

MINUTES

SPECIAL MEETING OF NOVEMBER 23, 2020 Incline Village General Improvement District

The special meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Tim Callicrate on Monday, November 23, 2020 at 12:26 p.m. This meeting was conducted virtually via Zoom.

A. ROLL CALL OF TRUSTEES*

On roll call, present were Trustees Tim Callicrate, Sara Schmitz, Matthew Dent (absent), Kendra Wong, and Peter Morris.

Also present were District Staff Members Director of Finance Paul Navazio, Director.

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

B. INITIAL PUBLIC COMMENTS*

Linda Newman said in the interest of accountability and fairness, she supports the Board's approval to provide a property owner a complete refund for staff's 19 years of overcharging mandatory recreation and beach fees. She also supports widening the scope of Staff's recommendations to develop policies on Rec and Beach Fee refunds as well as defining claims and the procedure for their filing and resolution. In addition, as cited in Staff Comments, the current practice of reviewing and updating the District's Parcel database with the Washoe County Assessor's Office requires an overhaul as Staff's error has gone undetected and uncorrected for almost two decades. This is another failure of internal controls and should be addressed to not only catch this type of error, but to ensure that all properties are paying the right number of Rec and Beach Fees based upon their dwelling units. This matter has been raised by a number of citizens alleging that all properties with multiple dwelling units are not assessed equally. It is also imperative that the District review all outstanding picture pass holders to ensure that they are current property owners and resident tenants. She takes exception with a number of questionable statements made in the Memo and request clarification or correction. She does not see anything in Policy 3.1 that would give the GM authority to make this payment without Board approval. Although the attorney states it is part of the GM's under \$50k spending authority, the refund is not a contract. It is also not a simple administrative matter like requesting a refund for returned merchandise or overpayment for a meal at the Chateau. It is in fact a claim for a refund because

the property owner on his tax bill was wrongfully assessed additional Rec and Beach Fees which the District was not owed. If this money was due to the IRS, the citizen would file a form by filing a claim for refund or abatement. The Board cannot affirm Staff's administrative handling of this matter as they had no authority to issue the check without Board approval. She greatly appreciates a Trustee and the Director of Finance for appropriately bringing this matter up for discussion, review and approval by the Board. She would expect all Trustees will support the creation of new policies where none currently exist, sharpen the definitions in those that do exist, establish the process for correcting violations of existing policies as well as penalties for violations. Thank you all and may everyone enjoy a uniquely happy and healthy Thanksgiving.

Aaron Katz said he has a written statement and that he disagrees with Linda Newman as we have a policy which Mr. Katz then cited. We don't have a policy for equity and refunds as he has been ignored and he doesn't appreciate the inequity. Why doing dwelling units and why multiples? What is a residential parcel? Tahoe Apartments, for 52 years, has been incorrectly charged and is entitled to a refund so you better ignore that parcel too.

Joy Gumz said there are clearly issues with internal controls with regard to the Rec Fee. Her comment relates to a residential property which has been assessed no Rec Fee for years. This property is located at 1709 Lakeshore Boulevard, Parcel 13133103, this property is owned by the Bisnar Family Trust and Mr. Brent Bisnar is Trustee. It is unclear why this property is assessed no Rec Fee. They are assessed a small piece for Incline Village in the amount of \$440.32 but this is not the Rec Fee. So her question goes to how could billing be absent for a Rec Fee for a property located in Incline Village? Thank you.

Frank Wright said he heard Ms. Newman and Mr. Katz and the road this is going down is interesting and the Board doesn't have the right to override any state law. If they have that information, get it in writing. He would suggest you get another opinion in writing. People are paying attention and interested in this proceeding so go for it and we will see what happens.

C. APPROVAL OF AGENDA (for possible action)

Chairman Callicrate asked for changes, receiving none, the agenda was approved as submitted.

D. GENERAL BUSINESS (for possible action)

D.1. Review, discuss, (and potentially approve) a refund of overcharges of Facility Fees assessed on Parcel Number 124-82-002 in the amount of \$14,643.00

District General Manager Winquest gave an overview of the submitted materials. Director of Finance Navazio provided a summary of the packet information. Chairman Callicrate said that his concern is about the statute of limitations which has been clarified and how it applies. District General Counsel Josh Nelson said he wanted to clarify one issue – he advised of a three-year statute of limitations, and specifically to the public comment made, the District is not limited to the three year limitations and it can be tricky but it is not a black and white situation. Chairman Callicrate said he appreciates the clarity and he feels that this is absolutely the right thing to do because they weren't aware until recently. It was an oversight so let's rectify it and take the appropriate action. He hopes that those in the community would have some empathy. It appears to him to be a cut and dry situation but he would like to hear what others have to say. Trustee Wong said that she completely agrees. IVGID is about customer service and being fair. Our Staff has always been empowered to do the right thing. This is a double billing so make it right. Our Staff is doing what is right and what we stand for as a District. Trustee Morris said he agrees with Trustee Wong as this is about a refund of overbilling and not a change in policy. He agrees we should refund the money as it is a simple cut and dry matter and so let's do what is right. Trustee Schmitz said she agrees. It is very disappointing that this error is from Washoe County. The District must conduct an audit to make certain that it is done as it should never have happened. She wants to clarify that the Director of Finance has taken the advice of our auditor and taken a 20-year refund and have it as a reduction in revenue. Director of Finance Navazio said yes, he consulted with them, and that they didn't direct Staff to do it a certain way and advised of two ways to approach. They concurred that they didn't have any problem with debit to revenue. Lastly, it was the District's error as we instructed Washoe County to bill for two units. Trustee Schmitz said she feels we should still conduct an audit on parcels. In the absence of a yearly record not being provided, does any of this include interest? Director of Finance Navazio said there is no interest, dollar for dollar of overcharge. Trustee Schmitz said in the absence of any legal authority, could District General Counsel please cite the source that the Board does have the authority for the statute of limitations? District General Counsel Nelson said when we researched/looked to see if there was any

prohibition of waiving the statute limitations, he can't cite any statute therefore absence allows us to do so. Trustee Schmitz asked if we know what the Washoe County Commissioners have done and is this under Dillon's rule, etc.? District General Counsel Nelson said this is not under Dillon's rule, he can provide a written opinion which approves Staff's recommendation and provide that before the release of check. Chairman Callicrate said we do need to go back to Policy 3.1.0 and do some clean up. This begs the policy review and gives us an opportunity to bring up to current codes, etc. and then Staff can abide with our Board policies. This is a specific matter and with our new Board and a new year, he hopes we can get a realistic timeline and address what each Director's abilities are so that for things that are a lesser concern, they won't be coming back to the Board and the Board won't be accused of micromanaging. They can then operate given the authority we have granted to them and do their jobs.

Trustee Schmitz made a motion to make the payment of Facility Fees assessed on Parcel Number 124-820-02, in the amount of \$14,643.00. with the written position created by Legal Counsel. Trustee Wong seconded. Chairman Callicrate asked for any further comments, receiving none, he called the question and the motion was passed unanimously by the four Trustees present.

E. FINAL PUBLIC COMMENTS* - Limited to a maximum of three (3) minutes in duration.

Linda Newman wished all good holidays.

Aaron Katz said he wants to respond to what Trustee Wong said regarding blame being on Washoe County; the blame is IVGID because you Board members don't know what Staff does and you didn't read Resolution 1879. The parcel database can't be relied upon. Look at the Incline Tahoe apartments – 75 individual units – you won't know until you look at each parcel. You need to review Policy 16.1 and you need to adopt a refund policy and what happens when Staff denies a refund. Make this fair and equitable.

Frank Wright said thank you to the Board for their outstanding efforts as they have just opened a door for every resident to get a remedy.

F. ADJOURNMENT (for possible action)

The meeting was adjourned at 1:15 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 Joy Gumz – email dated November 23, 2020

Submitted by Aaron Katz – Written statement to be attached to and made a part of the written minutes of the IVGID Board’s special November 23, 2020 meeting – Public Comments – Agenda Item B – Staff’s failure to responsibly maintain our current Championship Course golf carts now that the Board has denied Staff’s request to lease-purchase new electric versus gas powered carts

Submitted by Aaron Katz – Written statement to be attached to and made a part of the written minutes of the IVGID Board’s special November 23, 2020 meeting – Agenda Item D(1) – Possible refund of excess Recreation (“RFF”) and Beach (“BFF”) facility fees paid by/on behalf of the owner of Washoe County Parcel No. 124-82-002

Herron, Susan

From: J Gumz <j.gumz1@gmail.com>
Sent: Monday, November 23, 2020 12:02 PM
To: Herron, Susan
Subject: public comment 11-23 attached
Attachments: Public_comments_2020.docx

Follow Up Flag: Flag for follow up
Flag Status: Flagged

please include in public comments including the graphic
To the Trustees

Please Explain the Rec Fee for this property – as well as the number of years this property has NOT paid the full rec fee

Gross \$798.21 Credit (\$405.66) NET :\$392.55

1709 LAKESHORE BLVD, Parcel 13033103

To the Trustees

Please Explain the absence of Rec Fee for this property – as well as the number of years this property has NOT paid the rec fee

1709 LAKESHORE BLVD, Parcel 13033103

Washoe County Parcel Information		
Parcel ID	Status	Last Update
13033103	Active	11/23/2020 1:40:48 AM
Current Owner: BISNAR FAMILY TRUST, BRENT A 774 MAYS BLVD 10 181 INCLINE VILLAGE, NV 89451		SITUS: 1709 LAKESHORE BLVD INCLINE VILLAGE NV
Taxing District 5200	Geo CD:	
Legal Description		
Section Lot 3 Township 16 Block G SubdivisionName ROCKY POINT SUBDIVISION AMD Range 18		

Installments						
Period	Due Date	Tax Year	Tax	Penalty/Fee	Interest	Total Due
INST 1	8/17/2020	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 2	10/5/2020	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 3	1/4/2021	2020	\$0.00	\$0.00	\$0.00	\$0.00
INST 4	3/1/2021	2020	\$0.00	\$0.00	\$0.00	\$0.00
Total Due:			\$0.00	\$0.00	\$0.00	\$0.00

Tax Detail			
	Gross Tax	Credit	Net Tax
▼ <u>Incline Village</u>	\$1,129.05	(\$724.73)	\$404.32
This is a break down of the "Incline Village " funds...			<input type="button" value="x Close"/>
Authority	Net Rate	Gross Tax	Net Tax
INCLINE VILLAGE	0.0013110000	\$1,129.05	(\$724.73) \$404.32
▼ <u>North Lake Tahoe 2</u>	\$5,580.65	(\$2,596.91)	\$2,983.74
▼ <u>State of Nevada</u>	\$1,464.06	(\$463.60)	\$1,000.46
▼ <u>Washoe County</u>	\$11,985.48	(\$3,795.20)	\$8,190.28
▼ <u>Washoe County Sc</u>	\$9,804.88	(\$3,104.73)	\$6,700.15
▼ <u>LAKE TAHOE WATER BASIN</u>	\$0.13	\$0.00	\$0.13
Total Tax	\$29,964.25	(\$10,685.17)	\$19,279.08

WRITTEN STATEMENT TO BE ATTACHED TO AND MADE A PART OF THE WRITTEN MINUTES OF THE IVGID BOARD'S SPECIAL NOVEMBER 23, 2020 MEETING – AGENDA ITEM D(1) – POSSIBLE REFUND OF EXCESS RECREATION (“RFF”) AND BEACH (“BFF”) FACILITY FEES PAID BY/ON BEHALF OF THE OWNER OF WASHOE COUNTY PARCEL NO. 124-82-002

Introduction: Here IVGID staff seek the Board’s approval to refund \$14,643.00 of allegedly overpaid RFFs/BFFs, based upon the erroneous assessment of multiple RFFs/BFFs based upon the existence of multiple dwelling units, over up to the last nineteen (19) years, by/on behalf of the owner(s) of APN 124-82-002¹ (according to the Assessor, Maria & Sergio Heredia). This matter has come before the Board because: 1) “the single unit, located at 325 Cottonwood Court - Unit 2, has been charged annual District Facility Fees as two (dwelling) units since the 2001/02 tax year;”¹ 2) of statute of limitation concerns; 3) “while the District has internal procedures related to various types of refunds for specific types of transactions...there (is) no existing Board approved policy governing refunds of Facility Fees² (whether)...related to...overcharges, including application of statute of limitation parameters and clarification of claims;”³ and, 4) “this agenda item has been prepared at the request of a Board Trustee and the General Manager to review the matter, answer Board questions and, if deemed appropriate, seek Board concurrence with Staff’s administrative handling of this matter.”³

But the District *does* have a policy insofar as RFF/BFF refunds are concerned, and it is contra to what staff is proposing here. And the NRS *does* have an applicable statute of limitations insofar as county general taxes are concerned, and it is contra to what staff is proposing here. And staff have unilaterally rejected past requests for RFF/BFF refund, based upon a lack of uniform factors. And opening the door to this type of refund is going to open the door to others similarly seeking refund of the RFF/BFF. And an examination of these issues is going to require a re-examination of the propriety of assessing parcels based upon dwelling units, and distinctions between such units based upon the parcels upon which they have been constructed (i.e., residential versus commercial). Thus for these and other reasons I object. And these are the various reasons for this written statement.

Prologue: As suggested, this episode has revealed a number of deficiencies which the Board should. First, the Board needs to adopt a policy which provides an administrative remedy for those seeking RFF/BFF refunds. Second, there is the propriety of Policy 16.1⁴, the distinctions between parcels and dwelling units, and the further distinctions between dwelling units located on residential versus commercial parcels. And finally, there are problems with our parcel database which if the assessment of dwelling units is to continue, really should be a parcel/dwelling unit database.

¹ See page 003 of the packet of materials prepared by staff in anticipation of this November 23, 2020 meeting [Full_Packet.pdf (yourtahoeplace.com) ("the 11/23/2020 Board packet")].

² See page 004 of the 11/23/2020 Board packet.

³ See page 005 of the 11/23/2020 Board packet.

⁴ Go to pages 43-46 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Board_Policies_3.pdf.

The District's "Existing Board Policy Related to" RFF/BFF Refunds: Staff asserts that when first confronted with this issue it "considered how to proceed *consistent with existing Board policy.*"² But *It did not!*

"Each year, the District establishes an annual Recreation...and Beach Facility Fee(s) to be collected from property owners within the District through a levy placed on the property tax bill and collected on behalf of the District by the Washoe County Treasurer's Office...The Board traditionally approves a resolution which outlines the billing and collection process(es) set forth in Nevada Revised Statutes 318.197 (establishing standby service charges for services and facilities furnished by the District) and 318.201 (establishing the method of collection), as well as establishing the amount of the ...RFF and...BFF to be collected. Upon final approval, the District provides (the) Washoe County Treasurer's Office with appropriate fee amounts to be assessed *on each individual parcel within the District*, pursuant to the prescribed process."⁵

At its meeting of May 27, 2020, the Board of a Trustees took action (via Resolution 1879⁶) to approve a Final Report for RFF/BFF Collection of the current RFF/BFF⁷, and to order their collection on the Washoe County tax roll pursuant to the authority of NRS 318.201(9)⁸. ¶18 of Resolution 1879 states, in part, that

"All laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, *are applicable to such charges.*"⁹

In other words, the District does have a policy insofar as RFF/BFF refunds, and such refunds are to be addressed by the "laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of...**refund.**"

⁵ See pages 102-103 of the packet of materials prepared by staff in anticipation of the Board's May 27, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_5-27-2020.pdf ("the 5/27/2020 Board packet")]. Therefore the reader can see that it was the District rather than the Treasurer which causes Mr. and Mrs. Heredia's parcel to be overcharged.

⁶ That resolution is attached as Exhibit "A" to this written statement. I have placed an asterisk next to the portion of ¶18 which recites the District's policy re RFF/BFF refunds.

⁷ See pages 107-116 of the 5/27/2020 Board packet.

⁸ "After the hearing, when the board has made a final decision on a service charge or fee to be collected on the county tax roll, the secretary shall prepare and file a final report, *which shall contain a description of each parcel receiving the services and the amount of the charge*, with the county assessor for inclusion on the assessment roll."

⁹ See page 110 of the 5/27/2020 Board packet.

The NRS' Instructions For the Refund of a General Improvement District ("GID") Rates, Tolls and Charges: According to staff, the RFF/BFF represent NRS 318.197(1)¹⁰ "Recreation Standby and Service Charges"¹¹ "for the availability of use of the recreational facilities (therein) described."¹² NRS 318.201(1) instructs that,

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

NRS 318.201(12) instructs that,

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

In other words, the "laws applicable to...matters of...**refund**" of the RFF/BFF are the "laws applicable to the levy, collection and enforcement of general taxes of the county."

Laws Applicable to the Refund of General Taxes of the County Mandate Appeal to the County Board of Equalization ("CBOE"): Staff asserts that when first confronted with this issue it "considered how to proceed consistent with...applicable law."² But *it did not!*

In order to seek county general tax refunds, those taxes must first be paid. Stated differently, "no collection of taxes may be enjoined (or) restrained" (NRS 361.330). After payment, "an owner of any real...property placed on...the secured tax roll...may appeal the (property's) assessment...to the" CBOE [see NRS 361.356(1) and 361.357(1)].

Therefore Here, the Subject Parcel Owner(s) Should Have Appealed IVGID's Prior Assessments to the Washoe CBOE: And this is exactly what staff should have instructed when Mr. and Mrs. Heredia first "brought an apparent billing error to the attention of management."

¹⁰ NRS 318.197(1) instructs that "the board may fix, and from time to time increase or decrease...rates, tolls or...including...*service charges and standby service charges*, for...the availability of service."

¹¹ See page 111 of the 5/27/2020 Board packet.

¹² See ¶I at page 113 of the 5/27/2020 Board packet. That page, along with the report's face page (112) are attached as Exhibit "B" to this written statement.

The District's "Existing Board Policy Related to (the)... General Manager('s) Authority:" Staff asserts that when first confronted with this issue it "considered how to proceed consistent with existing Board policy related to (the) General Manager('s) authority."² But *it did not!*

Staff asserts "Board Policy 3.1.0, as amended earlier this year, establishes General Manager discretionary spending authority at \$50,000 (reduced from \$100,000)."² And as a result, staff determined that they had the discretion to make refund because "the amount of the (subject) refund (wa)s well within the General Manager's spending authority."² But this is not what Board Policy 3.1.0 establishes, and our GM knows these facts to be accurate.

Contracts: ¶3.0.1.5(f) states that "the General Manager has the authority to execute **contracts**...proposed and/or estimated...not to exceed \$50,000, so long as the funds (a)re budgeted for the specific purpose."¹³ But since Mr. and Mrs. Heredia's refund request does not arise out of an existing or proposed contract, the GM's proposed spending authority under Policy 3.0.1 has no application. Furthermore, the expenditure, even as a reduction in budgeted RFF/BFF revenues for 2020-21, let alone going back to 2001-02¹, has not been budgeted.

Claims: ¶3.0.1.5(g) states that "the Board of Trustees may engage the General Manager and General Counsel to negotiate on behalf of IVGID, the settlement of **all property damage, personal injury, or liability claims**. (Notwithstanding,) final settlement of such claims must be approved by the Board."¹³ Since Mr. and Mrs. Heredia's refund request does not arise out of "property damage, personal injury, or liability claims," the GM's proposed spending authority under Policy 3.0.1 has no application whatsoever to the present discussion.

Moreover, here staff admit that since "the property owner has not filed a legal claim against the District, but has merely brought an apparent billing error to the attention of management... (Therefore here) the provision of Policy 3.1.0, related to claims, (is) not applicable."²

The General Manager had no authority to unilaterally approve the subject refund based upon his alleged discretionary spending authority under Policy 3.0.1.

Laws Applicable to the Refund of General Taxes Because of the Overassessment to Real Property Mandate a Three (3) Year Statute of Limitations: Staff asserts that when first confronted with this issue it "considered how to proceed consistent with...and in particular, statute of limitation considerations."² But *it did not!*

The "laws applicable to the levy, collection and enforcement of general taxes of the county" are set forth in NRS 361.330, et seq. NRS 361.768(1) instructs that "if an overassessment of real... property appears upon the secured tax roll of any county because of a factual error...*within 3 years after the end of the fiscal year for which the assessment was made*, the county assessor shall make a report thereof to the board of county commissioners of the county." In other words, that report is

¹³ See page 009 of the 11/23/2020 Board packet.

pre-conditioned upon a three (3) year statute of limitations. NRS 361.768(2) goes on to instruct that “if satisfied that the error (giving rise to refund) is factual...the board of county commissioners...shall ... (a) direct the county treasurer to correct the error (and)...(b)...make the necessary adjustments to the tax bill (which)...may be a full **refund** or a credit against taxes due.” These provisions comport with the District’s counsel’s “advi(ce)...Nevada law provides for a 3-year statute of limitations.”²

Since Here the Statute of Limitations Bars a Parcel Owner From Seeking Refund Due to Factual Error Overassessment, to the Extent Overassessment Exceeds Three (3) Years, Mr. and Mrs. Heredia are barred from seeking refund going back any greater than three (3) years by the statute of limitations. Furthermore, it is IVGID’s governing board (in place of the board of county commissioners) rather than the GM which is empowered to direct refund.

Staff’s Suggestion it Can Ignore the Statute of Limitations Just Because an Injured Party Has Not Become Aware (or Should Have Become Aware) of Harm², Has No Application to the Present Inquiry: Notwithstanding the fact the statute of limitations bars the majority of the subject claim, our staff seem to believe they can ignore Nevada law simply because “any statute of limitations would only establish legal liability, and not determine District policy¹⁴ related to fairness and equity.”² But each Board member took an oath of office as the public’s fiduciary whereby he/she “solemnly sw(ore he/she would)...bear true faith, allegiance and loyalty to...*any ordinance, resolution or law of any state...under the pains and penalties of perjury*” (see NRS 282.020). Given your oaths of office, since when does staff’s notion of what is and is not “fair” trump Nevada law?

Notwithstanding Staff Had No Discretion to “Exercise...Judgement...Within Staff Authority ...to Approve and Process a Full Refund,” they admit that’s exactly what they did based upon their “review of...fact...(and) consideration of Board policy and potential application of state law.”¹⁵ I have already addressed the issues of Board policy and application of state law (see discussion above). Neither authorizes the District to refund Mr. and Mrs. Heredia’s alleged overpayments, yet to deny other fair and equitable requests for refund (see discussion below). Now I address the facts proffered by staff. At page 003 of the 11/23/2020 Board packet staff tells the Board and the public:

¹⁴ Remember. The District has no such policy.

¹⁵ See pages 004-005 of the 11/23/2020 Board packet.

“The property owner first raised questions about the District’s Facility Fee charges with the Washoe County Treasurer’s Office in late August (of 2020). The District was subsequently contacted by the Washoe County Assessor’s Office to review an apparent discrepancy in the number of dwelling units assigned to this parcel. Formerly a duplex, the property, since 2001/02 has been reflected on Washoe County’s parcel database as a duplex with one parcel consisting of one dwelling unit and the other parcel consisting of one dwelling unit and a separate shared common area. A review of parcel records provided by the Washoe County Assessor’s Office has confirmed that parcel number 124-820-02 consists of a single dwelling unit. However, the parcel has been reflected...on the District’s database...as consisting two dwelling units...and thus has been assessed two recreation facility fees and two beach facilities from 2001/02 through 2020/21 (current tax year).”

So why didn’t Mr. and Mrs. Heredia wait until August of 2020 to say something about the overcharging? What equity and fairness justifies their inaction for nineteen years¹⁶? Staff offers no explanation. In contrast, consider the following facts:

Each Year the District Publishes Notice of its Intention to Assess RFFs/BFFs, and Their Appropriate Fee Amounts Per Parcel;

Each Year the District Holds a Public Hearing Insofar as its Intention to Assess RFFs/BFFs, and Their Appropriate Fee Amounts Per Parcel;

Each Year the District Adopts a Final Report Which Lists Each Parcel Assessed a RFF/BFFs, and its Appropriate Fee Amount;

Each Year the Treasurer Mails Property Tax Bills to the Owners of All Parcel Owners Which Separately States the RFF/BFF Assessed; and,

Presumably Each Year Mr. and Mrs. Heredia Must Retrieve the Property Tax Bill Mailed Out by the Treasurer to Enable Them to Prepare Their Income Tax Return(s).

Given staff have spent the sums at issue over the last nineteen years, and have budgeted to spend the same for 2020-21 (meaning there will be a budget deficiency should refund be made), there’s no fairness nor equity to the approximate 8,200 parcel owners assessed the RFF should refund be made when as here there’s no legal basis.

Because There Can Be No Disparate Treatment of the Many Others Who Have Unsuccessfully Sought Refund of the RFF/BFF, Mr. and Mrs. Heredia Should be Treated the Same: Mr. and Mrs. Heredia

¹⁶ From 2001-02 to 2020-21¹.

are not the first parcel owners to seek refund of the RFF/BFF founded upon fairness and equity concerns. But they're the first to my knowledge to have made it before the Board, or been successful. *Now why is that?*

What about Frank Wright and me? What about the 400 or so parcel owners without beach access whose RFF has been improperly used by staff over the last three or longer years to increase the Beach Fund's balance? And what about the approximate 8,200 parcel owners who have been denied the availability to use the District's recreational and beach facilities since COVID-19 came to the forefront, notwithstanding the District exacted the RFF/BFF against their properties allegedly for this availability¹²? Because fairness and equity demand we all be given the same refund considerations as Mr. and Mrs. Heredia, yet we haven't, I and others I know object to the disparate treatment the Board now proposes. And if anyone feels guilty about this result, it's time to create a policy which allows every parcel owner to seek refund of the RFF/BFF upon the same procedural grounds as Mr. and Mrs. Heredia. After all, what's fair is fair and here staff are acting *unfairly*.

Because the Board's Policy For Those Seeking RFF/BFF Refunds is Either Non-Existent or Illusory, For a Year or More I Have Been Requesting it Adopt a Policy Which Provides For an Administrative Remedy: Evidence of my most recent request appears in a November 19, 2020 e-mail to the Board¹⁷. In that e-mail I made request the Board take on the issue of RFF/BFF refund requests by creating a policy which provides for an administrative remedy. Am I the only one who finds it ironic that only now staff suggest that, "a policy...be established related to (RFF/BFF) refunds?"³ But rather than staff's suggestion, mine is that a policy be established for *all* bases for RFF/BFF refunds; not just due to overcharges.

There's another reason why a formal policy should be adopted for those seeking RFF/BFF refunds. Take a look at NRS 318.203. This statute provides that the Board of a GID may determine whether a dwelling unit which is not being charged for services allegedly provided should be charged. However, there is no comparable NRS which provides for the opposite. In other words, a process which would allow the Board to determine that a dwelling unit which is being charged for services provided should not be charged, because services are not being provided. It's called mutuality.

The District's Parcel Database: Staff asserts that while it "has a high degree of confidence in the integrity of the District's Parcel database, the discovery of this discrepancy...points to the need for a comprehensive review."³ I agree, however for other reasons. And this too is a matter I and others have been requesting of the District for some number of years.

Staff assert that "current practice provides that on an annual basis, the Washoe County Assessor's Office and the District review and update changes to the parcel databases from year-to-year." But with all due respect, that kind of review does not and will not identify all parcels/dwelling units subject to the BFF and/or RFF because the county's parcel databases do not identify multiple "dwelling units" on a single parcel. This means that a comprehensive review of all parcels is required

¹⁷ This e-mail is attached as Exhibit "C" to this written statement.

to ferret out those with multiple dwelling units. Until this happens, the District's parcel database will never be accurate.

To prove my point, let me share some examples of parcel database errors:

According to local resident Joy Jgumz, in addition to Mr. and Mrs. Heredia's parcel, the parcels which follow appear to have all been billed for two (2) sets of RFFs/BFFs notwithstanding each consists of only a single dwelling unit:

- a) 933 Harold Dr. – APN 131-133-04
- b) 910 Harold Dr. – APN 131-121-35
- c) 557 Sugarpine Dr. - APN 122-114-14
- d) 692 Bridger Ct. – APN 125-362-01 and
- e) 1508 Tirol Drive – APN 126-580-17.

According to local resident Joy Jgumz, the parcels which follow appear to have escaped billing of the BFF and/or the RFF altogether:

- a) 1709 Lakeshore Blvd. – APN 130-331-03 and
- b) 914 Northwood Blvd. – APN 13120101.

According to me, the Board has impermissibly excepted the parcel which follows from the BFF and/or the RFF:

- a) 401 Village Blvd. – APN 124-071-47

This exception has taken place due to the Board's misapplication of the exception provided for in ¶I(D) of the report¹² adopted by Resolution 1879.

There are many others.

It's Time to Revisit the Notion the RFF/BFF Can Attach to Dwelling Units in Addition to Parcels: A close examination of ¶6 of Exhibit "A" reveals that a "Report...For Collection on the County Tax Roll of Recreation Standby and Service Charges (which) has been prepared and filed with th(e) Board...(and it) is...adopted." For 2020-21 that report appears at pages 111-116 of the 5/27/2020 Board packet¹². ¶I(A) of that report is clear in its breadth that the RFF and the BFF, if applicable, are assessed against

*"each dwelling unit, whether such unit stands alone or is part of a multiple unit residential structure and whether or not such unit is separately assessed by the County Assessor."*¹⁸

The RFF/BFF Should *Not* Attach to Dwelling Units: Given the "Report...For Collection on the County Tax Roll of Recreation Standby and Service Charges (which) has been...adopted" pursuant

¹⁸ I have placed an asterisk next to ¶I(A) on Exhibit "B" which recites the language quoted.

to NRS 318.201¹², I disagree with the notion the RFF/BFF can be assessed against dwelling units. If the reader closely examines NRS 318.201(1) and (9), he/she will see that the rates, tolls and charges a GID elects to collect on the tax roll are *only* properly levied against parcels of property: “the Board shall cause a written report to be prepared and filed...which shall contain a description of *each parcel of real property* receiving such services and facilities and the amount of the charge *for each parcel* for such year.”

What is a Dwelling Unit? ¶1.1 of Policy 16.1⁴ instructs that “the Incline Village General Improvement District will charge the prescribed Recreation Fee, and if applicable the Beach Fee, to all qualifying real properties in one of the following categories...*All dwelling units on developed residential parcels.*”

¶2.4 defines “dwelling units” as “any building *or portion thereof*, which contains living facilities with provisions for sleeping, eating, cooking, and sanitation.” Under this definition, there are literally hundreds if not thousands of “dwelling units” which are either not reflected in the county’s parcel database.

What is a Developed Residential Parcel? Policy 16.1 provides no definition. Notwithstanding, the term has been defined as “any parcel that contains no more than three residences or three residential units within a single structure and is used primarily for residential purposes”¹⁹

Why the Distinction Between Dwelling Units on Residential Parcels, and Dwelling Units on Non-Residential Parcels? As recited above, ¶1.1 of Policy 16.1⁴ instructs that “the Incline Village General Improvement District will charge the prescribed Recreation Fee, and if applicable the Beach Fee, to all qualifying real properties in one of the following categories...*All dwelling units on developed residential parcels.*” Whatever the rationale for assessing the RFF/BFF against dwelling units as above-described, what difference does it make if those units are constructed upon a residential versus any other type of non-residential parcel?

Is an Apartment Building a Developed Residential Parcel? I don’t think so. In Washoe County an apartment building is zoned MDU (Medium Density Urban). And it can be constructed on both residential and non-residential parcels.

Tahoe-Incline Apartments: is a 75 unit apartment building located on a single parcel (APN 132-202-05) at 786 Southwood Blvd. Its owner(s) are assessed 75 RFFs/BFFs (\$62,250) annually because IVGID staff are of the opinion it is comprised of 75 dwelling units. Although this parcel is zoned MDU, it does *not* sit on a “residential parcel.” As evidence of this fact, I have printed out the Assessor’s parcel data for this parcel²⁰. Although this is not determinative by itself as to whether the subject parcel is or is not “residential,” I have placed an asterisk next to the reference “C15-

¹⁹ See <https://www.lawinsider.com/dictionary/residential-parcel#:~:text=Residential%20Parcel%20means%20any%20parcel,used%20primarily%20for%20residential%20purposes.>

²⁰ This parcel data is attached as Exhibit “D” to this written statement.

Commercial.” If the improvements were “residential,” I have been informed a different quality designation would be inserted.

If this apartment building is not constructed on a “residential parcel,” then just like Mr. and Mrs. Heredia’s parcel its owners have been overcharged ever since the RFF’s inception in 1968.

Additional Examples of Parcel Database Inconsistencies: In the past I have provided many examples of dwelling units which escape the RFF/BFF. For instance,

Sierra Nevada University (“SNU”) Student Housing: There are eighty-eight (88) private “rooms” (living facilities) in two buildings (Campbell-Friedman Hall and Prim-Schultz Hall) on the SNU campus. “Prim-Schultz Hall has 62 rooms adjacent to Patterson (Dining) Hall. Rooms...All rooms are furnished with up to 4 beds (2 bunk bed sets), 2 desks, 2 chairs, 2 dressers and 2 small drawer units... Campbell-Friedman Hall has 26 rooms and is connected to Patterson Dining Hall (under the same roof²²)...All rooms are furnished with up to 3 beds, 1 desk, 1 chair...3 wardrobe units”²¹ and their own private bathroom²². Not only are “students...just a few steps away from the same structure they eat their daily meals in every day,”²¹ but there’s a community kitchen at least in Prim-Schultz Hall²².

And it’s not just student housing these rooms provide. Since this housing sits empty during summer months, for years SNU has rented out these “rooms” as short term rentals to the public. In fact several years ago, SNU toyed with the idea of listing these rooms for rent on AirBNB²³. This being the case, how can these dwelling units be differentiated from apartments in apartment buildings?

Under Policy 16.1, all eighty-eight (88) of these private rooms are portions of buildings which “contain living facilities with provisions for sleeping, eating, cooking, and sanitation.” In other words, they are all dwelling units within buildings developed on a parcel other than a residential one. And apparently for this reason, none is assessed a RFF/BFF.

Hyatt Lake Tahoe Hotel Beach Cottages: across the street from the Hyatt Lake Tahoe Hotel proper consists of twelve (12) two-story cottages consisting of four (4) 875 square foot²⁴ private one-bedroom rooms (living facilities) per cottage (for a total of 48 lakeside cottages²⁵). Each down-stairs “one-bedroom lower cottage (is configured) with a king bed, separate living and dining areas, furnished patio and the ultimate in Tahoe luxury. Amenities (include): Hyatt Grand Bed®, pillow-top

²¹ Go to <https://www.sierranevada.edu/resources/admitted-students/housing/>.

²² See page 30 at <http://www.baojiapanel.com/wp-content/uploads/SNC-Catalog-2006-7.pdf>.

²³ Go to <https://mynews4.com/news/local/sierra-nevada-college-drops-proposal-to-rent-dorms-via-airbnb>.

²⁴ Go to <https://www.hyatt.com/en-US/hotel/nevada/hyatt-regency-lake-tahoe-resort-spa-and-casino/tvllt/rooms>.

²⁵ See https://www.tripadvisor.com/Hotel_Review-g45956-d84627-Reviews-Hyatt_Regency_Lake_Tahoe_Resort_Spa_and_Casino-Incline_Village_Lake_Tahoe_Nevada_Nevada.html.

mattress and deluxe linens; In-room board games and puzzles; Gas fireplace and patio; Kitchenette (two-burner stovetop, refrigerator, dishwasher, and microwave) and pull-out sofa; 65" HD TV with cable/satellite TV channels and video on-demand; In-room safe, large enough to store and charge laptop computer; Hairdryer, coffee maker, iron and ironing board; Individual room temperature controls; Maximum of four guests per room; crib available upon request; and, Luxuriously appointed and generously sized bathroom with deluxe bath amenities."²⁶ Each "one-bedroom upper cottage with a king bed features separate living and dining areas, full kitchen, and furnished balcony... Amenities (include)" the same as those recited above for downstairs cottages²⁴.

Under Policy 16.1, all forty-eight (48) of these private rooms are dwelling units within buildings developed on a parcel other than a residential one. And apparently for this reason, none is assessed a RFF/BFF.

Cal-Neva Lodge: "At the Board's April 24, 2013 meeting²⁷ I provided evidence that APN 123-031-01, a single parcel, consists of: one hundred seventy-eight (178) separate hotel rooms and restaurant within *portions* of a multiple residential dwelling structure "contain(ing) living facilities with provisions for sleeping, eating, cooking, and sanitation;" ten (10) separate detached 688 square foot single family residences ("SFRs"); two (2) separate detached 694 square foot SFRs; another separate 1,040 square foot SFR; another separate 1,120 square foot SFR; and, a 2,044 square foot separate self-contained four (4) unit motel, each with a kitchenette. In other words, a minimum of thirteen (13) separate "dwelling units" with at least eighteen (18) separate facilities offering "provisions for sleeping, eating, cooking, and sanitation."

Putting aside the question of whether hotel rooms are "dwelling units," or whether they should be assessed separate RFFs/BFFs because that's the price they must pay for being included in the beach deed²⁸, under Policy 16.1, all eighteen (18) of these private SFRs/rooms therein are portions of buildings which "contain living facilities with provisions for sleeping, eating, cooking, and sanitation." In other words, they are all dwelling units. Yet because they are housed within buildings developed on a parcel other than a residential one, none is assessed a RFF/BFF.

Biltmore Hotel: At the same April 24, 2013 meeting I provided evidence that APN 123-052-04, a single parcel, consists of: one-hundred (100) separate hotel rooms with access to a 7,276 square foot restaurant (APN 123-052-02) all within *portions* of a multiple residential structure; and, six (6) or more separate "cottages" [two (2) 1,320 square foot cottages housing a combined four (4) separate self-contained units; one (1) 1,320 square foot cottage housing a combined twelve (12)

²⁶ Go to <https://www.hyatt.com/en-US/hotel/nevada/hyatt-regency-lake-tahoe-resort-spa-and-casino/tvllt/rooms/cottages/LFTK>.

²⁷ See pages 114-119 of the packet of materials submitted by staff in anticipation of the Board's May 29, 2013 meeting [http://www.ivgid.org/client_uploads/bot_regular_packet_05_29_13p2.pdf ("the 5/29/2013 Board Packet")].

²⁸ Go to https://www.yourtahoeplace.com/uploads/pdf-ivgid/Beach_Deed.pdf.

separate self-contained units; one (1) 2,640 square foot cottage housing a combined eight (8) separate self-contained units; and, two (2) 2,640 square foot cottages housing a combined twelve (12) separate self-contained units/each].

Putting aside the question of whether hotel rooms are “dwelling units,” or whether they should be assessed separate RFFs/BFFs because that’s the price they must pay for being included in the beach deed²⁸, under Policy 16.1, at least forty-eight (48) of these private SFRs/cottages/units are dwelling units because they offer “provisions for sleeping, eating, cooking, and sanitation.” Yet because these SFRs/cottages/units are housed within buildings developed on a parcel other than a residential one, none is assessed a RFF/BFF.

The Racquet Club: is a 101 unit townhouse condominium complex located at 989 Tahoe Blvd., in Incline Village, NV. At the Board’s September 3, 2013 meeting²⁷ I provided evidence that the lower portion of unit #97, APN 127-363-34, complete with a second “efficiency kitchen,” was being advertised for rent on craigslist by one of IVGID’s favored “lodging partners” (Incline at Tahoe Realty). Each of the one hundred and one (101) townhouse condominiums in this complex consists of 1,343 square feet and it is configured with 3 bedrooms/2 bathrooms. Many owners at the time, as did the one for this particular unit, have constructed a wall and locking door on the lower level entrance in front of the stairs leading to the unit’s upper level, turning this SFR into two “locked off” dwelling units rented out as separate 1 bedroom/1 bathroom and/or 2 bedroom/1 bathroom dwelling units. And for purposes of this discussion, both units “contain (separate)...living facilities with provisions for sleeping, eating, cooking, and sanitation.”

Under Policy 16.1, all of the condominiums in this complex which have been configured as indicated above, are dwelling units because they are developed on a residential parcel. Yet notwithstanding, each is assessed a single RFF/BFF.

How Do Staff Propose the District’s Parcel Database be Updated to Identify All Dwelling Units Subject to RFF/BFF Assessment, Especially Where Such Units Are “Part of a Multiple Unit Residential Structure...Not...Separately Assessed by the County Assessor?” Since it isn’t going to happen, *something more is required to assure that the District’s Parcel Database is up to date.*

Alternatives: Unbelievably, the staff memorandum in support of this agenda item proposes no alternatives? *HOW ABOUT NO REFUND?* Isn’t that an alternative?

Conclusion: Although it is unfortunate Mr. and Mrs. Heredia’s property has been overcharged the RFF/BFF, their plight points out one of IVGID’s deficiencies; the lack of process for those who are harmed to pursue an administrative remedy. If the Board truly cares about equity and fairness, it will adopt such a process.

And You Wonder Why the RFF/BFF is Out of Control? I’ve now provided more answers. Respectfully, Aaron Katz (Your Community Watchdog Because Until Recently, No One Else Seems to be Watching).

EXHIBIT "A"



RESOLUTION NO. 1879

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

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

WHEREAS, pursuant to Resolutions No. 419 and 420, as amended, and the order of this Board, a report entitled "Report for Collection on the County Tax Roll of Recreation Standby and Service Charges" has been prepared and filed with this Board, a report on recreation fees to be collected for the fiscal year 2020-21 for the use of Burnt Cedar and Incline Beaches and for the availability of use of the Incline Village Championship and Mountain Golf Courses, Diamond Peak, tennis courts, and other recreational properties and facilities for the District and its people;

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

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

WHEREAS, on April 14, 2020, this Board adopted its Resolution No. 1878, A Resolution Preliminarily Approving The Report For Collection Of Recreation Standby And Service Charges, wherein it fixed May 27, 2020, at 6:00 p.m. at the Chateau, 955 Fairway Boulevard, Incline Village, Nevada, as the time and place when and where the Board would hear said report and all objections and protests, if any, to the report, and might revise, change, reduce or modify any charge therein, and finally approve and adopt same.

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



RESOLUTION NO. 1879

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

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

NOW, THEREFORE, IT IS ORDERED as follows:

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

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

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

4. The Board of Trustees finds that each parcel assessed pursuant to this Resolution and in its report for the collection on the Washoe County tax roll of standby and service charges for the fiscal year 2020-21 is specifically benefited as follows:

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



RESOLUTION NO. 1879

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

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

6. That said report, as revised, changed, reduced or modified, if any, is hereby adopted and that all of the charges herein constitute a perpetual lien on and against each of the parcels of property in the amount set opposite their description in said report, which lien is effective as of the date on which general taxes for the fiscal year 2020/2021 become a lien.

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

8. The Washoe County Treasurer shall include the amount of the charges (*in two separate and distinct lines items identified as Recreation Facility Fee and*



RESOLUTION NO. 1879

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Beach Facility Fee) on the bills for taxes levied against respective lots or parcels of land in said report, or, in his discretion, issue separate bills therefor and separate receipts for collection on account thereof; and said amounts shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from the general taxes for the District, and shall be delinquent at the same time and thereafter be subject to the same delinquent penalties; and all laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to such charges.



* * * * *

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 27th day of May, 2020, by the following vote:

AYES, and in favor thereof,
NOES,
ABSENT, Trustees:

/s/ Kendra Wong
Kendra Wong
Secretary, IVGID Board of Trustees

EXHIBIT "B"



Report

**FOR COLLECTION ON THE COUNTY TAX ROLL OF
RECREATION STANDBY AND SERVICE CHARGES**

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

This report has been prepared pursuant to the order of the Board of Trustees (herein called "Board") of the Incline Village General Improvement District (herein called "District"), Washoe County (herein called "County"), Nevada, for the purpose of having recreation standby and service charges, herein called ("charges"), for the fiscal year 2020-2021, collected on the general tax roll for said year of the County, and is based on the following facts, determinations and orders, the Board has adopted charges pursuant to NRS 318.201 through prior annual reports and other actions including:

Resolution Number	Date Approved	Venue Affected	Related Bond Maturity Date
419	10/5/1967	Burnt Cedar and Incline Beach	N/A
420	10/5/1967	Burnt Cedar and Incline Beach	N/A
450	4/16/1968	Burnt Cedar and Incline Beach	N/A
1261	7/13/1976	Golf Courses, Ski Area, Beaches	N/A
1262	7/29/1976	Golf Courses, Ski Area, Beaches, Tennis and Recreation Parcels	2022**
1750	1/14/2004	Golf Courses, Ski Area, Parks, Tennis and Facilities	2014
1785	5/28/2008	Ski Area	2018

** Resolution 1262 related bond issue was part of refunding in 1991, 2002 and 2012.



I. The following annual charges are for the availability of use of the recreational facilities above described, and such charges (excepting those charges collected directly by the District) shall be collected by the Washoe County Treasurer at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the District.



- A. **Dwelling Unit Included in the District Prior to June 1, 1968.** \$330 annual base Recreation Facility Fee for each dwelling unit, whether such unit stands alone or is part of a multiple unit residential structure and whether or not such unit is separately assessed by the County Assessor; and an additional \$500 annual Beach Facility Fee pertaining to the use of the beaches or boat launching area. (For purposes hereof, a dwelling unit shall be placed on the roll at the earlier of the commencement of construction, site preparation, or utility meter installation on any portion of the lot on which the dwelling unit is located.)
- B. **Other Parcels in the District Prior to June 1, 1968.** For each parcel separately assessed by the County Assessor, which parcel does not contain any dwelling units, \$330 annual base Recreation Facility Fee and an additional \$500 annual Beach Facility Fee pertaining to the use of the beaches or boat launching area.
- C. **Properties Annexed After June 1, 1968.** Properties annexed to the District after June 1, 1968, shall have an annual base Recreation Facility Fee of \$330. Properties annexed after June 1, 1968, are not entitled to the use of the beaches or boat launching area and pay no Beach Facility Fee.
- D. **Exceptions.** Lots, parcels and areas of land used, or the portions thereof used, or intended to be used, for religious purposes or educational purposes; common areas without occupied structures appurtenant to a condominium or townhouse cluster; and publicly owned lands, are excepted and excluded from the charges imposed by subsections A through C of this section. In addition, any parcel which is (1) undeveloped, and (2) subject to a deed restriction, acceptable to IVGID staff, preventing any and all development of the parcel in perpetuity, which deed restriction is recorded in the Washoe County Recorder's Office, and (3) whose owner agrees to waive in perpetuity on his own behalf as well as on behalf of his successors and assigns any right to demand in the future any recreation privileges arising from or associated with said parcel is also excepted and excluded from the charges imposed by subsections A through C of this section.

Any exception granted pursuant to paragraph I. D shall operate prospectively only from and after the date subsequent to which such exception is approved by the *Board of Trustees* of the Incline Village General Improvement District and no exception as created by the paragraph I. D shall have any retroactive application.

EXHIBIT "C"

November 23, 2020 IVGID Board Meeting

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Dent Matthew <dent_trustee@ivgid.org>, Wong Kendra Trustee <wong_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, Schmitz Sara <schmitz_trustee@ivgid.org>, Ray Tulloch <raytulloch@munrotulloch.com>, Dobler Cliff <cfdobler@aol.com>, "ISW@ivgid.org" <ISW@ivgid.org>, "michaelatonking4IVGID@gmail.com" <michaelatonking4IVGID@gmail.com>
Subject: November 23, 2020 IVGID Board Meeting
Date: Nov 19, 2020 10:23 AM

Dear Chairperson Callicrate and Other Honorable Members of the IVGID Board:

I was dismayed to hear Trustee Wong's comments at last evening's Board meeting concerning the special meeting of the Board noticed for November 23, 2020. There Trustee Wong queried as to why the matter was even agendized given staff should have been allowed to make unilateral refund of the RFF/BFF to the requesting parcel owner because these kinds of actions are permitted based upon the abdication of duties past Boards have allegedly given the GM under Resolution 1480 (pages 13-17 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

Apparently Trustee Wong as well as staff have had a lapse of memory. Or maybe the lapse is intentional? That's the purpose of this e-mail.

I direct the Board to Resolution 1879 adopted May 27, 2020 (see pages 6-9 at https://www.yourtahoeplace.com/uploads/pdf-ivgid/5-27-2020_I.2_-_General_Business_-_Res_1879_-_Recreation_Standby_and_Service_Charges.pdf). BTW, Trustee Wong was chairperson at the time. Let me quote the last portion of paragraph 8:

"All laws applicable to the levy, collection, and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, **refund**, redemption and sale, are applicable to" the rates, tolls and charges the District seeks to collect pursuant to NRS 318.201(1).

Moreover, this language was included in Resolution 1879 because of NRS 318.201(12) which reads as follows:

"All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to...rates...adopted...pursuant to this chapter...(the Board has) elect(ed to be)...collected on the tax roll."

So when a member of our community made request for refund of past RFFs/BFFs, staff should have pointed him/her to the above quoted language. And he/she should have been required to follow "all laws applicable to the levy, collection, and enforcement of general taxes of the District," whatever those laws may be. And staff should have denied his/her request. And come next Monday, the Board should deny his/her request for the same reasons.

Trustee Wong complained last night that scheduling a special meeting of the Board is a waste and will likely cost the District more than the requesting parcel owner's refund. I disagree.

Also, I heard Trustee Schmitz state that this matter was agendized for the Board's November 23, 2020 because IVGID doesn't have a policy when it comes to seeking refund of the RFF/BFF. But as you can see Ms. Schmitz, that's not true. What is true is that staff and at least Trustee Wong don't want to follow that policy.

It is for this very reason that I have requested on several occasions that the Board Adopt a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF. In fact on October 28, 2020 I made request our GM agendize this matter (see below) pursuant to the authority of Board Policy 3.1.0. And what has Indra done in response? NOTHING! Don't Board members think it would be quite timely to address my request in conjunction with the subject matter of the upcoming November 23, 2020 meeting? So why hasn't it happened?

If the District is going to entertain RFF/BFF requests for any single parcel owner, then it must entertain those requests for ALL parcel owners. But it doesn't. Which is the very reason for adoption of the kind of policy I have requested.

If the Board is going to adopt a resolution which calls for a process for parcel owners to seek refund of the RFF/BFF (i.e. Resolution 1879), then it must follow that process. Otherwise, why adopt it? Is it an example of "do as I say rather than as I do?"

If staff and the Board are of the opinion the process the Board has adopted for parcel owners to seek refund of the RFF/BFF is illusory, as I contend, and another type of process should be adopted, then why won't Indra and you Board members agendize the subject matter as I have requested to adopt a process that in the real world works?

These are important issues and I ask that they not be trivialized and that they be addressed at the upcoming November 23, 2020 Board meeting. I believe the description of this agenda item is broad enough to extend to the adoption of the policy I have requested below, or some other policy (why don't you check with Mr. Nelson?).

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

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

From: s4s@ix.netcom.com

Sent: Oct 28, 2020 1:13 PM

To: "ISW@ivgid.org"

Cc: Callicrate Tim , Dent Matthew , Wong Kendra Trustee , Morris Peter , Schmitz Sara , Ray Tulloch , Dobler Cliff

Subject: Request to Have Agendized the Adoption of a Policy Creating an Administrative Remedy For Those Seeking Refund of the RFF/BFF

Hello Indra -

As you know Policy 3.1.0 was recently modified to include the following language at .4 thereof:

"If a person or party, **including the general public**, wishes to have a matter considered by the Board, a written request should be submitted to the General Manager."

I wish to have a matter considered by the Board. That matter is the adoption of a policy which creates an administrative remedy for those seeking refund of the RFF/BFF after their involuntary collection against a citizen's property.

Request is made you include a business agenda item for possible action for the Board's next meeting.

If you provide sufficient advance notice, I will prepare a "memorandum" which outlines the issue and proposes such a policy.

Thank you for your cooperation.

Aaron Katz

EXHIBIT "D"

WASHOE COUNTY ASSESSOR PROPERTY DATA				11/23/2020			
Owner Information		Building Information		XFOB	SUBAREA	Building # 1 of 6 >	
APN	132-202-05	Card 1 of 6	Bld #1 Situs	786 SOUTHWOOD BLVD	Property Name	TAHOE INCLINE	
Situs 1	786 SOUTHWOOD BLVD INCLINE VILLAGE NV 89451	Bld = 1	Quality	C15 Commercial 1.5 (Fair)	Building Type	Multiple Res (Low Rise)	
Owner 1	KG INCLINE INVESTORS LLC	OWNER	Stories	2	2nd Occupancy		
Mail Address	139 MITCHELL AVE STE 236 SOUTH SAN FRANCISCO CA 94080		Year Built	1964	WAY	1969	
			Bedrooms	26	Square Feet	12240	
			Full Baths	13	Finished Bsmt	0	
			Half Baths	0	Unfin Bsmt	0	
			Fixtures	0	Basement Type		
			Fireplaces	0	Gar Conv Sq Feet	0	
			Heat Type	HOT WATER	Total Garage Area	0	
			2nd Heat Type		Garage Type		
			Exterior Walls	STUD WALLS - HARDBOARD SHEET	Detached Garage	0	
			2nd Ext Walls		Basement Gar Door	0	
			Roof Cover		Sub Floor		
			% Complete	100	Frame	WD/STL FRAME	
			Obso/Bldg Adj	0	Units/Bldg	13	
Parcel Information							
Keyline Desc	FR NE4 SE4 SEC 16 TWP 16 RGE 18						
Subdivision	_UNSPECIFIED						
	Section 16 Township 16 Range 18						
Record of Survey Map : Parcel Map# : Sub Map#							
Special Property Code							
2020 Tax District	5200	Prior APN					
2019 Tax District	5200	Tax Cap Status	2020 Rental Form Mailed, High Cap Applied				
PERMITS	wjackins 05/18/2020						

feedback

WRITTEN STATEMENT TO BE ATTACHED TO AND MADE A PART OF THE WRITTEN MINUTES OF THE IVGID BOARD'S SPECIAL NOVEMBER 23, 2020 MEETING – PUBLIC COMMENTS – AGENDA ITEM B – STAFF'S FAILURE TO RESPONSIBLY MAINTAIN OUR CURRENT CHAMPIONSHIP COURSE GOLF CARTS NOW THAT THE BOARD HAS DENIED STAFF'S REQUEST TO LEASE-PURCHASE NEW ELECTRIC VERSUS GAS POWERED CARTS

Introduction: At the Board's November 18, 2020 Board meeting staff advanced its agenda that the Board approve the lease-purchase of eighty (80) new Championship course battery golf carts¹ at a conveniently undisclosed cost². Smartly, the Board refused to move forward with staff's request.

However, staff's admissions reveal a whole new set of concerns which are required to maintain the current fleet of eighty (80) Championship course carts. And this is the purpose of this written statement.

The Board's February 8, 2017 Meeting: Let's begin with a stroll down memory lane. At this Board meeting staff recommended the Board "authorize a four year municipal lease...to fund the... procurement (of 80) golf cart(s)...totaling"³ at a cost of \$480,584.00⁴ after crediting any trade in of existing carts⁵. One of the primary reasons for staff's recommendation was "to match the available industry...bumper-to-bumper...warranty period...including batteries (with no amp hours limitation) for

¹ See pages 172-178 of the packet of materials prepared by staff in anticipation of the Board's November 18, 2020 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/1118_-_Regular_Searchable.pdf ("the 11/18/2020 Board packet")].

² Although staff doesn't disclose the anticipated cost of this purchase, it points to a capital improvement project ("CIP") estimate of \$378,000 (see pages 172 and 174-75 of the 11/18/2020 Board packet) *after* an estimated trade-in of \$156,000 ["approximately \$1,950 per cart" (see page 172 of the 11/18/2020 Board packet)]. This brings the estimated cost of these carts to approximately \$534,000. This total is remarkably close to Club Car's 2017 low bid of \$534,265.60 [see page 4 of the packet of materials prepared by staff in anticipation of the Board's February 8, 2017 meeting {"the 2/8/2017 Board packet" (https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_2-8-17.pdf)}]. This works out to an approximate cost per cart of \$6,678.

³ See page 2 of the 2/8/2017 Board packet.

⁴ See page 33 of the packet of materials prepared by staff in anticipation of the Board's March 8, 2017 meeting [https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_3-8-17.pdf ("the 3/8/2017 Board packet")].

⁵ Given Club Car's low bid was \$534,265.60 (see page 4 of the 2/8/2017 Board packet), and the net amount financed was \$480,584, I attribute the difference to a trade in allowance for the District's then existing carts.

the entire four year term.”⁶ Based upon staff’s representations, the District “rubber stamped” staff’s request and “purchased...the current fleet of 80 carts...in April 2017.”⁷

The Board’s September 25, 2019 Meeting: The Board decided to lease 58 gas powered carts on a similar lease basis. The total cost before any trade in was \$297,427.16⁸ (\$5,128.05 per cart). The principal amount financed after trade in was \$204,627.16.

Staff’s November 18 2020 Representations: Given “the current fleet is (allegedly) over 4 years old now (and because they)...are already experiencing battery issues,”⁹ the recommendation was that staff “immediately start the bid process for (replacement of) the eighty (80) golf cart fleet at the Championship Golf Course and bring this award to the Board...at its first meeting in January 2021.”¹⁰

The Board’s November 18, 2020 Meeting: This agenda item asked for Board direction as to whether “staff should proceed, defer, re-budget, or cancel” the subject CIP given it was already budgeted for 2020-21?⁹ The Board gave that direction, and it was that staff *not* replace the Championship course’s existing fleet.

Our Cart Fleet “is Over 4 Years Old Now:” This is what Mr. Howard told the Board and the public in his staff memo⁹. But like so much we hear from staff, this is not really the truth. “The current fleet of 80 carts was purchased in April of 2017.”⁷ Since the number of months from April of 2017 to November of 2020 is less than 48 and definitely not OVER 48.

And why is this misstatement of fact important? Because according to Mr. Howard, we have a 4 year bumper-to-bumper warranty on these carts including their batteries⁶ notwithstanding their alleged over use¹¹. And “the current carts are already experiencing battery issues.”⁹ What kind of battery issues Mr. Howard? Whatever the answer, *why hasn’t he made warranty claim with Club Car?* If he does nothing, which I fully expect he would be doing if I and others didn't call him out right here and now, we possibly would be able to replace these batteries at Club Car’s rather than our cost due

⁶ See page 3 of the 2/8/2017 Board packet.

⁷ See page 174 of the 11/18/2020 Board packet.

⁸ See page 51 of the packet of materials prepared by staff in anticipation of the Board’s November 13, 2019 meeting [https://www.yourtahoepalace.com/uploads/pdf-ivgid/BOT_Packet_Regular_11-13-2019updated.pdf (“the 11/13/219 Board packet”)].

⁹ See page 172 of the 11/18/2020 Board packet.

¹⁰ See page 173 of the 11/18/2020 Board packet.

¹¹ Mr. Howard asserts “we have (allegedly) experienced 2 years’ worth of use for the 2020 season⁹. But our current carts have NOT been over used, in 2020 or any other year. Mr. Howard knows we use our carts for maybe 5 months of a typical golf season (mid-May to Mid-October), rather than the 12 months most other courses use them. Thus our carts are typically *under* used. Therefore, why is Mr. Howard crying “chicken little?”

to these "issues." So if he does something now, which we would expect from any other responsible golf director, might we get replacement batteries at no cost which conceivably would last another four (4) or greater¹² years?

Why Exactly Have We Unnecessarily Overspent to Purchase Battery Powered Carts at the Championship Course? This episode has called into question prior staff's and the Board's incompetence insofar as the February 2017 recommendation and decision to purchase battery powered golf carts. The difference in cost between gas and battery powered golf carts is nearly \$1,550² [*a more than thirty percent (30%) surcharge*]. Moreover, gas powered carts don't require \$1,000 or more battery replacements after a scant four (4) years due to our particular circumstances¹³. I'm sorry, our staff isn't here to "save the planet" with more friendly environmentally sensitive golf carts to the detriment of local parcel owners who end up paying for them. Why then would we ever consider purchasing future battery powered golf carts? It makes no financial sense.

I Don't Want to See Staff Coming to the Board in the Next Year or So Asking for Approval to Spend \$80K or More on Replacement Champ Course Cart Batteries: when staff can do something to protect the public right NOW. Hopefully the Board will put staff's feet to the fire to do something responsibly to ensure this fear doesn't become reality.

And that's the purpose of this request.

Conclusion: It is for these reasons that on November 21, 2020 I sent an e-mail to the current as well as future Board raising these issues and ensuring that staff take measures now to ensure that if the subject carts' batteries require replacement, they get replaced under warranty¹⁴.

And You Wonder Why the Recreation Facility Fee ("RFF") Which Subsidizes This Avoidable Waste is Out of Control? I've now provided more answers.

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

¹² I say "greater" because "batter life is expected to be 5 years with proper care and recharging."⁷

¹³ According to staff, the reasons we experience short battery life are because of our "mountain setting combined with multiple uses in a day can reduce the life expectancy on...batteries."⁷

¹⁴ That e-mail is attached as Exhibit "A" to this written statement.

November 18, 2020 IVGID Board Meeting - Agenda Item K(3) - Possible Lease of 80 New Champ Golf Carts - Going Forward

From: s4s@ix.netcom.com
To: Callicrate Tim
Cc: Dent Matthew <dent_trustee@ivgid.org>, Schmitz Sara <schmitz_trustee@ivgid.org>, Wong Kendra Trustee <wong_trustee@ivgid.org>, Morris Peter <morris_trustee@ivgid.org>, "michaelatonking4IVGID@gmail.com" <michaelatonking4IVGID@gmail.com>, "ISW@ivgid.org" <ISW@ivgid.org>
Subject: November 18, 2020 IVGID Board Meeting - Agenda Item K(3) - Possible Lease of 80 New Champ Golf Carts - Going Forward
Date: Nov 21, 2020 10:17 AM

To Chairperson Callicrate and Other Honorable Current and Future Members of the IVGID Board -

First of all I applaud the current Board's refusal to accede to our incompetent and deceitful staff's recommendation (that's right, Darren Howard is another of our typical, historical, incompetent and deceitful staff) we spend nearly \$500,000 acquiring 80 new Champ Course carts.

Why is Mr. Howard deceitful?

He states "the current fleet is over 4 years old now" (see page 172 of the 11/18/2020 Board packet). No it's not. But "the current fleet of 80 carts was purchased in April of 2017" (see page 174 of the 11/18/2020 Board packet). I don't know where Mr. Howard went to school but where I did, the number of months from April of 2017 to November of 2020 is less than 48 and not OVER 48.

And why is this fact important? Because according to Mr. Howard, we have a 4 year bumper-to-bumper warranty on these carts. Including the batteries notwithstanding the batteries' alleged over use [Mr. Howard asserts "we have (allegedly) experienced 2 years' worth of use for the 2020 season (see page 172 of the 11/18/2020 Board packet). But our current carts have NOT been over used, in 2020 or any other year. We use our carts for maybe 5 months of the golf season, rather than the 12 months most other courses use them. Since actually, our carts have been under used, why is Mr. Howard crying "chicken little?" It's advancing his agenda rather than the public's, and it's called deceit].

Why is Mr. Howard incompetent?

According to Mr. Howard, "the current carts are already experiencing battery issues" (see page 172 of the 11/18/2020 Board packet). What kind of battery issues? Whatever the answer, why hasn't he made warranty claim with Club Cart? If he does nothing, which I fully expect he would be doing if I and others didn't call him out right now, we possibly will have to replace these batteries at our cost due to these "issues." If he does something now which we would expect from any responsible golf director to do, we might get replacement batteries at no cost which conceivably would last another four years.

On another note going to the issue of competence, this episode calls into play prior staff and Board incompetence insofar as the February 2017 recommendation and decision to purchase battery powered golf carts. The difference in cost between gas and battery powered golf carts is nearly \$1,000 (remember that barely a year ago we purchased gas powered golf carts from EZ-Go for \$5,128/each) or possibly more. I say possibly more because it's not clear from Mr. Howard what the costs of battery powered carts actually are. In February of 2017 staff indicated Club Cart's low bid for 80 carts was \$534,265.60 before any trade-in. That works out to \$6,678.32/cart, which is \$1,550 more than the cost of gas powered carts.

Moreover, gas powered carts don't require \$1,000 or more battery replacements after a scant four (4) years. I'm sorry, our staff isn't here to "save the planet" with more environmentally sensitive golf carts to the detriment of local parcel owners who are paying for them. Consequently, why then would we ever consider purchasing future battery powered golf carts? It makes no financial sense. And since I'm one of those paying and Mr. Howard isn't, I have standing to criticize.

I don't want to see staff coming back to the Board in the next year asking for approval to spend \$80K or more on replacement Champ course golf cart batteries when staff can do something NOW. Hopefully the Board will put staff's feet to the fire to do something responsibly right now to ensure this doesn't happen. And that's the purpose of this request.

And by the way, why is it I have to raise these issues? Isn't this a GM responsibility and if so, why hasn't Indra come forward?

I thank the Board for its hopefully timely responsiveness to my concerns. Aaron Katz