenance ⁵⁸	\$ 101,000	\$ 166,500	\$ 25,000	\$ 54,100	\$ 18,500	\$ 365,100
Beaches Rolling Stock ⁵⁹				\$ 54,000		\$ 54,000
Total Reliant Upon BFF For Funding	\$ 3,621,060	\$ 515,500	\$ 474,500	\$ 391,200	\$ 1,776,200	\$ 6,778,460
Annual Amount Per 7,748 Parcels⁶⁰	\$ 467.35	\$ 66.53	\$ 61.24	\$ 50.49	\$ 229.25	\$ 174.97

These summaries demonstrate staff's absolute reliance upon the RFF/BFF to pay for the aggressive multi-year CIP plan they have created, much of which has nothing to do with making the District's recreational venues simply available to be accessed and used by anyone! And if the District's recreation venues are not able to operate on a break even or positive cash flow basis, staff expects the RFF/ BFF to subsidize that negative cash flow. Protestor is sorry. ***These proposed expenditures are not the purpose of a legitimate standby service fee!***

And the RFF/BFF Pay For All Sorts of Things Having Absolutely Nothing to Do With the "Availability of Use of the (District's) Recreational (and Beach) Facilities:" Because the RFF/BFF are really financial subsidies for staff overspending assigned to recreation and the beaches, consider the past expenditures below as detailed in Exhibit "A" having *nothing* to do with the availability of those facilities to you⁶¹:

Regional Transportation System: That's right. Disingenuously staff label this system "the Diamond Peak shuttle." Or "the Hyatt shuttle." Or "senior transportation." Or for several years, "the kiddie shuttle" which freely transported riders to/from our beaches. Or on demand transportation

⁵⁷ See page 121 of the 5/26/2021 Board packet.

⁵⁸ See page 124 of the 5/26/2021 Board packet.

⁵⁹ See page 128 of the 5/26/2021 Board packet.

⁶⁰ See page 183 of the 5/26/2021 Board packet.

⁶¹ This is just a sampling of the hundreds and hundreds of inappropriate expenditures funded/subsidized by the RFF/BFF.

to/from the Reno/Tahoe Airport. Hundreds of thousands of dollars of buses, mini and maxi vans, SUVs and automobiles. And who knows how much in unreimbursed staff time?

Public Relations: We used to pay Tri-Strategies \$4,000/month to issue press releases and spew staff propaganda until these functions turned into an employed position; Communications Coordinator;

Lobbyist Fees to Influence Legislation: Notwithstanding general improvement districts have no power to pass laws nor lobby legislators to influence legislation (see NRS 318.116⁶²), that's exactly what IVGID does! For years IVGID hired Mary Walker of Carson City to lobby the Nevada State Legislature. More recently it has hired Tri-Strategies at a cost to local parcel/dwelling unit owners of \$3,000 monthly! But it's not just State Legislature lobbying. For over a decade, and at a cost of close to \$5,000 monthly, we've hired Marcus Faust to lobby Congress!

Defensible Space Expenses to Protect the Visitors and Guests to Incline Village: Notwithstanding local property owners already pay the North Lake Tahoe Fire Protection District ("NLTFPD") millions of dollars annually for these services, and IVGID has no power to provide the same because it hasn't been granted the same by Washoe County, the RFF and the water rates local property owners are charged are used for this purpose;

The IVGID Quarterly: We're in the magazine publication business! Because many of our staff positions are part-time, we need to find something more for them to do during the work day since staff pay them full-time salaries and benefits. So we've created an advertising laden magazine published at least six (6) times yearly so our employees can create articles, recognize fellow employees, and spew subliminal propaganda. Although staff will tell you there's no cost to the public, protestor has previously documented how the out-of-pocket costs exceed \$10,000 per issue;

Restaurants and Food Courts: What municipality operates its own restaurants? And no when it's all said and done, ours make no money;

Bars Selling Alcoholic Beverages: What municipality operates its own bars selling alcoholic beverages? And staffed by public employees? Soliciting gratuities in addition to their public salaries? And no when it's all said and done, ours make no money;

Food and Beverage/Catering Department: Of course we need such a department to coordinate our sales of food and beverages! And no when it's all said and done, our food and beverage department makes no money;

Retail Clothing/Soft Good/Recreational Equipment/Accessory Sales: At both golf pro shops, the Recreation and Tennis Centers. And no when it's all said and done, our retail sales make no money;

⁶² Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec116>.

The Hyatt Sport Shop: A retail sales and rental facility inside the Hyatt Hotel's shopping mall. And no when it's all said and done, the Sport Shop makes no money;

Insurer For Damage and Theft of The Village Ski Loft's ("VSL's") Retail Clothing/Soft Goods We Sell in the Hyatt Sport Shop: It wouldn't be fair to charge VSL, would it?

Hospitality Booth at the Jackson-Barrett Auto Auction: When these auctions took place in Reno as part of Hot August Nights, guess who paid \$10,000 for a hospitality booth? If you guessed IVGID, you're right! And of course this fee to Jackson-Barrett didn't include unreimbursed staff time;

Hospitality Booth at the Annual Warren-Miller Ski Film: See the auto auction discussion above because we were a major sponsor of the ski film;

Wedding and Event Facilities Sales: That's right! IVGID operates a wedding and even sales department inside The Chateau. And that means our staff attend annual wedding shows throughout the country! And no when it's all said and done, our facility sales and the unreimbursed staff and advertising it takes to operate the same, make no money;

IVGID and Diamond Peak Currencies: It's called "IVGID Bucks" and "Diamond Peak Bucks" (Staff actually print their own currency. On copy machines. And they don't even assign unique identification numbers to ensure illegal copying doesn't take place)! And for years we used to sell gift cards in various Costcos! Or Diamond Peak lift ticket vouchers! Staff use these currencies in lieu of United States currency to reward them-selves and their colleagues! And no there's no accounting of the number nor use of any of this alternative currency use;

Marketing Department: Notwithstanding the public's recreational facilities are supposed to exist for the benefit of "the inhabitants...of (Incline Village, Crystal Bay) and of the State of Nevada" [see NRS 318.015(1)⁶³], can you believe we have a marketing department which advertises them to the world's tourists? Staff admits the cost to local parcel/dwelling unit owners paying for things like billboards, television commercials, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways *exceeds \$1 million annually*;

CMAR⁶⁴ Expenses Because Our Professional Engineering Staff Are Not Competent to Perform Construction Management Duties Notwithstanding the Cost of Every CIP Reimburses For Such Staff Under the Guise of "Unreimbursed Staff Time:"

Litigation Fees: totaling hundreds of thousands of dollars over things like beach access, the RFF/BFF, public records, parcel owner surveys, etc. In addition, litigation initiated by staff against

⁶³ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec015>.

⁶⁴ Construction Manager at Risk [see NRS 338.1685, et seq. (go to <https://www.leg.state.nv.us/nrs/NRS-338.html#NRS338Sec1685>)].

local citizen Kevin Lyons. In fact one year the Board increased the BFF specifically for litigation defense costs in the Frank Wright litigation;

Litigation Settlement Costs (\$10,000 to “We the People”): in the Kevin Lyons litigation;

Court Mandated *Ad Valorem* Tax Refunds: When Washoe County settled both lawsuits, it unilaterally deducted a total of \$2.5 million from IVGID’s *ad valorem* taxes it was collecting on the latter’s behalf. And how was this loss of revenue the District had wrongfully received and spent addressed? The RFF;

Consultant Fees For Meaningless Master Plans: intended to create nothing more than a “wish list” for future recreation and beach CIPs without regard to cost;

Memberships in Dozens and Dozens of Meaningless Third Party Organizations: all of which charge membership fees and require unreimbursed staff time. Examples: The Bear League⁶⁵, POW⁶⁶ (“Protect Our Winters”), STOKE⁶⁷ (“Sustainable Tourism and Outdoors Kit for Evaluation”), RSVCA⁶⁸ (“Reno Sparks Visitors and Convention Authority”), NTBA⁶⁹ (“North Tahoe Business Association”), IVCBA⁷⁰ (“Incline Village Crystal Bay Community & Business Association”), NLTRA⁷¹ (“North Lake Tahoe Convention and Visitors Bureau”), Nevada League of Cities⁷² (we’re *not* a city), AGM⁷³ (“Association of Golf Merchandisers”), ISA⁷⁴ (“Int’l Society of Arboriculture”), Tree City USA⁷⁵, Save the Lake, Save the Planet, etc., etc;

Fourth of July Fireworks: The District contributed \$10,000 for several years to the RSVCA and Red, White and Tahoe Blue (“RWTB”) notwithstanding the fireworks are admittedly for the benefit of the Hyatt Hotel, and they were viewable for free by the general public as a whole;

⁶⁵ Go to <http://www.savebears.org/>.

⁶⁶ Go to <https://protectourwinters.org/>.

⁶⁷ Go to <https://www.stokecertified.com/>.

⁶⁸ Go to <https://www.rscva.com/>.

⁶⁹ Go to <https://northtahoebusiness.org/>.

⁷⁰ Go to <https://inclinevillagecrystalbay.com/>.

⁷¹ Go to <https://www.nltra.org/>.

⁷² Go to <https://nvleague.com/>.

⁷³ Go to <https://www.agmgolf.org/>.

⁷⁴ Go to <https://www.isa-arbor.com/>.

⁷⁵ Go to <https://www.arborday.org/programs/treecityusa/>.

Approximately 2.3 Acres Under the Parasol Community Center: we gave away for \$1/year for up to ninety-nine (99) years notwithstanding it was purchased with the RFF;

Approximately .5 Acres Under the Visitor's Center: we gave away for \$1/year for up to ninety-nine (99) years. And let's not forget the...

Maintenance and Repair of the RSVCA's Park Adjacent to the Visitor's Center: Years ago IVGID leased the ground underneath the current Visitor's Center on State Highway 28 to Washoe County for \$1 per year for up to ninety-nine (99) years (see above). As part of the lease, IVGID agreed to pay for construction of an adjacent park, and to maintain and improve that park at IVGID's expense for the term of the lease. Several years ago tens of thousands of dollars of RFF funds were spent on major upgrades and improvements to this park;

Maintenance and Repair of the Washoe County School District's ("WCSD's") Upper High School Athletic Field: Staff just doesn't have enough of a landscape footprint to maintain. So they have entered into an agreement with the WCSD to maintain the upper high school athletic field. Although staff represent IVGID has purchased this field, in truth it has not. And although the WCSD is paying IVGID to maintain this field, I and others believe the payment is nowhere near parcel/dwelling unit owners' cost. And besides, this field is not IVGID's responsibility!

Maintenance and Repair of the Two County Parks at Either End of the Intersections of Lakeshore Blvd. and State Highway 28: There are two small parks at either end of Lakeshore Blvd. where it intersects with SR 28. Although the County is supposed to be reimbursing IVGID to maintain and repair these costs, since 1994 it hasn't paid anything. And in the current proposed 2021-22 tentative budget staff have proposed nearly \$40,000 of CIPs proposed to be paid by the RFF;

Athletic Fields For the Washoe County School District's Middle School's Physical Education Programs: When IVGID sold the land under the middle school to the WCSD, it entered into an inter local agreement with the WCSD whereby in part, IVGID would construct what is now Incline Park (adjacent to the middle school), and allow the WCSD to freely use it for free! So now IVGID maintains this field for the middle school to use it for its physical education programs;

Public Parks Such as Preston Field⁷⁶, Village Green⁷⁶, Incline Park⁷⁶, Incline Skateboard Park⁷⁷, the Disc Golf Course⁷⁸, the Incline Bike Park⁷⁹, the Bocce Ball Park⁸⁰, and the Incline Fitness

⁷⁶ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/parks-fields>.

⁷⁷ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/incline-village-skate-park>.

⁷⁸ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/disc-golf-course>.

⁷⁹ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/community-bike-park>.

⁸⁰ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/bocce-ball-park>.

Trail⁸¹: Notwithstanding all of these parks are free-to-use by members of the general public, their maintenance, repair and renovation are all paid for by the RFF. In fact, more than \$1 million annually is spent maintaining these various parks and for which essentially no user fees are collected! Moreover, in the last several years IVGID has spent over \$500,000 on irrigation upgrades to Village Green and Incline Park, and nearly \$1 million on improvements to Preston Field. And this doesn't even take into account the \$50,000 lawn mowers, baseball field spreaders, pick-up trucks, and other CIP rolling stock which is spent attending to these municipal park facilities. Whereas most municipalities I am familiar with pay for these kinds of costs with the *ad valorem* tax revenues they received, that's not what happens here in Incline Village/Crystal Bay. If one studies General Fund expenses which are in part funded from IVGID's *ad valorem* tax revenue, one will discover that *ad valorem* tax revenues pay for employee over compensation and over benefits;

Tennis Professional Appearance Fees (\$10,000): at a Tennis Center exhibition match available for viewing for free to the general public as a whole;

Weather Forecasting Charges (\$700/Month): for Diamond Peak;

Credit Card Bank Processing Fees: in excess of \$425,000 annually;

Loomis Armored Car Transport Fees: close to \$2,000/month;

Diamond Peak Employee Uniforms: in excess of \$100,000 every four (4) years. Plus we pay over \$5,000 to give away the old uniforms;

Employee Meals Because Our Employees Have Had a Tough Week (or Season): Tens of thousands of such expenditures hidden on procurement card charges made by in excess of fifty (50) employees who staff have entrusted with IVGID credit cards;

Vendor Meals and Entertainment: It's not just our employees. Staff routinely take our paid consultants out for pricey dinners at the Lone Eagle Grille and entertainment hidden on procurement card charges;

Maintenance, Repair, Upgrades and Renovations to Ski Way For the Benefit of Approximately 330 Tyrolean Village Homeowners, Their Tenants, Invitees and Guests⁸²: The portion of Ski Way which connects at First Green and Tirol Drive is privately owned by IVGID. It serves as the major ingress/egress route to/from Tyrolean Village. Yet the residents of Tyrolean Village pay *nothing* towards its maintenance, renovation, repair nor snow plowing! And now IVGID is talking of a \$5 million or more re-pavement project funded by a general obligation bond repaid by the RFF;

⁸¹ Go to <https://www.yourtahoeplace.com/parks-recreation/outdoor-recreation/incline-fitness-trail>.

⁸² Read about it in more detail at pages 511-519 of the third packet of materials prepared by staff in anticipation of the Board's April 29, 2021 meeting ["the third 4/29/2021 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429_-_Regular_-_Searchable_-_Part_3.pdf)].

Over 100 Money Losing Programs⁸³ Operated Out of the Recreation Center Including Pre and Post School Child Care: When protestor first moved to Incline Village, former GM Bill Horn was even sending IVGID employees to the WCSD's elementary school to staff before as well as after school child care [also known as "Kid Zone Child Care" (see page 67 of the first 4/29/2021 Board packet)]. And then of course there is on demand senior transportation to the Reno-Tahoe Airport nonetheless;

Massive Public Philanthropy so Local Charities and Non-Profits Can Generate Revenues at Local Parcel/Dwelling Unit Owners' Expense: Besides the fact there is *nothing* in NRS 318 which allows GIDs to give away or donate public property, past Boards have adopted Resolutions 1619⁸⁴ and 1701⁸⁵. Resolution 1619 governs the giveaway of access to and use of the public's recreational facilities without the assessment of user fees. Resolution 1701 governs the giveaway or severe discounting of access to and use of the public's recreational facilities so the recipients can make money off their use of these facilities at local parcel/dwelling unit owners' expense.

To get an idea of the magnitude of cost to local parcel/dwelling unit owners, check out staff's 2021-22 budget. For the first time they have revealed some "line-item details" and a "charitable allowances" expense entry! Namely, \$205,717 of those allowances⁸⁶. Stated differently, here staff tell us they propose giving away \$205,717 of potential rent revenues to favored charities, non-profits and others at local parcel/dwelling unit owners' expense.

Personnel and Benefit Costs For 1012 or More IVGID Employees⁸⁷! If IVGID were a city, it would have the fifth (5th) largest municipal work force [out of eighteen (18) cities] in the State! Or if IVGID were a county, it would have the fourth (4th) largest county work force [out of seventeen (17) counties] in the State! Why? Because according to staff,

⁸³ Staff admit there are "over 75 Community Recreation Programs...offered daily...(out of) the Recreation Center...on a year-round basis" [see page 066 of the first packet of materials prepared by staff in anticipation of the Board's April 29, 2021 meeting {"the first 4/29/2021 Board packet (https://www.yourtahoeplace.com/uploads/pdf-ivgid/0429_-_Regular_-_Searchable_-_Part_1.pdf)"}], and there are dozens of additional programs offered on a seasonable basis.

⁸⁴ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure127_Resolution1619.pdf.

⁸⁵ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure132_Resolution1701.pdf.

⁸⁶ See pages 134-135 of the first 4/29/2021 Board packet. Copies of these pages are attached as Exhibit "E" to this written statement.

⁸⁷ That's right! For 2019 IVGID reported a whopping 1012 employees to transparentnevada.com (go to <https://transparentnevada.com/salaries/2019/incline-village-general-improvement-district/>).

“The employees of the District continue to be our most important and valued asset. (Therefore,) we continue to communicate how valuable our employees are for the current and future success of the District.”⁸⁸

Protestor submits that the reader doesn't need to know anything else about IVGID to know from these numbers that there is something very, very wrong. Because being a general improvement (see NRS 318.010⁸⁹, et seq.) and special [see NRS 308.020(2)⁹⁰] district IVGID is the equivalent of a mosquito district. So has protestor provided enough evidence, or do you the reader require more?

And the RFF/BFF Pay For a Majority of the General Fund's Alleged Central Services Costs: Staff represent that these costs are associated with the “central services” the General Fund allegedly provides to the Utility, Community Services and Beach Funds. Yet they have *nothing* to do with the costs required to make the public's recreational facilities merely “available to be used” by those parcels/dwelling units which are assessed. This truism was documented in protestor's written statement submitted at the IVGID Board's May 19, 2020 meeting for inclusion in the minutes of that meeting. To restate, not all staff overspending assigned to the General Fund represents “services provided by the General Fund” which allegedly require allocated central services transfers from the Community Services, Beach and Utility Funds. Besides the more obvious examples⁹¹, consider the following: \$474,855 of “General Government” expenditures⁹². Or \$216,420 of “Trustees” expenses⁹². Or \$456,289 of “General Manager”⁹³ expenses⁹². Or \$216,673 of “Communication” expenses⁹². Or

⁸⁸ See page 126 of the 2018-19 Budget [go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Annual_Budget_FY2018-19_03122019.pdf (“the 2018-19 Budget”).]

⁸⁹ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec010>.

⁹⁰ Go to <https://www.leg.state.nv.us/NRS/NRS-308.html#NRS308Sec020>.

⁹¹ Such as \$48,000 annually to a public relations firm to spew staff propaganda, \$24,000-\$36,000 annually to a lobbyist to influence State legislation, tens of thousands of dollars in attorney's fees to fight citizens (like Mark Smith) seeking public records and citizens (like Kevin Lyons) for retaliation purposes, hundreds of thousands of dollars in attorney's fees to fight citizens (like Aaron Katz) petitioning the courts to address grievances, etc.

⁹² See page 21 of the 2019-20 Budget. This page with asterisks next to “General Government,” “Trustees,” “General Manager,” “Communications,” “Health & Wellness,” and “Capital Outlay” sub-total is attached as Exhibit “E” to the aforementioned written statement attached to the minutes of the Board's May 19, 2020 meeting [see page 606 of the packet of materials prepared by staff in anticipation of the Board's June 23, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf (“the 6/23/2020 Board packet”)].]

⁹³ Our General Manager renders little if any services directly to our Community Services and Beach Venues because each has its own venue manager (Mike Bandelin for Diamond Peak, Darren Howard

\$45,376 of “Health & Wellness” expenses⁹². Or \$566,445 of “Capital Outlay” expenses⁹². Or rent paid/transferred to the Facilities sub-fund⁹⁴ (part of “charges for services”) for the Board’s public/other meetings held at The Chateau⁹⁵. Or the unknown food, beverage and personnel costs to lay out/tear down that food and beverage protestor has objected to in the past which is provided to the public at those meetings.

Given staff allege that the General Fund provides \$1,546,624 worth of central services to the District’s other funds⁹⁶, \$980,404 is assigned to the Community Services Fund⁹⁶, the RFF subsidizes overspending in the Community Services Fund⁹⁷, \$118,680 is assigned to Beach Fund⁹⁶, and the BFF subsidizes overspending in the Beach Fund⁹⁸, the RFF/BFF pay for a majority of the General Fund’s alleged central services costs (71%+) just as protestor has represented;

Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because the Charges Sought to be Collected Have *Not* Yet Been Adopted:

Although the Board has the power under NRS 318.201, et seq. to elect to have its rates, tolls and charges collected on the county tax roll, that power *only* exists *after* a it “has (first) adopted rates pursuant to this chapter.” How does a GID Board adopt rates pursuant to chapter NRS 318? NRS 318.199(2)⁹⁹ provides the answer:

“Whenever the board of trustees proposes to change any individual or joint rate, toll, charge, service or product, or any individual or joint practice which will affect any rate, toll, charge, service or product, the board of trustees shall hold public hearings after 30 days’ notice has been given to all users of the service or product within the district.”

Here the Board proposes to change both the RFF (from \$330 to \$100) and the BFF (from \$500 to \$680)⁵⁰. However, it has *never* adopted a resolution changing those fees, let alone after “public hearings after 30 days’ notice.” As such the Board has no jurisdiction to initiate the NRS 318.201 process to both change the RFF/BFF, and order their collection on the county tax roll, because it has

for the golf courses, Pandora Bahlman for Parks and Recreation Center, and Susan Mandio for the beaches).

⁹⁴ See page 112 of the 3/11/2020 Board packet.

⁹⁵ Most people don’t realize the General Fund is charged to rent The Chateau for the Board’s public meetings. Some years ago protestor made a public records request and Susan Herron responded with the then particulars.

⁹⁶ See page 47 of the 5/26/2021 Board packet.

⁹⁷ See page 144 of the 5/26/2021 Board packet.

⁹⁸ See page 163 of the 5/26/2021 Board packet.

⁹⁹ Go to <https://www.leg.state.nv.us/nrs/nrs-318.html#NRS318Sec199>.

not first “adopted rates pursuant to...chapter” NRS 318.199. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because the Charges Sought to be Collected Are *Not* Delinquent: The proposed RFF/BFF are *prospective* charges for fiscal year 2021-22¹⁰⁰. But NRS 318.201(4) instructs:

“The Board may make the election specified in subsection 1 (to collect the RFF/BFF on the county tax roll) with respect *only* to *delinquent charges* and may do so by preparing and filing the written report, giving notice and holding the hearing therein required *only as to such delinquencies*.”

Given ¶4 of proposed Resolution 1889 makes clear that the proposed RFF/BFF pertains to prospective “standby and service charges for the fiscal year 2021-22,”¹⁰¹ rather than *delinquent charges*, the Board has no power to order their collection against the county tax roll. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

Assuming *Arguendo* the RFF/BFF Are Legitimate Standby Service or Service Charges, Proposed Resolution 1889 Must Fail Because it Neglects to “Prescribe...Regulations for the Connection With and...Disconnection From Properties of the Facilities of the District and the Taking of its Services:” NRS 318.197(3)¹⁴ instructs that in connection with the rates, tolls and charges it is authorized to fix [see NRS 318.197(1)¹⁴], “the board *shall* prescribe and enforce regulations for the connection with and the disconnection from properties of the facilities of the district and the taking of its services.” Although ¶II(D) of the Report at page 190 of the 5/26/2021 Board packet allows

“any...undeveloped...parcel...whose owner agrees to waive in perpetuity... any right to demand...future...recreation privileges arising from or associated with said parcel (to be)...excepted and excluded from the” RFF/BFF,

nowhere are developed parcels offered the same or a similar option of “disconnection from properties of the facilities of the district and the taking of its services” and thus avoiding the BFF and/or the RFF. Given the Board is required to prescribe regulations which allow those whose properties are assessed the RFF/BFF to disconnect the District’s facilities and the taking of its services, protestor and others have asked the Board to adopt such regulations, and here it refuses, proposed Resolution 1899 should be withdrawn or rejected.

Contrary to ¶II of the Report’s Assertion of Fact³⁰, NRS 318.201(1) Does *Not* Permit the RFF/BFF to be Collected Against the Properties Proposed to be Assessed Because the “Availability of Use of the (District’s Proposed) Recreational Facilities Are Arguably Benefits to *Persons* Rather Than *Property*: Because the Board relies upon NRS 318.201(1) for collection of the RFF/BFF on the county

¹⁰⁰ See page 181 of the 5/26/2021 Board packet.

¹⁰¹ See page 185 of the 5/26/2021 Board packet.

tax roll¹⁰², by definition, it represents that these “fees” pay for recreation “*services and facilities*” actually “received” by the “*parcel(s) of real property*” which are assessed. So ask yourself: what recreation “services” or “facilities” does IVGID furnish to your parcel of real property/dwelling unit? Given the answer is *none*, to the extent Resolution 1889 proposes assessing for “services and facilities” *not* “received,” protestor submits the Board is without authority. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

Contrary to ¶I(A) of the Report’s Assertion of Fact³⁰, NRS 318.201(1) Does Not Permit the RFF/BFF to be Collected Against “Dwelling Units” as Opposed to “Parcel(s) of Real Property.” Putting aside the fact NRS 318.201 does not allow assessing *real property* for the availability of recreational facilities and services *provided to persons* (see discussion *infra*), ¶I(A) of the Report proposes assessing the RFF/BFF against “each *dwelling unit*, whether such unit stands alone or is part of a multiple unit residential structure.” Dwelling unit is defined by Policy 16.1.0.2.4¹⁰³ as “any building or portion thereof, which contains living facilities with provisions for sleeping, eating, cooking, and sanitation.”

But as aforesaid, NRS 318.201(1) speaks to assessing “*each parcel of real property* receiving... services and facilities.” And NRS 318.201(9) instructs that “after the (public) hearing...the secretary shall prepare and file a final report, which shall contain a description of *each parcel receiving...services* and the amount of the charge.” And NRS 318.201(10) instructs that “the amount of the charges shall constitute a lien against *the lot or parcel of land* against which the charge has been imposed.” And NRS 318.201(11) instructs that “the county treasurer shall include the amount of the charges on bills for taxes levied against...*lots and parcels of land.*” In each of these sections the powers described therein apply to “parcels” rather than “dwelling units.” Therefore the power to collect fees and charges like the RFF/BFF pursuant to the authority of NRS 318.201(1), et seq. is *only* authorized when we speak of “parcel(s) of real property (actually) receiving...services” rather than dwelling units receiving services.

Moreover, given there can be multiple “dwelling units” assessed multiple RFFs/BFFs on a single parcel of real property, multiple assessments on a single parcel violates the uniformity provisions of Article IV, section 21 of the Nevada Constitution¹⁰⁴ which states that,

“In all cases...where a general law can be made applicable, all laws shall be general and of *uniform operation* throughout the State.”

For these reasons, to the extent proposed Resolution 1889 assesses some parcels a single RFF/BFF, and others multiple RFFs/BFFs based upon the number of “dwelling units” constructed thereon, for facilities and services furnished to *parcels of real property* rather than dwelling units,

¹⁰² See ¶8 of proposed Resolution 1889 at pages 186-187 of the 5/26/2021 Board packet, and ¶V at page 191 of the 5/26/2021 Board packet.

¹⁰³ See page 42 at https://www.yourtahoepalace.com/uploads/pdf-ivgid/IVGID_Board_Policies_5-12-2020.pdf.

¹⁰⁴ Go to <https://www.leg.state.nv.us/const/nvconst.html#Art4Sec21>.

protestor submits the Board is without authority. Therefore, proposed Resolution 1899 should be withdrawn or rejected.

Contrary to ¶I(D) of the Report's Assertion of Fact³⁰, the Board Has No Power to Exempt Any Parcel/Dwelling Unit, Including the District's, From Paying the RFF/BFF: ¶I(D) of the Report grants a RFF/BFF exemption to:

“Lots, parcels and areas of land used...or intended to be used for religious ...or educational purposes; common areas without occupied structures appurtenant to a condominium or townhouse cluster...publicly owned lands (and,)...any...undeveloped...parcel...whose owner agrees to waive in perpetuity...any right to demand...recreation privileges arising from or associated with said parcel.”

But to exempt property, there must be *express* constitutional or statutory authority [*Chapman, supra*, at 335 P.2d 563]. Because here (see NRS 318) there is *none*, the doctrine of preemption¹⁰⁵ prohibits IVGID from making up its own exemptions, *including exempting itself* [*Storrie Project Water User's Ass'n. v. Gonzales*¹⁰⁶, 53 N.M. 421, 427, 209 P.2d 530, 534 (1949); *Lake Arthur Drainage Dist. v. Board of Com'rs. of Chaves County*¹⁰⁷, 29 N.M. 219, 223, 222 P. 389, 390 (1924); *Town of Clayton v. Colorado & S.R. Co.*¹⁰⁸, 51 F.2d 977, 980 (10th Cir. 1931)].

Additionally, notwithstanding its own bases for exempting parcels/dwelling units from being assessed the RFF/BFF, the Board reserves the right to exempt any other parcel/dwelling unit on a case-by-case/discriminatory basis. How else can one explain the Board's exemption of a Pet Network parcel from the RFF/BFF? For these reasons, proposed Resolution 1899 should be withdrawn or rejected.

¹⁰⁵ Preemption occurs when a higher level of government removes regulatory power from a lower level of government. Intrastate preemption occurs where a municipality's authority in a particular area has been supplanted by State law [87 BLR 1113, 1114, *Intrastate Preemption* (2007)]. Because: preemption only occurs when two levels of government operate within the same sphere (*Id.*, 1122), Nevada is a *Dillon's Rule* regime [*Ronnow v. City of Las Vegas*, 57 Nev. 332, 343, 65 P.2d 133 (1937) – go to <https://cite.case.law/nev/57/332/>], GIDs are *limited* forms of government *not* vested with general powers [A.G.O. 63-61, 102, 103 (August 12, 1963) – go to https://ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/opinions/1963_AGO.pdf], and express grants of authority to GIDs from the Legislature are virtually nonexistent, IVGID is effectively precluded from engaging in *any* substantive policymaking.

¹⁰⁶ Go to <https://casetext.com/case/storrie-project-water-users-assn-v-gonzales>.

¹⁰⁷ Go to <https://cite.case.law/nm/29/219/>.

¹⁰⁸ Go to [https://www.courtlistener.com/opinion/1489157/town-of-clayton-v-colorado-s-ry-co/?q=Town%20of%20Clayton%20v.%20Colorado%20%26%20S.R.%20Co.%2C%2051%20F.2d%20977%2C%20980%20\(10th%20Cir.%201931\)](https://www.courtlistener.com/opinion/1489157/town-of-clayton-v-colorado-s-ry-co/?q=Town%20of%20Clayton%20v.%20Colorado%20%26%20S.R.%20Co.%2C%2051%20F.2d%20977%2C%20980%20(10th%20Cir.%201931)).

Contrary to ¶I(F) of the Report's Assertion of Fact¹⁰⁹, the Board Has No Power to Grant Beach Access to Anyone Not Otherwise Entitled to That Access Under the Beach Deed: ¶I(F) of the Report purports to allow:

“Any group of persons which participates (an) IVGID property owner group, governmental, civic, or social group...in recreation or (any) other community project...beach privileges” as a “sponsoring group...guest.”

Given the IVGID Board has never defined such groups to be a “guest” of a parcel owner with beach access, this provision is in clear violation of the beach deed³¹. Moreover, this language has no business being inserted into a Report whose purposes is merely to direct collection on the county tax roll pursuant to NRS 318.201(1). Staff knows this! Therefore, for these reasons proposed Resolution 1899 should be withdrawn or rejected.

Notwithstanding All of the Above, the RFF/BFF Pay For the Equivalent of Up to Five (5) Membership Cards Which Themselves *Do Not* Make Any Recreational or Beach Facility Available to Be Used: Listen to what IVGID's former Finance Director, Gerry Eick, told the public for years [answering the question “What...Parcel Owners (*rather than* their parcels which are involuntarily assessed *really*) Get for Paying their Facility Fees”¹¹⁰] in his Budget Letters “to the Board of Trustees and Citizens of Incline Village and Crystal Bay:”¹¹¹

¹⁰⁹ See page 191 of the 5/26/2021 Board packet.

¹¹⁰ See pages 46-47 of the packet of materials prepared by staff in anticipation of the Board's May 23, 2018 Meeting [https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-23-18.pdf (“5/23/2018 Board packet”)]. Interestingly, staff's Budget Letter for 2019-20 [see pages 180-184 of the packet of materials prepared by staff in anticipation of the Board's May 22, 2019 meeting {https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-22-19.pdf (“the 5/22/2019 Board packet”)}], and the lack of similar letters for 2020-21 [see pages 1-6 at https://www.yourtahoepalace.com/uploads/pdf-ivgid/FINAL_IVGID_2020.2021_APPROVED_BUDGET_FORM_4404LGF.pdf (“the 2020-21 Budget”)] and now 2021-22 [see pages 33-39 of the packet of budget materials prepared in anticipation of the Board's May 26, 2021 meeting (“the 5/26/2021 budget Board packet”), *all* omit this admission which obviously is prejudicial to their current position.

¹¹¹ See pages 40-48 of the 5/23/2018 Board packet.

“Five cards (similar to Costco or Sam’s Club) issued in the form of picture passes and/or punch cards or a combination of both...Picture Passholder(s) get...preferred pricing (should/when the holder choose to pay additional user fees) and/or preferred access to the District's major venues or programming...Punch Card Holder(s) receive...the opportunity, at designated venues, to reduce their user fees from the rack rate to (the) Picture Passholder rate based on an allocated value assigned” by the Board.

Contrary to ¶II of the Report’s Assertion of Fact¹⁰⁹, a RFF of \$820,300 is *Not* Required “For the Proper Servicing of (Outstanding Recreation)...Bonds (Nor)...the Administration, Operation, Maintenance and Improvement of (District Recreation) Real Properties, Equipment and Facilities.” *Nor* is a BFF of \$5,268,640 Required For the Payment of Similar Costs Insofar as District Beach Real Properties, Equipment and Facilities Are Concerned: The steady growth of the fund balances in the Community Services and Beach Funds prove that for at least the last ten (10) years the RFF/BFF subsidies local parcel/dwelling unit owners have been *involuntarily* assessed have been *excessive*. In fact at the IVGID Board’s May 5, 2021 meeting both members of the IVGID Board¹¹² and staff admitted that *no sums* whatsoever are required “for the proper servicing of (outstanding)...bonds (nor)...the administration, operation, maintenance and improvement of (District recreation) real properties, equipment and facilities” because the District has an excess balance in its Community Services Fund¹¹³ available to be used for these purposes.

By way of example, on June 30, 2011 the unrestricted balance assigned by staff to the District’s Community Services Fund was reported to total \$4,226,167¹¹⁴. Yet as of June 30, 2021 staff estimate that that fund balance¹¹⁵ will have mushroomed to a whopping \$10,684,999¹¹⁶! How did the fund balance in the District’s Community Services Fund increase by \$6,458,832 (on average, \$645,883/year) in ten (10) short years? The simple answer is Gerry Eick’s “smoothing” or “re-purposing” (see discussion below). The more complicated answer is:

¹¹² Trustees Dent and Schmitz in particular.

¹¹³ “Fund Balance” is defined in our budget as “the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes” [see page 159 of the 2019-20 Budget {https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf (“the 2019-20 Budget”)}}].

¹¹⁴ See page 25 of the CAFR ending June 30, 2011 (“the 2011 CAFR”).

¹¹⁵ “Fund Balance” is defined in the District’s budgets as “the residual difference between assets and other inflows and liabilities and other outflows...for budget purposes” [see page 159 of the 2019-20 Budget (https://www.yourtahoeplace.com/uploads/pdf-ivgid/2019-20_Operating_Budget.pdf)].

¹¹⁶ See page 41 of the 5/26/2021 Board budget packet. A copy of this page with an asterisk next to the entry which confirms the represented fact is attached as Exhibit “D” to this written statement.

1. Intentionally budgeting a higher than necessary RFF to pay for “virtual bonds” which exist in cyberspace rather than the real world. In other words, retired recreation general obligation bonds (“GOBs”);
2. Budgeting for capital improvement projects (“CIPs”) never prosecuted or perpetually carried-forward and in essence never prosecuted (a good example being the Diamond Peak Master Plan). Notwithstanding, since these CIPs were actually funded, these monies were added to the Community Services fund balance;
3. Estimating CIP costs at excessive amounts guarantying excess budgeted sums after completion which get swept into the Community Services fund balance: and,
4. Budgeting for expenses [like retired bond servicing and the Administration sub-fund costs (see discussion below)] which were never incurred/expended. But since they were funded, from local parcel/dwelling unit owners' perspective they might as well have been incurred/spent because they're the ones who paid.

At the Board’s May 5, 2021 meeting Trustees Dent and Schmitz acknowledged that the District *doesn’t* “require” any RFF for 2021-22. Listen to Trustee Schmitz:

“I’d like us all if we could please to look at board packet page 255¹¹⁷ ...This is the Community Services Fund. So I’d like you to look at operating revenue. Operating revenue is \$18 million...If you look down at operating expenditures it’s roughly \$18 million. So *we do not need a facility fee for operations* ...Then you’ve got capital projects for \$3 million and \$410K for debt service ...Let’s just say that’s (a total of) \$4 million...We have over \$7 million in excess over what our policy has for fund balance. We could take that \$4 million... reducing our excess down to \$3 million...(thus) *completely eliminating the standby charges for Community Services.*”¹¹⁸

To Accomplish Staff’s Agenda of Collecting a Greater RFF/BFF Than Simply the Difference Between Budgeted Revenues and Overspending Assigned to the District’s Community Services and Beach Funds, Respectively, They Report Non-Existent Servicing Costs on Retired General Obligation Bonds (“GOBs”) [the Notion of “Smoothing”] as an Expense: For some time Mr. Eick hid the truth from the public that this was what he was doing. For example, until 2013 IVGID published a document titled “About the...Recreation...and Beach Facility Fee(s).” This document told the public where their

¹¹⁷ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/0505_-_Special_-_Searchable.pdf.

¹¹⁸ See 3:40:15-3:41:48 of the of the 5/5/2021 livestream [“the 5/5/2021 livestream” (<https://livestream.com/ivgid/events/9647360/videos/220786312>)].

RFFs/BFFs were allegedly being spent, on a per recreation venue basis¹¹⁹. The 2012-13 version of this document is attached as Exhibit “F” to this written statement.

Of the \$290 which represented the “debt service component (of facility fees allocated)...to pay for bonds used for capital purchases,”¹²⁰ the reader can see that according to staff: \$85 was spent on the servicing costs for the 2003 \$5.5 million Recreation Golf Imp. Bond¹²¹, \$110 was spent on the servicing costs for the 2008 \$7 Million “Recreation Imp. (Ski)” Bond¹²¹, and \$78 for the servicing costs on the 2004 \$4.445 Million “Recreation Refunding” Bond¹²¹.

If one examines page 75 of IVGID’s 2014 CAFR¹²², the reader can see where Mr. Eick represented to the State Department of Taxation (“NDOT”), the IVGID Board, and the public, that \$85 of 2013-14’s RFF went to pay this GOB¹²³ notwithstanding the fact the bond *was retired*¹²⁴! And at the Board’s regular December 10, 2014 meeting the Board unanimously approved the 2014 CAFR in its then presented form, *including the aforesaid page 75!* Finally, if one examines page 75 of IVGID’s 2015 CAFR¹²⁵, one will see where Mr. Eick *again* represented that \$85 of 2014-15’s RFF went to pay *this retired GOB!*

If one examines page 89 of IVGID’s revised 2016 CAFR¹²⁶, one will see where the subject \$85 charge was finally removed. But given the RFF was not reduced for fiscal year 2015-16, Mr. Eick’s

¹¹⁹ This document has been replaced by a “Facility Fee Allocation by Parcel” (see page 183 of the 5/26/2021 Board budget packet).

¹²⁰ Asterisks have been placed next to each debt service component on Exhibit “F.”

¹²¹ See asterisk on page 38 of the District’s 2012 CAFR next to this entry. A copy of the page is attached as Exhibit “G” to this written statement.

¹²² Go to <https://www.yourtahoeplace.com/uploads/pdf-ivgid/2014CAFRReport.pdf> (“the 2014 CAFR”).

¹²³ This page with an asterisk next to the \$85 representation is attached as Exhibit “H” to this written statement.

¹²⁴ I have placed an asterisk next to the \$695,000 of principal outstanding and due date (2012-13) on Exhibit “F” which demonstrates this bond was retired on March 1, 2013.

¹²⁵ See https://www.yourtahoeplace.com/uploads/pdf-ivgid/2015CAFR_Report_IVGID_.pdf (“the 2015 CAFR”). This page with an asterisk next to the \$85 representation is attached as Exhibit “I” to this written statement.

¹²⁶ See https://www.yourtahoeplace.com/uploads/pdf-ivgid/2016CAFRReport_Revised_5_11_2017.pdf (“the 2016 CAFR”). This page is attached as Exhibit “J” to this written statement.

November 14, 2014 Memorandum¹²⁷ declared this charge had been “smoothed” “to...reserves¹²⁸ for future projects” rather than diverted to any of the expense categories represented.

And because the RFF was not reduced for fiscal year 2016-17, *nor any fiscal year thereafter*¹²⁹, it has been smoothed “to...reserves for future projects” rather than diverted to any of the expense categories represented.

In other words, rather than the represented costs IVGID allegedly incurs to make its recreation facilities and the services offered thereat “available to (be) used” by those *parcels* involuntarily assessed, by keeping the RFF/BFF at a “level, consistent amount” notwithstanding GOBs have been retired, staff can continue to accumulate the former servicing costs¹³⁰ so they can be made available to fund future unidentified, unbudgeted, and unappropriated “pet” capital projects. Which explains the steady “creep upwards” in the Community Services, Beach and General Fund balances.

To Hide Staff’s Agenda of Collecting a Greater RFF/BFF Than Simply the Difference Between Budgeted Revenues and Overspending Assigned to the Community Services and Beach Funds, Respectively, They Report These Non-Existent Servicing Costs on Retired GOBs to the District’s Community Services Administration Sub-Fund: Putting aside the fact GOBs are supposed to be paid from a local government’s *ad valorem* taxes where *ad valorem* taxes are collected¹³¹, prior to commencement of the 2013-14 fiscal year the RFF paid the servicing costs on a 2003 \$5.5 Million Recreation GOB¹³². And prior to commencement of the 2015-16 fiscal year, the RFF paid the servicing costs on a 2004 \$4.445 Million Recreation Refunding GOB plus the 2003 \$5.5 Million Recreation GOB¹²¹. Although the 2003 Recreation GOB matured on March 1, 2013¹²¹, and the 2004 Recreation

¹²⁷ See that November 14, 2014 memorandum from Mr. Eick to Kelly Langley of the NDOT proffered in an effort to secure the NDOT's “concurrence...as (IVGID's) oversight agency...for (Mr. Eick's) planned action” to convert IVGID's recreation *enterprise* funds to *special revenue* funds effective July 1, 2015.

¹²⁸ Notwithstanding, since fiscal year 2013-14 the Board has *never* budgeted for reserves.

¹²⁹ See page 52 of the packet of materials prepared by staff in anticipation of the Board’s May 19, 2020 meeting [<https://www.yourtahoeplace.com/uploads/pdf-ivgid/Packet-Workshop-5-19-2020.pdf>] (“the 5/19/2020 Board packet”).

¹³⁰ Notwithstanding GOBs are retired, in Mr. Eick’s mind they continue in his version of “virtual reality.” Protestor calls this phenomena “virtual bonding.”

¹³¹ NRS 350.590(2) [go to <https://www.leg.state.nv.us/nrs/nrs-350.html#NRS350Sec590>] instructs that “municipal securities...constituting general obligations shall...state that they are payable *from taxes*.”

¹³² ¶II of the 2012-13 Report for the collection of the RFF on the county tax roll misrepresented that the RFF was required “for the proper servicing of said identified bonds.”

Refunding GOB matured on October 1, 2014¹³³, then Board(s) did *not* reduce each parcel/dwelling unit owner's RFF by like amounts. Instead, they continued to order the collection of former servicing costs on both bonds notwithstanding neither existed. Mr. Eick coined this technique "smoothing"¹²⁷ or "repurposing."

So what has happened to the portions of the 2013-present RFF which collected servicing costs on GOBs which were instead retired? They were assigned to the District's Community Services Administration sub-fund and hidden by phony reported expenses (see discussion below) of like amount. Which explains the "creep upwards" in the Community Services Fund balance.

And Staff Report Other Non-Existent Expenses to the District's Community Services

Administration Sub-Fund: Represented costs associated with the District's Community Services, Recreation, Other Recreation and Administration sub-funds¹³⁴, formerly known as ("fka") the Administration sub-fund¹³⁵, have *nothing* to do with those costs which allegedly make the public's recreational facilities "available to be used" nor for that matter, "the proper servicing of (outstanding) ...bonds (nor)...the administration, operation, maintenance and improvement of (District recreation) real properties, equipment and facilities." Instead, they represent non-existing funding concocted to hide a "discretionary reserve" for all recreational venues as a consequence of "smoothing" (discussed below). Protestor's written statement submitted at the Board's May 19, 2020 meeting for inclusion in the minutes of that meeting¹³⁶ recounted how the RFF assigned to this sub-fund represents nothing more than a discretionary "reserve" or "cushion." Again, listen to Mr. Eick's admission in answer to former Trustee Hammerel's April 17, 2016 questions pertaining to the particulars of this sub-fund¹³⁷:

Mr. Eick: "I have used that venue title...as *our discretionary fund*...to make it clear...what we've accumulated through operations or will accumulate through operations to finance future expenditures."

¹³³ Protestor has placed an asterisk next to the \$735,000 of principal outstanding and due date (2014-15) on page 41 of the 2014 CAFR. This page is attached as Exhibit "K" to this written statement which demonstrates this bond was retired on October 1, 2014.

¹³⁴ See pages 154-157 of the 5/26/2021 Board budget packet.

¹³⁵ See page 143 of the packet of materials prepared by staff in anticipation of the Board's March 11, 2020 meeting [https://www.yourtahoepace.com/uploads/pdf-ivgid/3-11-2020-BOT_Packet_Regular.pdf ("the 3/11/2020 Board packet")].

¹³⁶ See page 588 of the 6/23/2020 Board packet.

¹³⁷ This portion of the Board's April 17, 2016 meeting can be viewed at 43:37-53:28 of the 4/17/2016 livestream (<http://livestream.com/IVGID/events/5144683>).

Trustee Hammerel: "I understand *it's kind of a built in cushion...* (But) more importantly, I think we talked before about not only having a reserve fund for each (recreation) venue but then having an (additional) umbrella (reserve) fund for *all* community services (venues)...*Is that what you're intending here for this Community Services Admin (entry)?*"

Mr. Eick: "*That is correct.*"

And Staff Instruct Those Whose Parcels/Dwelling Units Are Paying the RFF to Consider it a Substitution For User Fees at Those Recreation Venues, Like the District's Parks, Where No User Fees Are Assessed: Unbelievably, staff contend that the RFF represents, in part, a user fee substitute at the District's recreation venues such as the public's parks, athletic fields, disc golf course, skateboard park, mountain bike pump track, fitness track, beach overflow parking lot, and other miscellaneous lesser District recreational venues where no user fees are charged. At the IVGID Board's March 3, 2016 meeting Mr. Eick provided an "executive summary" he intended to give Board members the "context... need(ed) for (then upcoming 2016-17) budget deliberations." In that summary Mr. Eick presented a series of descriptive slides¹³⁸ depicting his testimony to the IVGID Board as to the alleged benefits, importance of and reliance upon the RFF/BFF. Insofar as recreational venues where no user fees are assessed, Mr. Eick testified that because there is essentially no other "user fee process to generate a source" of revenue *other than the RFF*, those whose properties are assessed should consider the RFF/BFF to be a user fee substitute¹³⁹. In other words, rather than being a legitimate standby service charge for the mere "availability to use" the public's recreational facilities as well as the services offered thereat, at venues where no user fees are charged, *just like a tax* (see discussion below), the Board collects the RFF to pay the costs associated with these public venues whose use(s) are "available" *for free* to the general public as a whole.

So How Much of the Upcoming Fiscal Year's (2021-22's) RFF is Earmarked to Add to This "Discretionary Fund?" Actually, none of it! At page 41 of the 5/26/2021 Board budget packet¹⁴⁰ staff reveal that the current excess fund balance is budgeted to be *reduced* by \$3,757,941. This fact helps to explain why the RFF has been reduced from \$330 to \$100 for fiscal year 2021-22⁴⁷. And it helps to

¹³⁸ See pages 127 and 129 at https://www.yourtahoepace.com/uploads/pdf-ivgid/BOT_Packet_Special_3-3-2016.pdf ("the 3/3/2016 Board packet").

¹³⁹ The Board livestreams its meetings (<http://new.livestream.com/accounts/3411104>). The portion of the Board's March 3, 2016 meeting [<https://livestream.com/IVGID/events/4912422/videos/114195041> ("the 3/3/2016 livestream")] where Mr. Eick gave the testimony attributed to him can be viewed at 29:24-29:38 of the 3/3/2016 livestream.

¹⁴⁰ This page is attached as Exhibit "L" to this written statement which demonstrates this bond was retired on October 1, 2014.

explain that prior to fiscal year 2020-21, staff and the Board were guilty of “smoothing” which unnecessarily built up the Community Services Fund balance.

How Much of the Upcoming Fiscal Year’s (2020-21’s) BFF is Earmarked to Add to This “Discretionary Fund?” Similarly at page 41 of the 5/26/2021 Board budget packet¹³⁷ staff reveal that the current excess fund balance is budgeted to be *increased* by \$571,015. And it explains that even today, staff and the Board are guilty of “smoothing” which unnecessarily builds up the Beach Fund balance.

Staff and the Board Have Admitted the RFF/BFF Are "Taxes" Rather Than the "Fees"

Represented: Notwithstanding all of the above, the RFF/BFF are really invalid special taxes against real property. Invalid because NRS 361.445¹⁴¹ instructs that “the *only* basis for property taxation by any city, town, school district, road district or *other district in that county*...shall be...the assessment made by the county assessor and by the Department (of Taxation), as equalized according to law.” Given the RFF/BFF are uniform in amount¹⁴², secured by property¹⁴³, not based upon assessed valuation, let alone made by the county assessor and/or the State Department of Taxation¹⁴⁴, the RFF/BFF are invalid. And they are taxes because:

1. “Enforced contributions” are taxes [*United States v. Tax Comm'n*¹⁴⁵, 421 U.S. 599, 606, 95 S.Ct. 1872 (1975)] and the RFF/BFF are *involuntarily* liened/collected against *all* non-exempt parcels/dwelling units¹⁴²;

2. Where as here their collection “entitles the taxpayer to receive nothing except the governmental rights enjoyed by all citizens”¹⁴⁶ (*City of Huntington*¹⁶, *supra*, at 999 F.2d 74; *Clean Water Coalition*⁴⁵, *supra*, at 255 P.3d 256); and,

¹⁴¹ Go to <https://www.leg.state.nv.us/nrs/nrs-361.html#NRS361Sec445>.

¹⁴² “The (RFF) of \$100 *per property* will be collected from all properties within the District...and the (BFF) of \$680 will be collected from (all) applicable properties” with beach access (see page 181 of the 5/26/2021 Board packet).

¹⁴³ See ¶VI of the Report at page 192 of the 5/26/2021 Board packet which states “the amounts of the (RFF/BFF) shall constitute a lien against (each) lot or parcel of real property against which the charge has been imposed,” and ¶16 of proposed Resolution 1899 at page 186 of the 5/26/2021 Board packet which states “that all of the charges herein (shall) constitute a perpetual lien on and against each of the parcels of property...descri(bed) in (the) Report.”

¹⁴⁴ ¶III of the Report at page 191 of the 5/26/2021 Board packet states that “this Board...as...determined ...the amount of moneys required for...fiscal year...July 1, 2021, to June 30, 2021.”

¹⁴⁵ Go to <https://www.casemine.com/judgement/us/591491bcadd7b0493458d109>.

3. Their true purpose is to generate revenue¹⁴⁷ [*Douglas Co. Contractors v. Douglas Co.*¹⁴⁸, 112 Nev. 1452, 929 P.2d 253, 256 (1996); *State v. Boyd*¹⁴⁹, 27 Nev. 249, 256, 74 P. 654, 655 (1903); *Hawaii Insurers Council v. Lingle*¹⁵⁰, 120 Haw. 51, 201 P.3d 564 (2008)].

Fees on the other hand “appl(y) to the direct beneficiary of a particular service, (are) allocated directly to defraying the costs of providing the service, and (are) reasonably proportionate to the benefit received” [*State v. Medeiros*¹⁵¹, 89 Haw. 361, 367, 973 P.2d 736, 742 (1999); *Clean Water Coalition*⁴⁵, *supra*, at 255 P.3d 257]. “If those criteria fit the charge, it is a fee” (*Medeiros, supra*, at 973 P.2d 742-745; *Clean Water Coalition, Id.*). Because here they do not, the RFF/BFF are taxes.

Moreover, District staff have in essence admitted this truism. Consider the following:

User Fees to Make the Public’s Parks and Athletic Fields "Available" For Access and Use Where No User Fees Are Assessed: Protestor has already addressed this subject above. Because there is essentially no other “user fee process to generate a source” of revenue to pay for expenses associated with the District’s public parks and athletic fields *other than the RFF*, that’s where such revenue comes from. In other words, enforced contributions which entitle those whose parcels are involuntarily assessed nothing except the governmental rights enjoyed by all citizens;

The Public Views the RFF/BFF as Taxes: On numerous occasions when budget matters have been discussed and Mr. Eick gave testimony to the Board, he volunteered that “most people think the RFF/BFF are taxes.” Knowing this is the way the public views the RFF/BFF, and staff do nothing to educate them to the contrary (assuming there are facts which would educate them

¹⁴⁶ Remember that the parcels/dwelling units which are assessed the RFF/BFF receive nothing in consideration of forced payment. Moreover, their owners receive nothing. Although they can received up to five (5) picture passes or punch cards, those cards themselves do *not* entitle the holder(s) to access and use any of the District’s recreation or beach facilities, nor to receive any service.

¹⁴⁷ Remember, the Board budgets to the steady, dependable, until recently level RFF/BFF which subsidize the deficiency between revenues and overspending assigned by staff to the Community Services (i.e., recreation) and Beach Funds, respectively. In other words, their purpose is to generate revenue.

¹⁴⁸ Go to [https://www.courtlistener.com/opinion/1407681/douglas-co-contractors-v-douglas-cty/?q=Douglas%20Co.%20Contractors%20v.%20Douglas%20Co.%20\(1996\)%20112%20Nev.%201452%2C%20929%20P.2d%20253%2C%20254&type=o&order_by=score%20desc&stat_Precedential=on](https://www.courtlistener.com/opinion/1407681/douglas-co-contractors-v-douglas-cty/?q=Douglas%20Co.%20Contractors%20v.%20Douglas%20Co.%20(1996)%20112%20Nev.%201452%2C%20929%20P.2d%20253%2C%20254&type=o&order_by=score%20desc&stat_Precedential=on).

¹⁴⁹ Go to [https://www.courtlistener.com/opinion/3568571/state-v-boyd/?q=State%20v.%20Boyd%20\(1903\)%2027%20Nev.%20249%2C%20256%2C%2074%20P.%20654](https://www.courtlistener.com/opinion/3568571/state-v-boyd/?q=State%20v.%20Boyd%20(1903)%2027%20Nev.%20249%2C%20256%2C%2074%20P.%20654).

¹⁵⁰ Go to [https://www.courtlistener.com/opinion/2634942/hawaii-insurers-council-v-lingle/?q=Hawaii%20Insurers%20Council%20v.%20Lingle%2C%20120%20Haw.%2051%2C%20201%20P.3d%20564%20\(2008\)&type=o&order_by=score%20desc&stat_Precedential=on](https://www.courtlistener.com/opinion/2634942/hawaii-insurers-council-v-lingle/?q=Hawaii%20Insurers%20Council%20v.%20Lingle%2C%20120%20Haw.%2051%2C%20201%20P.3d%20564%20(2008)&type=o&order_by=score%20desc&stat_Precedential=on).

¹⁵¹ Go to <https://www.courtlistener.com/opinion/1301986/state-v-medeiros/>.

otherwise), staff are guilty of omitting material facts as to the true nature of the RFF/BFF which they know perpetuates the public's view;

Representations to the IRS That the RFF/BFF are Taxes: It's not just staff's representations to the Board and the public which demonstrate they know the RFF/BFF are not "fees." Mr. Eick has owned Incline Village property assessed the RFF and the BFF. As do most past and current Board trustees. Presumably they file federal income taxes. And until recent tax law changes, those claiming itemized personal deductions did so on Schedule A of those returns. One of those deductions was for real estate taxes paid. And what number does the reader think Mr. Eick and Board members inserted (i.e., the number with or without inclusion of the RFF/BFF)? Assuming it's the number which includes the RFF/BFF, hasn't Mr. Eick and past Board members declared to the IRS that the RFF/BFF represent real estate taxes paid? Assuming the answer is yes, how can they now assert anything different?

IVGID's General Manager's Admissions: Sometimes a "slip of the tongue" can reveal the truth. And our former GM, Steve Pinkerton, slipped. Agenda item G(5) for the Board's regular April 11, 2015 meeting asked for approval to pay the County Treasurer \$33,177.81 in *delinquent taxes*¹⁵² which were waived against three parcels conveyed by the County Treasurer to IVGID pursuant to NRS 361.603(4)¹⁵³ in 2014. But in Mr. Pinkerton's memorandum in support of this action item, he described how most of this sum (\$31,584) represents delinquent "back taxes" (i.e., RFFs/BFFs): "IVGID's recreation and beach fees comprise \$31,584 of the total due with the balance of \$1,593.81 owed to the respective taxing entities...Therefore, the net cost (to IVGID will)...be less than \$1,593.81."¹⁵⁴ So what were they Mr. Pinkerton? Taxes or fees? Or to him is there really any difference?

IVGID's Auditor Admissions: Testifying in support of IVGID's Special Revenue Fund reporting, on December 16, 2015 Dan Carter, EideBailly Audit Engagement Partner, represented to the Board's Audit Committee that the RFF/BFF are taxes. According to Mr. Carter the fact there's a restriction on their use means they "meet...the definition of...imposed non-exchange revenue."¹⁵⁵ On May 23, 2016, in a memo to the Chairman of the Audit Committee, Mr. Carter "clarified" his prior testimony: "enterprise fund accounting is primarily used when exchange fees (for example, the fee to play a round of golf) support (enterprise)...fund(s)." Special revenue fund accounting on the other hand is used when "imposed non-exchange [fees {'for example, property tax or other assessment(s)'}] ...result from assessments imposed by governments on individuals." Because the payer(s) of these fees receive *nothing* of value in return, Mr. Carter testified that "**classification...may be more appropriately accounted for in...Special Revenue Fund(s)**" which again demonstrates the RFF/BFF are taxes.

¹⁵² See page 211 of the 4/11/2018 Board packet.

¹⁵³ Go to <https://www.leg.state.nv.us/nrs/nrs-361.html#NRS361Sec603>.

¹⁵⁴ See pages 212-213 of the 4/11/2018 Board packet.

¹⁵⁵ Protestor has a written transcript of that testimony should it be deemed useful or necessary.

IVGID's Conversion of Community Services and Beach Enterprise Funds Into Like Named Special Revenue Funds: At the Board's regular April 11, 2018 meeting protestor submitted a written statement¹⁵⁶ wherein he made the case that the *only* revenues a public agency can report in a special revenue fund are:

1. Derived tax revenues, which result from assessments imposed on exchange transactions (for example, income taxes, sales taxes, and other assessments on earnings or consumption);
2. Imposed non-exchange revenues, which result from assessments imposed on nongovernmental entities, including individuals, other than assessments on exchange transactions (for example, property taxes and fines);
3. Government-mandated non-exchange transactions, which occur when a government at one level provides resources to a government at another level and requires the recipient to use the resources for a specific purpose (for example, federal programs that state or local governments are mandated to perform); and,
4. Voluntary non-exchange transactions, which result from legislative or contractual agreements, other than exchanges, entered into willingly by the parties to the agreement (for example, certain grants and private donations).

Since the RFF/BFF represent involuntarily imposed non-exchange revenue, totaling twenty percent (20%) or more of the total revenue flow assigned to IVGID's special revenue funds, and it has reported the same to the DOT, protestor concluded that IVGID must admit these fees represent revenue derived from either property taxes or assessments. In other words, since by definition the RFF/BFF cannot be assessments¹⁵⁷, they must be taxes.

Staff Admit the RFF/BFF Represent "Imposed Non-Exchange" Revenue: According to page 54 of the 2016 CAFR, at Note 17, IVGID states: "The District provides recreation functions through two individual *special revenue funds*." Since GASB 33¹⁵⁸ states that in order to qualify for Special Revenue fund accounting a substantial portion of the fund's revenues must come from non-exchange transactions, the RFF/BFF revenue IVGID assigns to its Community Services and Beach Special Revenue funds must come from taxes.

Conclusion: Protestor asks that each of you to take a look around town. In the last ten (10) years local property owners have involuntarily contributed nearly \$70 million to subsidize staff's overspending assigned to recreation and the beaches. Do you see \$70 million? Let's ask the question a bit differently. If we as local property owners are the equitable owners of let's say Diamond Peak

¹⁵⁶ See pages 135-142 of the 4/25/2018 Board packet.

¹⁵⁷ NRS 318.197(1) states that "the board may fix, and from time to time increase or decrease...rates, tolls or charges *other than special assessments*..."

¹⁵⁸ Go to https://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176160029148&acceptedDisclaimer=true.

(which is what staff tell us), and Diamond Peak generates \$2 million or more of positive cash flow in a single season (which is what staff tell us), why isn't any portion of this financial windfall shared with us either as either a cash dividend or a reduction in next year's RFF/BFF? The fact it isn't speaks volumes.

So what should the Board do in response to this agenda item? DO NOT ADOPT A RFF/BFF. Send the message to staff that the time has come to stop propagating untruths to local property owners, and for the District to live within its financial means. It may be hard medicine for staff to swallow but have they stopped to consider the detriment to local property owners by perpetrating the fraud of the RFF/BFF? Actually these facts harken back to another one of my more fundamental criticisms: exactly who's working for whom? Does our staff work for the public, or is their real boss our GM and because of Resolution 1480¹⁵⁹, the Board acts as nothing more than staff's rubber stamp?

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

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

¹⁵⁹ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_PolicyAndProcedure105_Resolution1480.pdf.

EXHIBIT "A"

Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22

From: s4s@ix.netcom.com
To: "info@ivgid.org"
Cc: Callicrate Tim <tim2tahoe@msn.com>, Dent Matthew <dent_trustee@ivgid.org>, Wong Kendra Trustee <wong_trustee@ivgid.org>, Tonking Michaela <tonking_trustee@ivgid.org>, Schmitz Sara <schmitz_trustee@ivgid.org>, "ISW@ivgid.org" <ISW@ivgid.org>
Subject: Agenda E(2) - Public Hearing on the RFF/BFF For 2021-22
Date: May 26, 2021 12:40 PM

Chairperson Callicrate and Other Honorable Members of the IVGID Board -

The agenda for tonight's public hearings/board meeting states that members of the public may make comments via e-mail to this address by 4 P.M. this afternoon. So I am making a couple of comments I trust the attorney will address this evening.

A. The proposed Report on the Collection of the RFF/BFF (pages 188-193 of the Board packet) which proposed Resolution 1889 seeks to adopt states matter of factly that the RFF/BFF are "recreation standby...charges" for the availability to access and use the District's public recreational and private beach facilities, and involuntary "recreation...service charges." I would like to hear Mr. Nelson's explanation of what facts support the conclusion the RFF/BFF represent these charges? Because I and others I know are of the opinion the RFF/BFF DON'T represent these charges.

In support, I've created a number of past expenditures staff have made with past RFFs/BFFs which are not these charges:

1. Appearance Fees (\$5,000/each) to Tennis Professionals For a Tennis Center Event Open to the Public at No Charge;
2. Fourth of July Fireworks (we used to donate \$10K annually);
3. Litigation Fees. Not just defending Frank Wright's, Steve Kroll's, Aaron Katz's and Mark Smith's lawsuits, but prosecuting litigation against Kevin Lyons;
4. The \$100K "contingency" in the proposed 2021-22 budget assigned to the General Fund reflecting additional litigation fees/possible settlement in the Mark Smith lawsuit;
5. Litigation settlement fees (the \$10K contribution to "we the people");
6. Court Mandated Ad Valorem Tax Refunds. The previous refunds were reflected as "extraordinary expenses" under where does your RFF go, for three (3) years. The current refunds will create a shortage in the District's General Fund which will have to be made up from somewhere assuming staff do not cut their overspending. And that shortage will be made up from disingenuous "central services costs" charged in part to the RFF and the BFF;
7. Private Memberships in Third Party Golf Organizations. I previously provided evidence that IVGID paid for private golf club memberships in the NCGA. Although staff claimed the costs of those memberships were reimbursed, they have refused to provide any written evidence of the same notwithstanding I have asked to examine that evidence. So until staff comply, the private memberships have NOT been reimbursed;
8. Employee Meals Because They've Had a Tough Week (or Season). Or it's someone's birthday. Or someone's going away party. Or someone's welcome on board party. Or you select the improper reason whatever it may be;
9. Vendor Meals and Entertainment. You remember when our staff to SE Group principals out to a \$200 dinner at the Lone Eagle Grill. How many more of these meals and entertainment have staff made/propose making with our RFF/BFF?
10. Consultant Fees For Recreation Master Plans. You know, the plans which come up with a generic wish list of capital improvements which you and I could have come up with in half an hour if we sat around a table and threw out wish list recommendations. And BTW, how did the Global Golf Advisors plan work out given we've ignored most of the recommendations? Or the DPMP which is now 8 years old and we're no closer to doing anything than we were 8 years ago - and the timing was so critical for that plan, wasn't it?
11. Memberships in Dozens of Meaningless Third Party Organizations like the Bear League, STOKE and almost POW;
12. Defensible Space Expenses to Protect the Visitors and Guests to Incline Village. Know these efforts are not targeted to protecting IVGID's recreational facilities from catastrophic fire. They're targeted to creating a halo surrounding IV and CB to protect EVERYTHING including "things" belonging to those who don't pay the RFF;
13. The giveaway of approximately 2.3 acres under the Parasol Community Center restricted to recreation and park purposes only. \$1/year for up to 99 years;
14. The giveaway of approximately .5 acres under the Visitor's Center building restricted to recreation and park purposes only. \$1/year for up to 99 years;
15. Maintenance and upgrades to the Reno-Sparks Visitors' and Convention Authority's park adjacent to the Visitor's Center;
16. Maintenance and repair of the two Washoe County parks at either end of the intersections of Lakeshore Blvd. and State Highway 28. Since at least 1994, if not before;
17. Maintenance, upgrades and use of the athletic fields for the Washoe County School District's Middle School's physical education programs - i.e., Incline Park;
18. Maintenance and repair of the WCSD's upper high school athletic field. Staff claims IVGID owns this field. But it does not. Staff claims its costs are reimbursed by the WCSD. But the reimbursement amount is insufficient to cover IVGID's actual

costs. And besides, are IVGID staff so under utilized so we can make them available to every private Tom, Dick and Harry who wants to avail itself of those services?

19. Maintenance, repair and renovation of public parks such as Preston Field, Village Green, Incline Park, Incline Skateboard Park, the Disc Golf Course, the Incline Bike Park, the Bocce Ball Park, and the Incline Fitness Trail. We lose more than \$1 million annually maintaining and repairing these public parks which in essence generate no user fee revenues;

20. Regional Transportation System. Hundreds of thousands of dollars of vehicles providing all sorts of mostly free transportation in/from/to our community including on demand shuttles to/from the Reno-Tahoe Airport;

21. Over 100 money losing community programs operated Out of the Recreation Center including pre and post school child care;

22. Maintenance, repair, upgrades and renovations to Ski Way for the benefit of approximately 330 Tyrolean Village homeowners, their tenants, invitees and guests;

23. Massive public philanthropy so local non-profits can use the public's recreational facilities to generate funds for their flavors of the month at local parcel/dwelling unit owners' expense. The most recent example is the TFC's June 6, 2021 Champ Golf tournament where the public's costs are \$41K+ per day, on average, and the revenue received from the tournament will be \$2K;

24. And don't forget DPSEF. I've already documented where the cost to the public totals \$200K+ per year. And now they want another Parasol/Visitor's Center \$1/year sweet deal at Diamond Peak;

25. CMAR costs because our professional engineering staff are not competent to perform construction management duties notwithstanding the cost of every CIP reimburses for such staff under the guise of "unreimbursed staff time." Don't we remember the \$200K+ of unreimbursed staff time assigned to the pond lining project which it turns out was never prosecuted?

26. Public relations for staff propaganda purposes. First it was Misty Moga as Communications Coordinator. Then it was Tri-Strategies at \$4K/month. And now it's Kari Ferguson as Communications Coordinator;

27. Lobbyist fees to influence legislation. \$3K/month to Tri-Strategies for what? And nearly \$5K/month to Marcus Faust for what?

28. The IVGID Quarterly (another staff propaganda tool). I've already documented where our costs are at least \$10K/issue, and there are at least six (6) issues/year (so why do we call it the "quarterly?" I guess our staff are so "under-utilized" that we have to find meaningless extraneous jobs for them to do to justify the fact they are full time, fully benefited employees;

29. Our Marketing Department. Notwithstanding NRS 318.015(1) instructs that our recreational facilities are supposed to be here for our use, staff spend \$1M or more annually on billboard, television commercial, radio and print advertisements, social media "clicks," and Diamond Peak season pass giveaways selling IV to the world's tourists;

30. Credit card processing charges. Over \$425K annually and for the benefit of what?

31. Loomis armored car bank transporting charges. Over \$1,700/month and for the benefit of what?

32. Restaurants and food courts. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?

33. Bars selling alcoholic beverages. And allowing this commercial enterprise to take place on our private beaches. What recreation is this?

34. Food and beverage/catering department(s). Food is not recreation for most of us;

35. The Hyatt Sport shop retail sales;

36. Acting as an insurer for Village Ski Loft merchandise sold in the Sport Shop by IVGID employees which is lost, stolen or damaged;

37. Retail clothing/soft good sales. Besides the Hyatt Sport Shop, both golf pro shops, the Tennis and Recreation Centers. I guess shopping is now recreation.

38. Wedding and event facilities sales. And staff won't tell you they have used paragraph I(F) of the proposed Rec Fee Report to SELL our beaches for weddings. Some employee with beach access declares that a wedding customer is his/her guest for beach access which opens the beaches to wedding sales; and,

39. IVGID currencies. IVGID bucks, Diamond Peak bucks, "PERK" program bucks, and when all else fails, fully transferable Diamond Peak ski lift vouchers.

NONE of this has anything to do with making the public's recreational facilities available for my use, as opposed to anyone else's use, yet you Board members call the RFF which finances all of this an alleged standby service charge. Or a plain old involuntary service charge.

B. Or let's take the BFF.

40. Ordinance 7 says the BFF pays for my ability to access and use the beaches and if I don't pay, I don't get access. Really? Since the beach deed grants local property owners as well as their properties the grant of easement, how can the Board and staff state that the BFF is a legitimate standby service charge?

41. Or let's go one step further. 3 court cases have determined that the beaches are private. Trustees Callicrate and Wong have both announced on the record that the beaches are private. So how can the BFF be used to develop the beaches (Burnt Cedar Pool, the Beach House, the Incline Beach bathrooms, the beach overflow parking lot) given NRS 318.015(2) expressly prohibits this?

C. Seeking Refund of the RFF/BFF.

42. Section VI of the proposed Report for the collection of the RFF/BFF as well as paragraph 8 of proposed Resolution 1889 both declare that those who are assessed the RFF/BFF are entitled to seek its refund yes there is no administrative means of

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so doing? I have demonstrated that since the laws pertaining to refund of a county's general taxes do not apply to IVGID's RFF/BFF, because the RFF/BFF are uniform in amount and not dependent upon an assessed parcel's valuation, there is no remedy to seek their refund. So I am asking the Board create its own administrative remedy the way it has done in Ordinance 7 whenever a picture pass or punch card holder's recreation privileges are proposed to be suspended or revoked. Or is the language nothing more than "hollow words?"

Thank you for accommodating my request.

And please include this e-mail as an attachment to the written minutes to be prepared of tonight's meeting.

Aaron Katz

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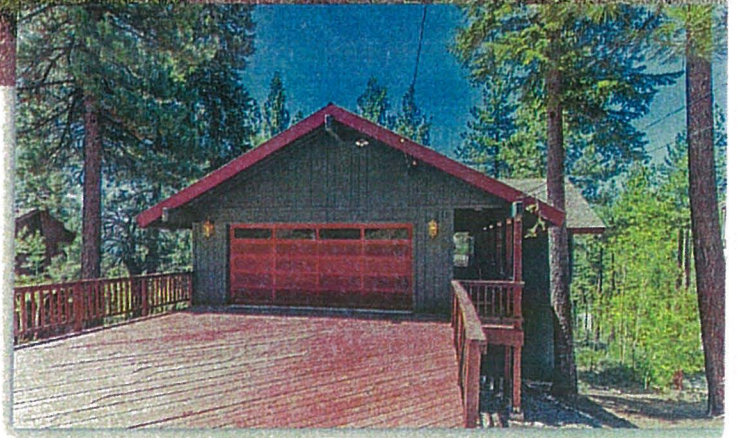
EXHIBIT "B"

LAKE SHORE

REALTY



Desirable Eastern Slope 711 Cristina Drive



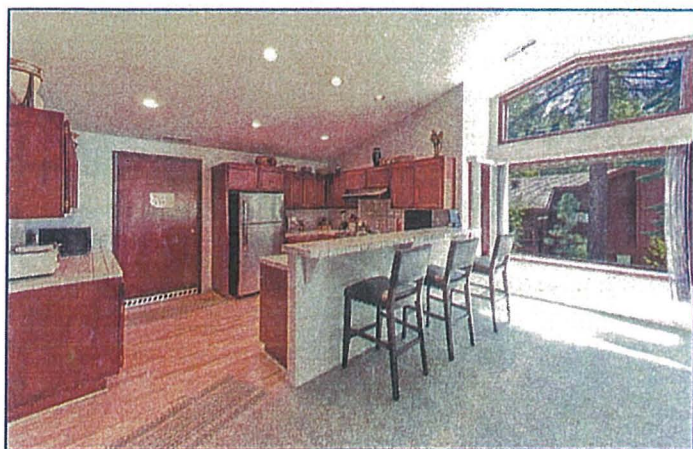
Fabulous setting! Main level living. Well size bedroom on the main living level. Step down living room with wood burning fireplace and direct access to the spacious deck overlooking the fenced backyard, filtered lake views and forest service lots. Kitchen opens to the dining area and living room. Downstairs is the master bedroom, walk-in closet, full bathroom with double sinks. Deck off the master bedroom. Two additional bedrooms, full bath, family room w/deck, laundry room, exercise or storage room all on the second level.

Offered for \$1,289,000



Property Features:

- 4 Bedrooms, 3 Bathrooms, 2,946 sq. ft.,
- 2 car attached garage, level driveway
- .36 acre parcel, surrounded by Forest Land
- Fully fenced backyard, filtered lake views
- Large open living, bedroom on main level
- Oversized deck perfect for entertaining
- Exercise or large storage room on 2nd level
- Property Taxes; \$9,470 (2018)



Incline Village is a master planned community featuring 3 private beaches one with an outdoor swimming pool, access to the state-of-the-art fitness and recreation center with indoor swimming pool, basketball courts, tennis facility, Diamond Peak Ski Resort and two amazing golf courses - Mountain Golf Course designed by Robert Trent Jones Jr. and Championship Golf Course designed by Robert Trent Jones Sr. As a property owner in Incline Village and Crystal Bay, your taxes include 'membership' to all these amenities, either free of charge or at a reduced resident rate. Crystal Bay property owners enjoy all of Incline's amenities with the exception of the private beaches.



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Please contact Chris or Patti if you have any questions on this property. They have assisted buyers and sellers for over 40 years.



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Patti Plastiras
775.843.7002
Patti@LakeshoreRealty.com

LakeshoreRealty.com

LAKESHORE
REALTY



EXHIBIT "C"

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HOME

The benefits of owning in Nevada

During the past several years a significant percentage of the people purchasing property on the Nevada side of Lake Tahoe are relocating from California and other states with high income tax rates.

But it's not just the favorable business climate and lower levels of personal income and business taxes that are attracting new residents to our community. It's also the quality of life and all the amenities that are available for property owners to enjoy on a year-round basis that are enticing individuals and families to move to Incline Village.

Property owners in Incline Village are entitled to partake in a broad array of recreational facilities far superior to anything found elsewhere at Lake Tahoe. There are three private beaches, two magnificent golf courses, a modern ski area with a nice base lodge, a 34,000 square foot recreation center, tennis complex, disc golf course, and numerous parks



Don Kanare & Sabrina Belleci
Special to the Tribune

(including one for skateboarding).

You will also discover lots of open space for people and their pets to roam and fantastic hiking and mountain biking trails with some of the best views found anywhere in the world.

High income residents of California are subjected to a state income tax rate of over 13% after the passage of Proposition 30 in November 2012. What this means for the Incline Village real estate market is that many business people every year contemplate whether or not they should remain in California or consider relocating

WEEKLY REAL ESTATE UPDATE

	Houses	Condos	PUDs
For Sale	121	70	20
Under \$1 million	16	46	11
Median Price For Sale	\$2,100,000	\$699,000	\$747,500
YTD Sales 2019	74	73	29
YTD Sales 2018	94	96	31
New Listings	17		
In Escrow	13		
Closed Escrow	5		
Range in Escrow	\$319,900 – 3,500,000		

These statistics are based on information from the Incline Village Board of Realtors or its Multiple Listing Service as of July 14.

to another state that could provide greater economic benefits.

Housing is much more affordable in Northern Nevada than in most parts of the Bay Area and when coupled with the Tahoe lifestyle it is a very attractive option.

One of the most important things for a business owner to consider is the health and well-being of their employees. If a move to the Nevada side of Lake Tahoe makes sense both economically and psychologically for a particular employer it makes relocating a lot easier for everyone involved.

The uptrend of price increases for Incline Village and Crystal Bay real estate over the past several years has been fueled by a combination of purchases by vacation homeowners and high income California residents looking to relocate to our community for both the economic benefits and quality-of-life advantages.

As long as people feel that moving to the Nevada side of Lake Tahoe has significant benefits, the demand for homes and condos will remain strong.

For the past several years Nevada

has been at or near the top of the list for anyone considering moving from a state with a high tax burden and a complex regulatory environment. The Reno-Tahoe area is in close proximity to the major urban centers in California and the Reno airport is one of the most accessible in the nation.

It is only natural that businesses ranging from a salesperson working at home to Google and Tesla are moving some or all of their operations to Northern Nevada.

Other factors that make Incline Village attractive to individuals and businesses relocating from California are the relatively inexpensive cost of electricity, total labor costs and the great variety of housing.

Recreational opportunities are abundant making the Nevada side of Lake Tahoe a great place to work and play.

Don Kanare is the founder and Sabrina Belleci is the owner and broker of RE/MAX North Lake in Incline Village. You can follow their blog at www.InsideIncline.com.

Prevent the hazard of overloaded electrical circuits

Metro Creative

A home is a safe haven for its residents. No matter what's going on at school or the office, many people know they can relax in comfort and safety when they arrive home at the end of a day.

Safety at home is something that can be taken for granted until it's too late. The National Fire Protection Association notes that each year more than 47,000 home fires in the United States are caused by electrical failure or malfunction.

Overloaded electrical circuits are a frequent culprit in residential fires. Fortunately, overloaded circuits are preventable. According to the Electrical Safety Foundation International, the following are some potential indicators that circuits are overloaded.

- Flickering, blinking or dimming lights
- Frequently tripped circuit breakers or blown fuses
- Warm or discolored wall plates
- Cracking, sizzling or buzzing from receptacles
- Burning odor coming

from receptacles or wall switches

- Mild shock or tingle from appliances, receptacles or switches.

Learning to recognize the signs of overloaded circuits is an important step in making homes safe, as the NFPA notes that home fires contribute to hundreds of deaths and more than 1,500 injuries each year.

Such fires also hit homeowners in their pocket-books, causing an estimated \$1.4 billion in property damage annually.

Prevention is another key

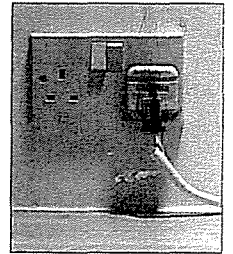
component when safeguarding a home and its residents from fires sparked by electrical failures of malfunctions. The ESFI offers the following tips to prevent electrical overloads.

- Never use extension cords or multi-outlet converters for appliances.
- All major appliances should be plugged directly into a wall receptacle outlet. Only one heat-producing appliance should be plugged into a receptacle outlet at any given time.
- Consider adding new outlets to your home.

Heavy reliance on extension cords indicates that your home does not have enough outlets. Bring in a qualified electrician to inspect your home to determine if more outlets are necessary.

Recognize that power strips only add additional outlets; they do not change the amount of power being received from the outlet.

Fires sparked by electrical circuit overload pose a significant threat. Thankfully, such fires are preventable. Learn more at www.esfi.org.



METRO CREATIVE

More than 47,000 home fires in the United States are caused by electrical failure or malfunction, according to the National Fire Protection Association.



TAHOE ISLAND PARK#4 Steps to School Bus Stop, Meadow & River., Access to Tahoe Keys Beach & Pier. Remodel started & Buyers can finish to their taste. Two good sized bedrooms & large Master Bedroom/Bath; & Guest Bath. Roof is good; newer double pane windows, Heated Double Garage w/Auto opener. NOW \$399,000



PENDING SALE
NEW LISTING! Highland Woods Contemporary 3 Bdrm. plus large Family room & Foyer. Large kitchen., 2.5 Baths, double garage, decks & hot tub & large fenced yard. Walk to the Meadow & River; a little longer walk to the Lake! \$573,000 By appointment only.



PENDING SALE
Three large bedrooms, 2 large living/family rooms (one with its own entrance), & a Den and large double garage! Fenced & landscaped. Quiet family neighborhood with longtime Locals in it! Short distance to Heavenly Ski Area, Farmers Market, Restaurants & Schools.

FEATURED LISTING

Ready to Build Lot

Building permit included and most fees paid for, including Architect's floorplans & additional coverage paid for. Near meadow & the college. Listing \$150,000



PRIME LOCATION @ spotlight of Al Tahoe Blvd. & Hwy 50; Modern Passive Solar Commercial Building w/6 suites/4 baths, 2 lobby's & storage rooms. Owners may finance qualified Buyer. Call Davey for pricing.

INCOME & LAND LISTINGS

Well Established Alterations business, great lease \$60,000
\$289,000 HALF ACRE COMMERCIAL/MIXED USE parcel. SITE ASSESSMENT & CITY BLDG DEPT DETAILS IN FILE. Flat, with not many trees. Depending on your planned use, City may have floor area available.
Near Meadow; Ready to build lot in town; includes Allocation & most fees paid \$150,000



BEST RENTALS

"Make My Experience Work For You!"
(530) 318-8660 • daveyp@laketahoe4sale.com
VIEW ALL MLS LISTINGS @ www.laketahoe4sale.com BROKER/OWNER/REALTOR

EXHIBIT "D"

**INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
STATEMENT OF SOURCES AND USES
BY CLASS
BEACH FUND**

Prior Fiscal Year - Current Fiscal Year - Final

	Actuals FY2019-20	Current Budget FY2020-21	Tentative Working Budget FY 2021-22	Final Working Budget FY 2021-22
SOURCES				
Charges for Services	1,619,582	831,955	892,500	892,500
Facility Fees	966,817	658,580	1,394,640	5,268,640 ★
Investment Earnings	28,422	11,250	5,625	5,625
Funded Capital Resources	-	-	4,335,212	-
Transfers In	13,125	-	-	-
TOTAL SOURCES	<u>2,627,946</u>	<u>1,501,785</u>	<u>6,627,977</u>	<u>6,166,765</u>
USES				
Salaries and Wages	801,253	810,930	885,579	885,579
Employee Fringe	185,239	221,093	229,705	229,705
Total Personnel Cost	<u>986,492</u>	<u>1,032,023</u>	<u>1,115,284</u>	<u>1,115,284</u>
Professional Services	5,700	14,765	17,850	17,850
Services and Supplies	432,541	500,991	538,716	639,716
Insurance	29,533	37,980	39,300	39,300
Utilities	131,362	130,894	139,064	139,064
Cost of Goods Sold	95,122	83,600	100,500	100,500
Central Services Cost	110,500	106,046	118,680	118,680
Capital Improvements	-	-	4,520,060	3,419,060 ★
Debt Service	-	-	6,296	6,296
Transfers Out	88,299	-	-	-
TOTAL USES	<u>1,879,548</u>	<u>1,906,299</u>	<u>6,595,750</u>	<u>5,595,750</u> ★
SOURCES(USES)	<u>748,399</u>	<u>(404,514)</u>	<u>32,227</u>	<u>571,015</u> ★

EXHIBIT "E"

FY2021-22 TENTATIVE BUDGET

LINE-ITEM DETAILS

District-Wide

By Fund

Golf Facilities SKI

Sum of Signed Requested Amount

100 200 320 330 340 350 360 370 380 390 410 420 430 450 Grand Total

Revenue

Ad Valorem	(1,924,000)															(1,924,000)
Consolidated Tax	(1,803,362)															(1,803,362)
Charges for Services	(2,400)	(12,783,176)	(4,277,646)	(1,798,720)	(11,134,914)	(1,131,654)	270,000	(60,615)	(141,351)	(892,500)						(31,952,976)
Back Flow Tests		(120,000)														(120,000)
Capital Improvement Monthly		(4,859,639)														(4,859,639)
Capital Improvement Retro		(14,000)														(14,000)
Defensible Space Charges		(100,200)														(100,200)
Effluent Disposal Sales		(75,000)														(75,000)
Fines & Penalties		(25,200)														(25,200)
Fire Protection		(18,096)														(18,096)
Hunting Fees		(20,000)														(20,000)
Inspection/Plan Fees		(40,000)														(40,000)
Interfund Revenue Transfers		-														-
Misc- Water Rights		-														-
Other Sewer		(15,000)														(15,000)
Other Water		(28,800)														(28,800)
Rental Income	(2,400)			(889,475)	(5,000)	(3,000)		(60,615)		(175,700)						(1,136,190)
Sewer Base		(2,349,214)														(2,349,214)
Sewer Connection		(31,500)														(31,500)
Sewer Consumption		(1,242,640)														(1,242,640)
Tier 1		(194,480)														(194,480)
Tier 2		(84,112)														(84,112)
Water Base		(1,600,000)														(1,600,000)
Water Connection		(20,000)														(20,000)
Water Consumption		(1,486,290)														(1,486,290)
Franchise Fee		(324,500)														(324,500)
Service & User Fees		(134,505)	(88,834)	(27,000)	(1,508,300)	(10,350)	(27,000)									(1,795,989)
Passes			(651,433)		(1,925,909)				(56,929)							(2,634,271)
Admissions & Fees			(2,092,392)		(4,974,347)	(835,000)			(12,055)	(907,000)						(8,820,794)
Parcel Owner Allowances			214,600							600						215,200
Parcel Owner Allowance for Golf Passes																-
Charitable Allowances			8,800	170,717	26,200											205,717
Employee Allowances			23,630		124,600	1,300			400	5,600						155,530
Promotional Discounts			70,363	127,399		1,800			3,700							203,262
Yield Management Allowances																-
Sponsorships						(3,700)			(500)							(4,200)
Promotional Allowances			7,370		579,200											586,570
Personal Services			(62,500)		(1,663,558)	(66,000)			(27,791)							(1,819,849)
Merchandise Sales			(774,000)		(56,400)	(25,820)			(14,215)							(870,435)
Food Sales			(568,850)	(958,300)	(1,282,300)	(19,400)				(346,000)						(3,174,850)
Beer Sales			(161,200)	(85,100)	(279,300)				(8,426)							(534,026)
Wine Sales			(53,500)	(168,800)	(47,100)				(1,425)							(270,825)
Liquor Sales			(149,700)	(157,100)	(161,600)				(714)							(469,114)
Allocated to others					45,900											45,900
Insurance Proceeds - Operating																-
Inter-District Program Allowan				176,239												176,239
Inter-District Program Allowances				12,700	46,500											59,200
Concessions					(42,900)					(47,000)						(89,900)
COSTCO Allowance																-
Repairs for Customers					(10,600)											(10,600)
Program Registration						(163,484)			(23,396)	(26,000)						(212,880)
Scholarship Allowances																-



EXHIBIT "F"

EXHIBIT "F"



ABOUT THE 2012-2013 RECREATION FACILITY FEE AND BEACH FACILITY FEE

	Components			Total Facility Fee
	Operating	Capital	Debt Service	
Recreation (8248 Parcels)				
Championship Golf	\$ 26	\$ 29	\$ 32 *	\$ 87
Mountain Golf	10	30	-	40
Chateau	8	-	23 *	31
Aspen Grove	4	-	-	4
Catering ⁽¹⁾	(14)	6	-	(8)
Diamond Peak Ski Resort ⁽¹⁾	(196)	87	21 *	(88)
Parks	60	40	2 *	102
Tennis	4	2	-	6
All Youth	15	-	-	15
All Adult Programs	2	-	-	2
Senior Programs	16	-	-	16
Recreation Center	99	5	-	104
Recreation Admin	137	-	-	137
Reserves	75	-	-	75
Defensible Space	12	-	-	12
Debt Service 2003 Bond ⁽²⁾	-	-	85 *	85
Debt Service 2008 Bond ⁽³⁾	-	-	110 *	110
Recreation Facility Fee	\$ 258	\$ 199	\$ 273	\$ 730
Beach (7811 Parcels)				
Beach Facility Fee	\$ 66	\$ 17	\$ 17*	\$ 100

(1) Bracketed numbers indicate a reduction in RFF/BFF

(2) Bond Payments is completed in 2013 for Champ Golf, Diamond Peak Quad, and Tennis Courts

(3) Bond payments is completed in 2018 for Diamond Peak Phase 1 & 2 renovation, Snowmaking, and BMPs

EXHIBIT "G"

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6. LONG-TERM DEBT

All of the District's Long Term Bonds are collateralized by a pledge of revenues derived and to be derived from the operation of either the Utility, Community Services or Beach venues, after deduction there from of the amount necessary to pay all operating and maintenance charges as required by applicable bond agreements. The District is also required to maintain rates sufficient to pay all maintenance, depreciation, replacement, betterment, and interest charges.

Business Type Activities:

Outstanding Long-Term Debt as of June 30, 2012

Issue	Issue Date	Maturity Date	Interest Rate	Amount Issued	Principal Outstanding	Due 2012-13
Medium-Term General Obligation Bonds Recreation						
★ Recreation Golf Imp. 2003	03/01/03	03/01/13	★ 2.8-3.6%	\$5,500,000	\$ 695,000	\$695,000
★ Recreation Impr. (Ski) 2008	06/18/08	06/01/18	3.5-7%	7,000,000	4,500,000	675,000
General Obligation Revenue Bonds Recreation						
Recreation Facilities and Recreation						
Refunding 2002	09/01/02	09/01/22	2.5-4.75%	6,205,000	3,745,000	270,000
★ Recreation Refunding 2004	02/01/04	10/01/14	2-3.25%	4,445,000	<u>1,750,000</u>	<u>300,000</u>
Total Recreation Revenue Supported Debt					<u>\$10,690,000</u>	<u>\$1,940,000</u>
Utility						
State of Nevada						
Utility C32-1006	10/29/92	07/01/12	4%	3,925,398	\$157,107	\$157,107
Utility Water Bonds of 2003	06/01/03	06/01/13	2-3.5%	2,130,000	245,000	245,000
Sewer C32-0204	10/28/02	01/01/23	3.14%	1,687,402	1,187,922	91,949
Water IVGID-1	09/01/04	07/01/25	3.082%	1,702,380	1,247,359	75,784
Sewer CS32-0404	08/01/06	09/01/26	2.73%	3,000,000	2,402,111	143,046
Water DW-1201	03/16/12	01/01/32	2.39%	3,000,000**	<u>691,161</u>	<u>60,836</u>
Total Utility Revenue Supported Debt					<u>\$5,930,660</u>	<u>773,722</u>
Total Business Type Activities Debt					<u>\$16,620,660</u>	<u>\$2,713,722</u>

** The State of Nevada Water Contract DW-1201 has been authorized at \$3,000,000. As of June 30, 2012 only \$691,161 had been drawn. A request for a draw of \$1,613,509 was pending and funded July 13, 2012. The remaining \$695,330 is expected to be drawn by November 30, 2012. Debt service disclosures have been prepared based on the bond being fully issued and amortization beginning with the payment due January 1, 2013.

Long-Term bonded debt activity for the year ended June 30, 2012

	Beginning Balance	New Issues	Principal Reductions	Ending Balance	Due Within One Year
Business Type Activities:					
General Obligation Revenue	\$16,048,477	\$ 691,161	\$ 2,554,259	\$14,185,379	\$2,545,989
Total	<u>18,646,385</u>	<u>691,161</u>	<u>2,716,886</u>	<u>16,620,660</u>	<u>\$2,713,722</u>
Bond discounts	(18,647)	-	1,667	(16,980)	
Bond Premiums	<u>307,707</u>	-	<u>(73,063)</u>	<u>234,644</u>	
Long-term Debt, net	<u>\$18,935,445</u>	<u>\$691,161</u>	<u>\$2,788,282</u>	<u>\$16,838,324</u>	
Bond Issuance Cost	<u>\$ 231,766</u>	<u>\$ 32,935</u>	<u>\$ 47,079</u>	<u>\$ 217,622</u>	

EXHIBIT "H"

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
Ski	\$ (20)	\$ (88)	\$ (35)	\$ 151	\$ 22	\$ 41	\$ 56	\$ 70	\$ 27	\$ 9
Tennis	21	6	18	15	19	12	5	22	10	8
Parks	86	102	200	120	131	136	189	103	107	69
Recreation Center	216	241	112	118	106	104	96	96	94	113
Championship Golf	75	87	47	30	38	6	(3)	24	40	191
Mountain Golf	29	40	20	22	21	45	38	-	-	-
Beaches	100	100	115	100	113	155	150	110	100	95
Youth	20	15	25	22	22	19	20	22	14	15
Seniors	19	16	20	23	26	11	2	-	-	-
Adult Programs	1	2	2	3	4	1	-	-	-	-
Catering	(13)	(8)	26	(2)	(6)	(18)	2	-	(18)	(12)
Facilities	52	35	33	48	33	43	22	51	61	84
Reserves for Recreation	49	75	40	-	-	-	46	46	70	-
Golf/Tennis/Ski Bonds	85	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	-	-	-	-
Indine Lake Property Purchase	-	-	0	-	-	-	-	31	-	-
Beach Litigation	-	-	0	-	-	-	-	30	-	-
Defensible Space	-	12	12	12	12	-	-	-	-	-
Coverage sales	-	-	0	(27)	-	-	-	-	-	-
Other/Undassified	-	-	0	-	-	10	2	-	-	(82)
Total	\$ 830	\$ 830	\$ 830	\$ 830	\$ 736	\$ 760	\$ 710	\$ 690	\$ 590	\$ 575
Total Collected (in 1,000's)	\$ 6,742	\$ 6,737	\$ 6,819	\$ 6,850	\$ 5,992	\$ 6,132	\$ 5,764	\$ 5,592	\$ 4,755	\$ 4,646

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Bracketed amounts for "Other" represent instances where prior period resources were used in lieu of the current fee, primarily for construction.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Indine Village General Improvement District

EXHIBIT "I"

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
Ski	\$ (27)	\$ (20)	\$ (88)	\$ (35)	151	22	41	56	70	27
Tennis	9	21	6	18	15	19	12	5	22	10
Parks	108	86	102	200	120	131	136	189	103	107
Recreation Center	241	204	241	112	118	106	104	96	96	94
Championship Golf	81	75	87	47	30	38	6	(3)	24	40
Mountain Golf	31	29	40	20	22	21	45	38	-	-
Beaches	100	100	100	115	100	113	155	150	110	100
Youth	21	20	15	25	22	22	19	20	22	14
Seniors	12	19	16	20	23	26	11	2	-	-
Adult Programs	1	1	2	2	3	4	1	-	-	-
Catering	-	(13)	(8)	26	(2)	(6)	(18)	2	-	(18)
Facilities	46	52	35	33	48	33	43	22	51	61
Reserves for Recreation	-	49	75	40	-	-	-	46	46	70
Golf/Tennis/Ski Bonds	85	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	110	-	-	-
Indine Lake Property Purchase	-	-	-	-	-	-	-	-	31	-
Beach Litigation	-	-	-	-	-	-	-	-	30	-
Defensible Space	12	12	12	12	12	12	-	-	-	-
Coverage sales	-	-	-	-	(27)	-	-	-	-	-
Other/Undassified	-	-	-	-	-	-	10	2	-	-
Total	\$ 830	\$ 830	\$ 830	\$ 830	\$ 830	\$ 736	\$ 760	\$ 710	\$ 690	\$ 590
Total Collected (in 1,000's)	\$ 6,746	\$ 6,742	\$ 6,737	\$ 6,819	\$ 6,850	\$ 5,992	\$ 6,132	\$ 5,764	\$ 5,592	\$ 4,755

75

Bracketed amounts represent a venue that does collect, but rather puts back an amount per parcel into the total for other venues to use the proceeds for operations.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Indine Village General Improvement District

EXHIBIT "J"

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Budgeted Facility Fees per parcel, Last Ten Fiscal Years (unaudited)

Program	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007
Ski	\$ 13	\$ (27)	\$ (20)	\$ (88)	\$ (35)	\$ 151	\$ 22	\$ 41	\$ 56	\$ 70
Tennis	16	9	21	6	18	15	19	12	5	22
Parks	97	108	86	102	200	120	131	136	189	103
Recreation Center	197	241	204	241	112	118	106	104	96	96
Championship Golf	126	81	75	87	47	30	38	6	(3)	24
Mountain Golf	69	31	29	40	20	22	21	45	38	-
Beaches	100	100	100	100	115	100	113	155	150	110
Youth	24	21	20	15	25	22	22	19	20	22
Seniors	19	12	19	16	20	23	26	11	2	-
Adult Programs	-	1	1	2	2	3	4	1	-	-
Catering	-	-	(13)	(8)	26	(2)	(6)	(18)	2	-
Facilities	47	46	52	35	33	48	33	43	22	51
Reserves for Recreation	-	-	49	75	40	-	-	-	46	46
Golf/Tennis/Ski Bonds	-	85	85	85	85	85	85	85	85	85
Ski Lodge Bond	110	110	110	110	110	110	110	110	-	-
Indine Lake Property Purchase	-	-	-	-	-	-	-	-	-	31
Beach Litigation	-	-	-	-	-	-	-	-	-	30
Defensible Space	12	12	12	12	12	12	12	-	-	-
Coverage sales	-	-	-	-	-	(27)	-	-	-	-
Other/Undassified	-	-	-	-	-	-	-	10	2	-
Total	\$ 830	\$ 830	\$ 830	\$ 830	\$ 830	\$ 830	\$ 736	\$ 760	\$ 710	\$ 690
Total Collected (in 1,000's)	\$ 6,746	\$ 6,746	\$ 6,742	\$ 6,737	\$ 6,819	\$ 6,850	\$ 5,992	\$ 6,132	\$ 5,764	\$ 5,592

Bracketed amounts represent a venue that does collect, but rather puts back an amount per parcel into the total for other venues to use the proceeds for operations.

Coverage sales in 2011 relate to the specific application of proceeds designated to reduce capital costs in Community Service venues.

The Facility Fee can be a resource for operating expenses, debt service or capital purchases. It is set annually by the Board of Trustees.

SOURCE: Incline Village General Improvement District

EXHIBIT "K"

7. LONG-TERM DEBT

All of the District's Long Term Bonds are collateralized by a pledge of revenues derived and to be derived from the operation of the either the Utility, Community Services or Beach venues, after deduction there from of the amount necessary to pay all operating and maintenance charges as required by applicable bond agreements. The District is also required to maintain rates sufficient to pay all maintenance, depreciation, replacement, betterment, and interest charges.

Business Type Activities:

Outstanding Long-Term Debt as of June 30, 2014

Issue	Issue Date	Maturity Date	Interest Rate	Amount Issued	Principal Outstanding	Due 2014-15
Medium-Term General Obligation Bonds Recreation						
Recreation Impr. (Ski) 2008	06/18/08	06/01/18	3.5-7%	\$7,000,000	\$3,125,000	\$730,000
General Obligation Revenue Bonds Recreation						
Recreation Facilities and Recreation						
Refunding 2012	07/18/12	03/01/23	2.25%	3,475,000	3,166,000	319,000
Recreation Refunding 2004	02/01/04	10/01/14	2-3.25%	4,445,000	<u>735,000</u>	<u>735,000</u>
Total Recreation Revenue Supported Debt					<u>\$7,026,000</u>	<u>\$1,784,000</u>
Utility						
State of Nevada						
Sewer C32-0204	10/28/02	01/01/23	3.14%	\$1,687,402	\$1,001,110	\$ 97,869
Water IVGID-1	09/01/04	07/01/25	3.082%	1,702,380	1,093,438	80,564
Sewer CS32-0404	08/01/06	09/01/26	2.73%	3,000,000	2,112,093	151,004
Water DW-1201	03/16/12	01/01/32	2.39%	3,000,000	<u>2,815,302</u>	<u>126,839</u>
Total Utility Revenue Supported Debt					<u>\$7,021,943</u>	<u>\$ 456,276</u>
Total Business Type Activities Debt					<u>\$14,047,943</u>	<u>\$2,240,276</u>

Long-Term bonded debt activity for the year ended June 30, 2014

	Beginning Balance	New Issues	Principal Reductions	Ending Balance	Due Within One Year
Business Type Activities:					
General Obligation Revenue	\$13,948,228	\$ -	\$1,994,833	\$11,953,395	\$2,061,843
	<u>2,267,548</u>	<u>-</u>	<u>173,000</u>	<u>2,094,548</u>	<u>178,433</u>
Total	16,215,776	-	2,167,833	14,047,943	<u>\$2,240,276</u>
Bond discounts	(15,315)	-	(1,667)	(13,648)	
Bond Premiums	<u>176,092</u>	<u>-</u>	<u>51,226</u>	<u>124,866</u>	
Long-term Debt, net	<u>\$16,376,553</u>	<u>\$ -</u>	<u>\$2,217,392</u>	<u>\$ 14,159,161</u>	

Future Debt Service Requirements as of June 30, 2014

Fiscal Year Ending June 30	Debt Supported by Utility Fund Revenue		Debt Supported by Recreation Fund Revenue	
	Principal	Interest	Principal	Interest
2015	456,276	186,858	1,784,000	253,641
2016	469,072	174,062	1,084,000	205,263
2017	482,230	160,903	1,123,000	167,471
2018	495,762	147,372	1,187,000	104,577
2019	509,678	133,457	350,000	37,642
2020 to 2024	2,641,770	445,323	1,498,000	68,534
2025 to 2029	1,410,553	141,852	-	-
2030 to 2032	<u>556,602</u>	<u>23,511</u>	<u>-</u>	<u>-</u>
Total	<u>\$7,021,943</u>	<u>\$1,413,338</u>	<u>\$ 7,026,000</u>	<u>\$ 837,128</u>

At June 30, 2013, principal and interest to maturity in 2032, to be paid from pledged future revenues, totaled \$16,298,413. For the year ended June 30, 2014 the net pledged revenue was \$3,429,622.

IVGID Executive Summary - Final Budget

Fund and Function Budgeted Sources and Uses

FY 2021-22

Budgeted

IVGID	General Fund	Total Governmental	Community Services	Beach Fund	Utilities Fund	Internal Services	Total Proprietary	2021-22	2020-21
								All Funds Summary	All Funds Summary
Operating Activities:									
Revenues:									
Ad Valorem & Property Tax	\$ 1,948,610	\$ 1,948,610	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,948,610	\$ 1,770,000
Consolidated Tax	1,901,530	1,901,530	-	-	-	-	-	1,901,530	1,668,000
Charges for Services	2,400	2,400	18,161,582	892,500	12,796,676	-	31,850,758	31,853,158	29,850,623
Facility Fees	-	-	410,150	1,127,470	-	-	1,688,570	1,688,570	2,423,225
Intergovernmental & Grants	-	-	34,800	-	31,000	-	65,800	65,800	69,700
Interfund	-	-	99,911	-	241,400	3,218,226	3,559,537	3,559,537	3,568,285
Miscellaneous	-	-	130,230	-	-	-	130,230	130,230	132,630
Investments	65,700	65,700	26,250	5,625	74,000	-	105,875	171,575	343,650
Total Operating Sources:	3,918,240	3,918,240	18,862,923	2,176,545	13,143,076	3,218,226	37,400,770	41,319,010	39,825,113
Expenditures by Function:									
General Government:									
Operations	5,240,489	5,240,489	-	-	-	3,155,929	3,155,929	8,396,418	7,771,411
Central Services Cost-Recovery	(1,546,624)	(1,546,624)	-	-	-	-	-	(1,546,624)	(1,471,440)
Utilities:									
Operations	-	-	-	-	9,350,130	-	9,350,130	9,350,130	8,155,873
Recreation:									
Championship Golf	-	-	3,790,702	-	-	-	3,790,702	3,790,702	3,717,478
Mountain Golf	-	-	1,244,883	-	-	-	1,244,883	1,244,883	1,141,209
Facilities	-	-	1,828,688	-	-	-	1,828,688	1,828,688	1,504,563
Ski	-	-	8,214,784	-	-	-	8,214,784	8,214,784	8,075,342
Recreation Center	-	-	2,400,472	-	-	-	2,400,472	2,400,472	2,212,155
Recreation Admin	-	-	413,445	-	-	-	413,445	413,445	415,786
Parks	-	-	1,028,929	-	-	-	1,028,929	1,028,929	856,535
Tennis	-	-	258,602	-	-	-	258,602	258,602	226,781
Beach	-	-	-	2,170,394	-	-	2,170,394	2,170,394	1,906,299
Total Operating Expenditures	3,693,865	3,693,865	19,180,505	2,170,394	9,350,130	3,155,929	33,856,958	37,550,823	34,512,012
Net Operating Sources & Uses	\$ 224,375	\$ 224,375	\$ (317,582)	\$ 6,151	\$ 3,792,946	\$ 62,297	\$ 3,543,812	\$ 3,768,187	\$ 5,313,101
Non-Operating Activities:									
Capital Grants & Insurance	\$ -	\$ -	\$ 80,000	\$ -	\$ -	\$ -	\$ 80,000	\$ 80,000	\$ -
Facility Fees - Capital Projects	-	-	-	3,982,472	-	-	3,982,472	3,982,472	3,740,867
Facility Fees - Debt Service	-	-	410,150	7,748	-	-	417,898	417,898	417,898
Use of Fund Balance for Projects	-	-	-	-	-	-	-	-	8,927,332
Capital Project Expenditures	(441,438)	(441,438)	(3,543,430)	(3,419,060)	(5,216,500)	-	(12,178,990)	(12,620,428)	(14,377,677)
Debt Service Payments	-	-	(386,629)	(6,296)	(643,129)	-	(1,036,054)	(1,036,054)	(1,032,576)
Net Non-Operating Sources & Uses	(441,438)	(441,438)	(3,439,909)	564,864	(5,859,629)	-	(8,734,674)	(9,176,112)	(2,324,156)
Overall Net Sources & Uses	\$ (217,063)	\$ (217,063)	\$ (3,757,491)	\$ 571,015	\$ (2,066,683)	\$ 62,297	\$ (5,190,862)	\$ (5,407,925)	\$ 2,988,945
Beginning Unrestricted (Est.)	\$ 3,802,024		\$ 10,684,999	\$ 4,036,366	\$ 12,705,712	\$ -			
Change in Fund Balance	(217,063)	(217,063)	(3,757,491)	571,015	(2,066,683)	62,297	(5,190,862)	(5,407,925)	(5,938,387)
FY2020-21 Carryforward Adj.	75,000				1,550,000				
Ending Unrestricted	\$ 3,659,961		\$ 6,927,508	\$ 4,607,381	\$ 12,189,029	\$ 62,297			