



Summary of Minutes and Comments of the Nevada Division of Environmental Protections (NDEP) Public Workshops on Proposed Regulation Amendments to Nevada’s Administrative Code NAC 278.290, 278.330, 278.340, 278.390 and 278.490

One public workshop was held on November 18, 2014, beginning at 2:00 PM in Carson City with videoconference to Las Vegas for sections of NAC 278 listed above. The Carson City location was at the NDEP offices at 901 South Stewart Street; the Las Vegas location was at the NDEP offices at 2030 E. Flamingo Road, Suite 230. The workshop commenced at approximately 2:10 p.m.

The intent of the workshop was to provide an informational overview of the proposed changes to regulations pertaining to the Subdivision of Land. It was noted that proposed changes were scheduled to be heard by the State Environmental Commission (SEC) at the December 3, 2014 Hearing.

Workshop Attendees:

Table with 3 columns: Name, Affiliation, Location. Rows include Aaron West (BAWN, Carson City), Danny Rotter (Carson City, Carson City), Walter Ross (Southern Nevada Health District, Las Vegas), Doa Meade (Las Vegas Valley Water District, Las Vegas), and Jim Balderson (NDEP – BSDW, Carson City).

Introduction

Ms. Jennifer Carr opened the workshops with an overview of the topics that would be addressed, provided a framework for the workshop by reviewing the Agenda for the Workshop. In accordance with the Open Meeting Agenda, Ms. Carr solicited public comment before commencing the review of revisions.

Initial Public Comments

	Made by	Statement
Comment	Walter Ross	Re NAC 278.290: Improvement plans currently come in with Final Map and that process makes it easier to correlate plans to the Final Map. Concerned with reconciling the plans and maps if they are separate, and the associated workload. Also concerned with proposal to require “Developer” certification; recommends that it be an Owner certification, not a developer’s.
Comment	Walter Ross	Re. NAC 278.390 to 278.480 regarding “will serves”. Will Serve letters us the final map name and assign final map numbers that would not be available at the Improvement Plan stage if submitted separately. Further complications arise when one Tentative Map is split among several Final Maps.
Comment	Walter Ross	What is included in NAC 278.490 in NDEP’s review of improvement plans? Jennifer Carr: Essentially it is the civil infrastructure design review.

Proposed Regulation Revisions

Ms. Carr began with a review of the process of Temporary and Permanent regulation revisions; explaining the process of adopting a Temporary regulation with subsequent re-processing of the proposed amendments again after July 1, 2015 as Permanent amendments. Comments on the proposal were being solicited through discussion at the public workshop, and information was provided for submitting other forms of comment on this proposal prior to the State Environmental Commission (SEC) Hearing scheduled for December 3, 2014.

Ms. Carr then reviewed the technical content of the proposed amendments. Components discussed:

- Overarching Goal of Amendments: Change process and timing of document review and approval to provide earlier opportunity to legally grade land at subdivision projects, if desired.
- Defined common terms used; “Improvement” (i.e. the utilities) is defined by Statute
- Focus of amendments – NAC 278.340 – “The developer shall not perform any construction on the site of a subdivision, except that necessary to evaluate the subdivision, until the Division or local agency approves the final map.”
- Determination of meaning for “any construction” – interpreted by NDEP in 2008 to include grading. Concerns about early grading having potential to adversely affect sewer slope elevations and subsequent requests by developers/engineers to construct sewer lines over water lines, resulting in an unsanitary design.

- Plan review timing concern raised by Washoe County Health District (WCHD) and the Builder’s Association of Northern Nevada, and a desire to improve the process and timing of plan submittals and approvals.
- Proposal is to divorce the improvement plan submittal from the final map submittal and allow them to be reviewed separately; then permitting clearing, grubbing or grading after improvement plan approval.
- Process change for separated plan and map submittals would be optional if desired by a developer, it would not be required.
- Construction of the improvements (the utilities) still cannot commence until final map is approved.
- Amendment to require certification that improvement plans have not changed subsequent to Agency approval if they were processed separate from the final map. Changes to approved plans must be re-submitted for review with clear identification of what changed. Intent is to be able to streamline review of final map by Agency when matching up improvement plans and final maps.
- Final map submittal fee of \$400 is proposed to be split between the Improvement Plans at \$300 and the Final Map at \$100 to generally reflect level of effort for Agency review.
- Agency assumptions related to anticipated Small Business impacts were presumed to be positive. Comment on the impact assessment was sought.
- General cleanup of old reference to the State Health Officer approval of laboratories, which is now done at NDEP.

Questions, Comments and Responses

	Made by	Statement
Comment	Aaron West	<p>What does the Agency expect to see for the developer’s certification proposed in NAC 278.290?</p> <p>Jennifer Carr: A boiler plate statement is not being proposed in regulation, but preferred or example language can be developed as guidance.</p>
Discussion	All	<p>Who is really best entity to do that certification? Should it be the Engineer or the Surveyor versus the Developer/Owner?</p> <p>LVVWD perspective on assurance that the civil plans match the final map has to be handled by the Engineer of Record.</p> <p>General consensus in the room(s): certification that the civil improvement plans have not changed should be done by the “Engineer of Record” that designed the project.</p>
Comment	Walter Ross	<p>Generally does not support a change to the process, but does support the intent of what is being done (i.e. the intent to allow early grading). Believes changing the process will negatively affect the accuracy and effort put into the tentative and final map approval process. There are too many agencies involved in the process of reviewing final maps and improvement plans.</p>
Comment	Doa Meade	<p>Final Map records the streets, easements, etc. What consists of</p>

		<p>“approval” of a final map?</p> <p>Jennifer Carr: NRS 278.380 – reading/review of statute – approval is done by the Governing Body or Planning Commission.</p>
Question	Aaron West	<p>No installation of water is allowed prior to approval of the final map under this proposal?</p> <p>Jennifer Carr: Yes, that is correct, as proposed.</p>
Comment	Doa Meade	<p>Some builders begin construction, under a locally-issued construction permit, as soon as they have LVVWD civil plan approval. They like to construct the water main at least up to the first fire hydrant so that they have a point for dust control water supply.</p> <p>Jennifer Carr: Per NAC 278.510, that should not be occurring if they don’t have final map signatures and approval process done.</p> <p>Doa Meade: Outreach needs to be done to inform the permitting entities of the prohibition on construction prior to final map approval. Developers know that they can’t “go vertical” and can’t sell lots, but they are definitely constructing utilities. If approved, permitting entities will need two permitting processes: a grading permit and a construction permit.</p> <p>Jennifer Carr: This gets to the origin of the proposed revision. Similar problems were occurring in Washoe County when grading permits were being issued by the cities, causing confusion when WCHD was issuing Cease and Desist orders. City of Reno and City of Sparks were pulled into the discussion by WCHD.</p>
Comment	Doa Meade	<p>Overall, the concept is supported.</p>
Comment	Walter Ross	<p>Reiterated earlier concern about the availability of “will serves” and the ability for the improvement plans to “<i>meet the requirements</i>” of the listed regulations in the proposal to amend NAC 278.340.</p> <p>Doa Meade: Confirmed that LVVWD does not issue a water “will serve” letter until they are signing the final map. Can we leave the process alone and allow grading based on a permission letter? They use the “will serve” to ensure they get the final map.</p> <p>Unidentified Commenter: That process is not consistent across the entire state. Some parcels have water rights associated with them.</p>

		<p>Jim Balderson: When improvement plans and final maps are coming in together, now, that's not an issue. Expressed concern regarding issuing a "permission letter" for grading without civil plans to key off from.</p>
Question	Walter Ross	<p>Can NDEP provide a list of items that are reviewed when looking at improvement plans (i.e. a checklist) – Water and Wastewater?</p> <p>Jennifer Carr: Yes. Those are the PWS engineering design NAC's for the water side.</p>
Comment	Jennifer Carr	<p>Comments will be contemplated over the week. Amendments will also be presented at the Southern Nevada Board of Health on Monday, November 24.</p>