



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

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April 27, 2016

**Via First Class Mail**

Deborah A. Hayes  
254 Lower Colony Road  
Wellington, Nevada 89444

Re: Open Meeting Law Complaint, A.G. File No. 13897-189  
Lyon County Board of Commissioners

Dear Ms. Hayes:

On February 4, 2016, the Lyon County Planning Commission (LCPC) approved a Special Use Permit (SUP) that gave NV Energy authority to build a 120 KV electrical substation at 274 Lower Colony Road in Wellington Nevada. The SUP approved a project to be constructed on a 22 acre parcel, owned by John Zwart, with an existing smaller electrical substation.

Deborah Hayes, who resides at 254 Lower Colony Road, collected signatures of 30 local residents, all of whom expressed opposition to the new NV Energy Project. Signatures were provided to both the LCPC and to the Lyon County Board of County Commissioners (BOCC).

Ms. Hayes asserts in her OML complaint that the BOCC violated the Open Meeting Law when it approved the construction and future operation of a 120 KV substation. Ms. Hayes alleges that because the original proposal was to build a 60 KV substation, the BOCC violated the OML because the size of the substation was doubled without giving notice to the public. Ms. Hayes also alleges that the new proposed substation does not give notice of its size, increased voltage and its negative impact on the community.

Ms. Hayes also claims the agenda item is “vague, deceptive and discriminatory.”<sup>1</sup> She argues that there is no transmission line existing in Smith Valley at or near the proposed site for the planned 120KV substation, which is contrary to NV Energy’s proposal “to expand an existing substation and transmission line.” She further claims that the existing facility at 274 Lower Colony Road is not a substation—instead it is a “switch yard,” which does not have significant impact on the community. She asks this office to nullify the SUP given to NV Energy.

The Attorney General has jurisdiction to investigate allegations of a violation of NRS Chapter 241, the Open Meeting Law. This office may seek civil remedies against individuals and public bodies including injunctive relief to require compliance with the OML, or to prevent violations of the OML. A criminal misdemeanor penalty and a monetary penalty for violations of the OML are also authorized relief against individuals in any court of competent jurisdiction. NRS 241.037; NRS 241.040.

The Office of the Attorney General’s statutory authority does not include nullification of the SUP at issue in this complaint. The OAG is limited when enforcing the OML, or in taking legal action that seeks to void the action of a public body. In either event, an adverse result to the County would not prevent the BOCC from taking corrective action on the same matter in the future.

The OAG has concluded our investigation of an allegation that the BOCC agenda item was not clear and complete. NRS 241.020. The complaint alleges that because the stated agenda item is contrary to the NV Energy proposals, including the size of the substation’s expansion, the kilo voltage of the new station, and whether a transmission line is on the premises, the item is therefore vague, deceptive and discriminatory. We disagree.

At the end of the lengthy deliberation by the LCPC on January 12, 2016, Doug Bennett, a member of the Commission asked Mike Hardcastle, also a member of the Commission, to restate his motion to recommend the SUP by clarifying one condition. The restated condition allows the applicant to build a 120KV facility but operate it at 60 KV to accommodate future expansion.

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<sup>1</sup> 18. **NV ENERGY / ZWART, JOHN – SPECIAL USE PERMIT** (for possible action) Request for a Special Use Permit to expand the existing electrical substation and transmission line, on an approximately 4 acre portion of a 22 acre parcel; located at 274 Lower Colony Road, Wellington , NV. APN 10-301-10) PLA-15-0044.

**Planning Commission Recommendation:** The Planning Commission unanimously recommended approval of the request for a Special Use Permit based on the recommended findings, and subject to the 12 conditions stated in the Staff report, plus two additional conditions stipulated during the meeting.

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Whether the facility on the property is a substation or a switch station was mentioned in the LCPC meeting by a member of the public. No one objected to the difference between a switch station and a substation. In fact, it seems this audience used the terms interchangeably.

The 30 person signature petition, opposing the proposed SUP presented to the LCPC, belies the argument that the public was not duly notified of the projects impact on the community. The proposed SUP was not vague, deceptive or discriminatory. Agenda items need only to provide the public with notice of the topics to be discussed and voted on. NRS 241.020(2)(d)(1).

Whether the facility is currently a switch station or a substation, whether the facility is to be upgraded to 120KV from 60KV, and whether the facility currently has a transmission line, are all details encompassed in the topic, "expand the existing electrical substation and transmission line." The agenda item was sufficiently clear and a complete topic.

The OAG does not find a violation of the OML clear and complete rule. We are closing our investigation in this matter.

Sincerely,

ADAM PAUL LAXALT  
Attorney General

By:   
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Senior Deputy Attorney General  
Bureau of Government Affairs  
Boards and Open Government

Cc: Stephen B. Rye, District Attorney  
Jeff Page, County Manager  
Betty Betzer, Chairperson