



CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

For Immediate Release
August 28, 2012

Contact Victor Joecks
(702) 222-0642

Nevada Supreme Court to hear NPRI's appeal of complaint on Open Meeting Law violation

CARSON CITY — The Nevada Supreme Court will hear, on an expedited basis, an appeal filed by NPRI's Center for Justice and Constitutional Litigation. The appeal challenges a lower court decision issued last week and seeks to uphold the state's Open Meeting Law.

The prehearing conference — essentially oral argument — before the entire Supreme Court will be held on Wednesday, Sept. 5, 2012, at 11:30 a.m. on the 17th floor of the Las Vegas Regional Justice Center.

“Because Nevada's Supreme Court has a strong tradition of preserving transparency and openness in government, it is heartening to see the Court respond swiftly to our appeal and emergency motions,” said Andy Matthews, president of NPRI.

“Despite a heavy caseload, the Court issued its written order within hours of receiving our motion to appeal. This is highly unusual and demonstrates that the Court takes this case seriously and wants to ensure it receives a timely review, given its implications for printing ballots for this fall's election.”

The appeal stems from the case which NPRI and Karen Gray filed in the Eighth Judicial District Court on Aug. 3, 2012, alleging that the Clark County Regional Debt Management Commission violated Nevada's Open Meeting Law ([NRS Chapter 241](#)) at a June 7 meeting, when it approved the Clark County School District's \$669 million property-tax increase for the fall ballot without allowing for any public comment before its vote.

While Gray, an employee of NPRI, was in attendance and prepared to discuss the matter, the commission ignored state law and did not offer members of the public the opportunity to comment before the commission took its vote. Audio of that meeting is available at http://www.npri.org/audioLib/20120813_DMC_2012-06-07.MP3.

Nevada's Open Meeting Law, at [NRS 241.020\(2\)\(c\)\(3\)](#), requires that public comment must be taken "before the public body takes action on the item." Another provision in the chapter, [NRS](#)

[241.036](#), states that: "The action of any public body taken in violation of any provision of this chapter is void."

Judge Valorie J. Vega did not rule on the merits of an Open Meeting Law violation complaint filed by CJCL, but rather on the questions of whether to grant a preliminary injunction and by whom the case will be heard. The Supreme Court will now decide both questions.

“While this appeal has implications for this fall's ballot, the case is simply about defending Nevada's Open Meeting Law and making sure the Clark County Regional Debt Management Commission follows the law,” said Jacob Hafter, attorney for NPRI and Karen Gray.

“Without constant oversight, government officials tend to seek ways to weaken or ignore laws that give citizens access and input to the lawmaking process. This case is about preserving that openness in government.

“Under the Open Meeting Law, the chair of the meeting has an obligation to verbally offer a public-comment period before taking a vote. This allows citizens to give their input before a decision is made and before commissioners are gathering their things to leave. The chair did not offer that opportunity in this case, and when that happens, the law is perfectly clear — the action of any public body taken in violation of Nevada's Open Meeting Law is void.”

Hafter, noting that the Supreme Court has decided to review disputed facts in the case, called on the Court to weigh in on the side of the public.

It would be a dangerous precedent, he observed, were the high court to rule that the burden of proof was on citizens instead of government officials in a case such as this.

Matthews and Joseph Becker, NPRI’s chief legal officer and director of CJCL, will have media availability immediately after the hearing, which will be held on Wednesday, Sept. 5, 2012, at 11:30 a.m. on the 17th floor of the Las Vegas Regional Justice Center.

Read more:

Supreme Court Order Resolving Motion, Directing Expedited Transmission of District Court Record, and Setting Prehearing Conference in *Nevada Policy Research Institute, et al. v. CCSD, et al.* is available at: <http://justice.npri.org/assets/cases/2012/08/order-resolving-motion.pdf>.

CJCL’s Emergency Petition for Writ of Mandamus in *Nevada Policy Research Institute, et al. v. CCSD, et al.* is available at: <http://justice.npri.org/assets/cases/2012/08/complete-writ-exhibits.pdf>.

Complete Writ Exhibits in *Nevada Policy Research Institute, et al. v. CCSD, et al.* are available at: <http://justice.npri.org/assets/cases/2012/08/complete-writ-exhibits.pdf>.

NPRI President Andy Matthews describes the arguments and implications of this case: <http://www.writeonnevada.com/2012/08/why-npri-is-defending-nevadas-open.html>.

CJCL's Open Meeting Law Violation Complaint in *Nevada Policy Research Institute, et al. v. CCSD, et al.* is available at:

http://www.npri.org/docLib/20120807_Nevada_Policy_Research_Institute_v._Clark_County_School_District.pdf.

###

The Nevada Policy Research Institute • 7130 Placid St., Las Vegas, NV 89119
Phone: (702) 222-0642 • Fax: (702) 227-0927 • Web site: <http://justice.npri.org>