

2009

ANNUAL REPORT

December 8, 2009

Introduction

The items contained in this report represent a sample of the dozens of issues handled by Southern Nevada Home Builders Association during the past year. Details concerning the association's work, events and programs are published and transmitted to the membership and selected others in the weekly Builder Brief e-newsletters. As an active member, you have the opportunity to serve on committees working on these and other issues, and be on the cutting edge of the industry.

2009 has been a challenging year for the association and the industry. We, at the association, are determined to do what is necessary to maintain the association and assist our great membership with their challenges.

Legislature:

During the 2009 legislative session our Legislative Committee and lobbyists reviewed, proposed amendments and/or lobbied over 150 pieces of legislation affecting our industry in various means. Among these bills were a variety of subjects; i.e., mortgage and financial, energy, water, sewer, land use, environmental, workman compensation, state contractor licensing, etc. Following are only a few of the pieces of legislation.

- **Subdivision Maps: Allows extension of subdivision map**

AB74 – This measure revises provisions regarding tentative and final maps in construction. Section 2 extends the deadline for submission of a final map covering portions of a subdivision within two years to four years after approval of a tentative map. It also extends the deadline for the presentation of a successive final map from one year to two years after recordation of the previous final map and extends the period for which an extension of that deadline may be granted to two additional years. Effective upon passage and approval. This bill sunsets June 30, 2013.

- **Sewer Laterals**

AB80 - After spending a large amount of time last session and during the interim talking with the stakeholders on excavation and sewer laterals, these issues were finally settled by the passage of AB80. If an operator of a sewer main is notified of a proposed excavation or demolition, the operator of the sewer main is responsible for informing the person responsible for the excavation of the location of the sewer lateral to the sewer main. A government or political subdivision of a government that operates a sewer main may charge a person responsible for the actual cost of compliance. The operator of a sewer main must maintain records of sewer lateral connection locations. A person connecting a sewer lateral must install an identification device such as marker balls, or electronic tracer wires. This bill was passed and approved by the Governor. Section 15.5 of the bill becomes effective January 1, 2011. The rest of the bill becomes effective October 1, 2009.

• **School District Bill: Would have placed land in limbo for a number of years**

AB220 - Initially, this bill would have affected all counties. Due to the intense work of our lobbyists, Clark County was taken out of the bill. ***Currently, only Washoe County is included in the following provisions:***

1. The planning commission or designated representative of the governing body has ten days after the tentative map is filed to forward a copy of the tentative map to the board of trustees of the school district where the subdivision is located.
2. The board of trustees has 15 days, if the school site is needed to notify the commission or governing body that a site is requested.
3. If the purchase of the land is not completed within 5 years, after the final map that shows the school site is approved, the builder need not continue to set the land aside for the school district.
4. If the school district does not construct a school on the land for 10 years from the date of purchase, the land must be offered for resale in interest back to the subdivider or successor.

This measure passed and was approved by the Governor. It becomes effective October 31, 2009.

• **Construction Theft/Scrap Metal**

AB233 - This bill is to help stop the problems of theft of copper, steel, and other forms of metal from city streets, utilities, both commercial and residential construction sites and foreclosed homes. We strongly supported this measure. This bill requires scrap metal buyers to hold proper business licenses from the State, city and county and authorization from the solid waste management agency. Scrap metal processors must maintain records of all purchases of such waste purchases. This bill requires that for payments for purchases of scrap metal with a value of \$150.00 or more the processor must pay the seller by check or electronic transfer of money, no cash. The buyer cannot conduct more than one cash transaction for under \$150.00 per day. Scrap metal processors or dealers must maintain very detailed records of transactions, including date of purchase, name of seller, copy of the sellers drivers' license or personal ID, name, address, physical description and date of birth, photograph or video of transaction, fingerprint of right index finger, license number and physical description of the vehicle used by the seller, description of the scrap metal being purchased, and the price paid for the metal. The bill also includes some very strong felony penalties. This bill passed and was approved by the Governor and becomes effective July 1, 2009.

• **Green-Jobs Bill**

SB152 - This bill was introduced to enact the Green Jobs Initiative, intending to take advantage of the American Recovery and Reinvestment Act of 2009, putting Nevadans to work, improving the economy, and creating a cleaner Nevada. The bill will use the American Recovery and Reinvestment Act to provide job training, the promotion of energy efficiency and renewable energy. It will provide job training, establish projects that will use those skills learned in training and thereby provide employment. It will require the Department of Employment, Training and Rehabilitation to establish contractual

relationships with appropriate nonprofit organizations to provide training in renewable energy, energy efficiency and weatherization techniques and energy audits. The Housing Division is required to work with local governments and nonprofits to identify neighborhoods who will qualify for funding for weatherization, residential projects and award contracts to do so. The State Public Works Board, school districts and the University will be required to the same for public buildings and facilities. All these entities must report to the Interim Finance Committee regarding the application for and acceptance of these monies from the American Recovery and Reinvestment Act of 2009. This bill was passed by both Houses and signed by the Governor. It becomes effective June 9, 2009.

- **Statute of Repose**

SB337 - This was a very important bill for everyone in the construction industry in the State of Nevada. It dealt with the statutes of repose. It proposed to change the statute of limitations or repose for willful misconduct or fraudulent concealment from 12 years to 6 It proposed to reduce the statute of limitations or repose for claims that were known, or should have been known from 10 years to 3 years, eliminating the two year extension. Latent claims would be reduced from 8 years to 4 years. Patent claims would be reduced from 6 years to 3 years. The bill passed out of the Senate Judiciary Committee on a unanimous vote. It passed from the Senate Floor with 20 yeas, 1 abstention. It was then sent to the Assembly where it died without further consideration.

- **Construction Defect – Chapter 40**

SB349 - This was the most important bill of the session for all of us in the building industry. It was introduced by the Senate Judiciary Committee, thanks to the hard work of the Coalition for Fairness in Construction, made up of Southern Nevada Home Builders, Associated General Contractors, Nevada Subcontractors Association and others in the building industry fueled by the knowledge that Chapter 40 is unworkable and unfixable. What we all hoped for was a repeal of Chapter 40. As the bill came forward in Judiciary Committee on April 1st, it would have redefined “constructional defect” to mean that the defect must present an unreasonable risk to injury, is a defect that violates the law and is not completed in good workmanship manner. It would have eliminated automatic attorney awards and imposed the American Rule regarding attorney’s fees. Section 3 would ensure that the homeowner understands the necessary disclosures. Many interested parties testified in favor of the bill, only the trial lawyers testified against it. It was heard again and an amendment was adopted that would have exempted workmanship that exceeded code to be considered in constructional defect. An additional section of the amendment addressed issues related to Home Owners’ Associations. SB349 as amended was passed by the Senate Judiciary Committee unanimously and was sent to the Senate Floor. Final passage from the Senate Floor was 19 yeas, 1 nay and 1 abstention. It was sent on to the Assembly for consideration. Assembly did not bring the bill up on Assembly Judiciary for a hearing. Negotiations continued (see AB215) right up until the last moments of the last day of the session to no avail. The bill died in the Assembly with no action. Senators Terry Care and Allison Copening were exceptional in their efforts to get meaningful legislation passed on constructional defect, ably assisted by the other members of the Senate Judiciary Committee.

The list of bills which could have cost our industry \$\$\$\$ thousands of dollars is a book unto itself. OSHA 10 and OSHA 30, State Contractor liability insurance, use of the Recovery Fund, 16 HOA bills, and many others. Thanks to our great legislative committee and lobbyists, for all their time and attention to the session.

SNHBA Committees:

Our various committees handle a significant number of issues throughout the year. Following is a sample of the work done by our staff and committees with local county and state governments on significant challenges for the industry and the community.

- **Codes**

North Las Vegas Clarifies Landscape/Geotechnical Coordination Policy

Following discussions with members of the association's Utilities and Offsites Committee, the city of North Las Vegas Public Works Department has updated its new policy regarding landscaping plans in an effort to provide customers with a clearer understanding of the city's process for approving landscape plans and performing related inspections. The new version of the Landscaping/Geotechnical Coordination Policy, in draft form, identifies the components of the landscaping plans that will be evaluated at the time of submittal. The new policy for Landscaping/Geotechnical review is shown in this document:

http://www.snhba.com/e_events/landscapeLetter0309.pdf. The development of this document resolved misunderstandings and delays in plan processing due to landscape issues.

City of Las Vegas Building Code Interpretations

The CLV Building Department is supplying our organization with written code interpretations which enable us to transmit them directly to our members and eliminate field issues.

Clark County Industry Notices

From time to time, Clark County issues industry notices of proposed changes to codes, technical guidelines, upcoming meetings of interest to the construction industry, etc. Unfortunately, there are instances where this information is not received by SNHBA in a timely manner. Rick Wilburg, assistant manager of plan examination, advised the SNHBA Codes Committee that the county has a Building Permit and Inspection Newsletter, as well as several other newsletters, that anyone can sign up to receive, so that you will get these notifications. In addition to the newsletter, periodic updates will be sent on an as-needed basis.

SNHBA has encouraged local building and development services departments to provide these new communication programs.

Henderson Building Inspections

In late August and early September, SNHBA was very involved in a new plan at the city of Henderson regarding building inspections on Fridays. Henderson has closed all offices on Fridays. The city proposed no building inspections on Friday, but the building industry

could arrange for an inspection on Fridays by paying a minimum three-hour overtime inspection charge of \$366.

The association took the position that our builders must have Friday inspections; the builders are paying already for the permits and want the service without additional charge. Fortunately, the city heard our request, and with us, reviewed the inspection requests for Fridays (their records) and notified the association that Henderson will continue to provide building inspection services five days a week without additional charge. The association brought this item forth to the city to remove the overtime inspection charge of \$366, and maintain services for the residential community.

Clark County to Initiate Electronic Submittal of Building Plans

Beginning November 2, Clark County Development Services will accept the submittal of building plans electronically through its **ePlan Review** system. The county expects the new system will make it much easier to apply for, and complete, the permit and plan review process online, saving time, money and natural resources. The process to submit a plan electronically through ePlan Review begins with the submittal of an online application. Re-submissions, notes and comments are managed and routed across multiple departments using workflows and e-forms. Change notifications and other communications are exchanged between the plan check team and the person submitting the plans. All project activities are stored within the ePlan Review package for accurate analysis and a complete audit trail. After the review process is completed, drawings are electronically stamped 'approved.' A .pdf version can be published to download and print. Initially, the ePlan Review will be available to home builders for new homes. The program is expected to be available to commercial projects beginning in early 2010. The association, through its committees and membership on the Building Enterprise Fund Committee, has worked and supported the department in development of the ePlan Review, saving thousands of dollars in plan submission, transmission and review time.

Clark County Building Permit Fee Reduction

Through our membership on the Clark County Building Enterprise Fund Committee we supported the continuation of the 10% reduction in building permit fees for 2009, which we proposed originally in 2008. We will continue to support fee reductions in this challenging economic climate.

2009 International Energy Conservation Code (IECC)

Our staff and members have been serving on the Southern Nevada Building Officials Code Review committee. Amendments which we assisted with eliminated excessive costs. The code adoption was being fast-tracked due to submission of a grant application by the cities of Las Vegas, North Las Vegas and Henderson. The association challenged this and requested the entities secure an interpretation of "effective date" versus "adoption date". The building officials heard our comments and secured information they could indeed have a later effective date. Subsequently, the 3 entities have adopted the code with a July 6, 2010 effective date. This six month delay we sought allows our members to have adequate time to change plans, obtain training, proceed without added costs on homes to take advantage of the Home Buyer Tax Credit program. The amendments and time delay secured by the association saves our members considerable time and thousands of dollars.

2009 IRC and ICC Building Codes

Our staff and committee volunteers have spent many months during the past year on these code review committees. Although progress has been made with amendments, more work needs to be done in the next few months to mitigate the costs contained in the new requirements.

• Community Planning and Development

Sloan Canyon Gateway Project Design Standards Updated

SNHBA is participating with the city of Henderson in the crafting of design standards for the Sloan Canyon National Conservation Area Gateway Project. The design concepts include requirements to preserve washes, hillsides and ridges, native vegetation, open space, trails and scenic vistas. The guidelines also set standards for energy efficiency. By using a conservation development approach, a developer can build the same amount of homes in a smaller footprint, and in the process preserve larger portions of the project area. Several recommendations to render the project more attractive for developers have been forwarded to the city, including the suggestion of a community-based solar photo voltaic farm as part of the infrastructure in each community in the development, to provide power to all the buildings. The project appears to be currently not proceeding. We have made many design standard comments and believe the program may be premature during the current economic times. The project could proceed in the future when the economy improves.

North Las Vegas Survey – Development Services

Our staff has been serving on the City of North Las Vegas committee reviewing development processing. As a part of development of their new Development Services Center, they created a “service” survey to be completed by our members. We assisted with survey review and encouraging our members to participate.

Henderson Development Code Updates

After a year in preparation, and with substantive input from stakeholders, including SNHBA, the city of Henderson unveiled the latest version of its Development Code to members of the Community Planning and Development Committee on September 24. The new code includes changes in the residential zoning specifications, development and design standards, circulation and connectivity requirements and aspects of sustainability. Extensive modifications were made pursuant to our input in the residential standards, saving \$\$\$ per house.

City of North Las Vegas Zoning Ordinance Updates

The City of North Las Vegas has been updating their zoning ordinance. The city has been working with us to provide additional flexibility in their design standards with options for development.

City of Las Vegas Green Program

Our staff and members have served on the city green committee to expand their green program and develop incentives for the builder for the green program.

SNHBA Supports Amendment to Conservation Plan

SNHBA serves on the Clark County Community Advisory Committee to evaluate proposed amendment of the Multiple Species Habitat Conservation Plan and Incidental Take Permit. The association was an active stakeholder when the original plan and take permit were developed. The proposal calls for an extension of developable acreage not currently permitted for take in Clark County in the amount of 215,000 acres. When the plan went into effect in 2000, some 145,000 acres were covered under the take permit. As of 2009, only 65,000 acres remain undeveloped. In addition to supporting the level of the proposed extension of developable acreage in the amendment, the association also supports several additional elements for incorporation into the plan amendment. These include:

- Refocus of the plan to better protect those species most at risk
- Revision of the conservation strategy to improve mitigation effectiveness and accountability
- Restructuring of the plan to improve efficiency and reduce bureaucracy
- Maintenance of the fee structure currently in place.

It is expected that the Fish and Wildlife Service will review comments prepared by the Community Advisory Committee and other comments as the agency prepares an Environmental Impact Statement on the amendment. SNHBA has spent 20 years on the Habitat committee.

Southern Nevada Water Authority Conservation Coalition

SNHBA staff and members serve on the coalition to assist with conservation programs in the community, to ensure the viability of our water supply for the future.

• Utilities and Offsites Committee

New Bond Policies at Local Governments

County's Bond Reduction Policy Clarified

After receiving input from SNHBA and developers concerning its bond reduction policy, Clark County adjusted its policy so there will be no upgrades to the currently approved bond amounts if a bond reduction is requested. If a developer requests a bond reduction under the new language, and had a previously approved bond before May 2009 and an offsite permit, then the county would use the ADOPTED UNIT COST FOR BONDS on which the original bond amounts were calculated. For a bond reduction on a bond approved after May 2009, the reduction would be based on the newly adopted unit cost for bonds. The fees, however, would remain unchanged based on the fact that the county did not increase its plan review fees when the new bond quantities were adopted.

North Las Vegas New Surety Reduction/Bond Release Policy

The city of North Las Vegas has released its new surety reduction and bond release policy as part of an effort to improve the quality and transparency of its land development process. On October 1, the city increased the line item unit costs to public costs for all private land development bond estimates. New line item costs allow the city to provide for surety reductions during the construction process. Additionally, the director of public works may consider requests from a developer for the partial release of surety provided certain requirements are met.

The association has spent nearly a year developing these bond reduction programs and then clarifications with the county and North Las Vegas. We have spoken with the city of Las Vegas and will be proceeding to review their plan. Additionally, we have sent letters to all the local governments to have small groups designated in each entry which builders can contact with bonding issues. We have had a response from the county.

Storm Water Management

For more than a year and a half we have worked on the storm water management program. From development of the program to Best Management Practices and training program, to implementation, SNHBA has been there every step of the way. We have had a great working relationship with Regional Flood Control and all the entities. The inspections started this week.

New Sewer Service Lateral Marking Requirements Go Into Effect

New valley-wide design standards for the installation of sewer systems will soon be in effect, and they will require the marking of all new sewer service laterals with marker balls at the connection of the lateral to the main, and at the point where the laterals cross the property line at the time the laterals are installed. Furthermore, submitted "as builts" must indicate the exact locations of sewer service laterals. There is an additional requirement for all sewer operators in the state to mark existing sewer service laterals within the public right of way in the event of a pending excavation or demolition. This is a result of the passage of AB 80, which required amendments to N.R.S. 455. As a result, the sewer operator will provide the best available information regarding the location of the connection of sewer service lateral to the sewer main before an excavation can proceed. Excavators will be asked to pay a modest fee for the locating service.

This was a multi-year project involving 2 legislative sessions. The final results are favorable for us. The original proposal would have cost hundreds of dollars per house.

Private Sewer Systems

Our committee dealt with the issue of private sewer systems and assisted in development of new regulations related to the sewer systems.

• Miscellaneous Programs and Advocacy

Industry Advocacy – Federal Level

Beginning in January 2009, President Bill Hoover and Executive Director Irene Porter began interactions with national companies and our congressional delegation with respect to: Home Buyer Tax Credits, Net Operating Loss Carryback provisions, mortgage and banking programs. Over the next 10 months four (4) meetings were held with Senate Majority Leader Harry Reid and added meetings with his staff; meetings were held with Congresswoman Dina Titus on these issues and FHA new condo regulations, and with Congresswoman Shelley Berkley, both here and President Hoover flew to Washington, D.C. to meet with the delegation and their staffs. Ultimately, our interactions, coupled with NAHB efforts and others, produced marvelous results. FHA condo regulations were put on hold, Home Buyer Tax Credits were extended and expanded, and Net Operating Loss Carryback approved.

Our congressional representatives, Senator Harry Reid, Congresswoman Dina Titus and Congresswoman Shelley Berkley, provided outstanding assistance.

- **Public Affairs:**

SNHBA officers and staff are available frequently to the local, regional and national media to offer the industry's perspective on pertinent issues and topics. Also, President Hoover appeared on "In Business" television show, interviews and television interviews.

- **SNHBA Events:**

NAHB International Builders Show was held in Las Vegas in January. The association provides information, restaurant information, press interviews, attendance at various functions during the national show at our convention center.

OSHA 10 and OSHA 30 classes have been conducted in conjunction with AGC safety personnel to train our members in the new required OSHA 10 and OSHA 30.

Membership Mixers are held on a monthly basis. This year we began working with members to provide mixers at their facilities. Earlier in the year **Ferguson Bath, Kitchen and Lighting** hosted an event at their lovely showroom, and late this year **Floor Designs of Nevada** hosted an event at their outstanding showroom.

SNHBA Golf Tournaments

Two fun packed golf tournaments were held for the year with a new twist from our golf committee – Bid on a Builder. This great concept gave our fine associate members an opportunity to play golf with a builder throughout the tournament.

Appraisal Committee

A special Appraisal Committee has been formed and is beginning to work on our appraisal issues – it will continue into next year. A meeting was held with the State Real Estate and Appraisal divisions.

Membership Luncheons

Throughout the year membership luncheons were held with timely speakers including Jeremy Aguero, Applied Analysis; Jim Wadhams and Bill Vasilliadis on politics; Pat Mulroy, water; the Sullivan Group on the economy and housing, as some examples.

These are only examples of the more than 60 separate local issues, 150 legislative bills and nearly a dozen federal issues we have handled while also providing association member services, events, interaction with the state association. It has been an eventful year.

To stay informed about the association's work and achievements, please read your weekly Builder Brief e-newsletters, and visit the association's Web site, www.snhba.com.