

# MARCA Roof Topics

The newsletter for the Mid Atlantic Roofing Contractors Association • Winter 2008



MARCA President Dave Taylor of  
F.A. Taylor & Son Inc.

Photo credit: Dori Arrington

## From the President

A new year has begun, and MARCA is better than ever! MARCA had an exciting 2007. The past two years have been a time of significant challenges and progress for all members of our organization. With the merger of the Associated Roofing Contractors of Maryland (ARCOM) and Washington Area Roofing Contractors Association (WARCA) complete, we now can look ahead and start to make positive strides toward adding value for all MARCA members.

I hope everyone likes the new look of our newsletter. I would like to thank our advertisers; they have been extremely loyal and helpful during this transition. By

now, you all have received advertising registration forms, and I urge anyone interested to jump on this opportunity because we intend to continually improve the newsletter and spread awareness about our association.

You will receive a joint NRCA and MARCA invoice for 2008 membership dues shortly. We hope this joint invoice will alleviate confusion and make it easy for you to renew. Please renew your membership as soon as possible so we can continue working toward adding value to your membership. And remember—once your dues investment is received, NRCA will mail you a \$250 rebate check!

And please give us feedback! We would love to hear your ideas about how MARCA can help enhance your investment in your membership. Please forward any ideas or news you may have for our newsletter and Web site to Bryan White at [bwhite@nrca.net](mailto:bwhite@nrca.net).

This will be my last newsletter as MARCA president, and I would like to thank everyone for their unwavering support as we sailed through uncharted waters during the past two years. Everything has finally come together, and 2008 will be even better! I would like you to welcome Howard Willis as MARCA's new president. I am confident Howard will do a great job, so please continue to give him the outstanding support that you have given me during the past years. Good luck and Happy New Year, and thank you.

Best,

A handwritten signature in black ink that reads "Dave Taylor". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dave Taylor  
MARCA President

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## MARCA Committee Members

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Speaker Committee

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# MARCA Administration

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# MARCA Notes

### □ New members

We are delighted to welcome MARCA's newest member.

### Contractor Member

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White Marsh, MD 21162  
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## Get Wired!

If you are not currently receiving MARCA event notices and information via e-mail, please provide your e-mail address so we can inform you about MARCA happenings in the future. Send an e-mail to Bryan White at bwhite@nrca.net with your name, company name and the e-mail address you would like on MARCA's communications list.

## Frankly Speaking

**Wage-and-hour laws—still dangerous after all these years**  
by Frank L. Kollman

The Fair Labor Standards Act (FLSA) will celebrate its 70th anniversary in 2008. You would think that after 70 years there would be nothing left to be interpreted or decided regarding

hours of work, overtime and other topics under FLSA. You would be wrong.

In December, the Supreme Court refused to disturb a lower court ruling that a construction company did not owe employees for travel time. The employees in question were required to park in a particular lot, from which a company bus shuttled them through a security checkpoint to the actual job site. The employees contended that they were owed for the travel time from the time they reported to the parking lot.

The lower court had found that under the Portal-to-Portal Act, which amended the FLSA in the 1940s, walking, riding or traveling to and from the actual place of performance was not considered hours worked. This language was designed to prevent employees from claiming, for example, that they should be compensated for the time it takes to drive to work, walk from the car to the building and put a lunch bag in a locker. The court reasoned that this was just a longer walk (or ride) than normal.

This case is important—not just because it clarified the FLSA in favor of employers but because it illustrates that more and more employees are suing their employers under the FLSA and their lawyers are getting more creative. Moreover, these cases are attractive to plaintiffs' lawyers because employees can recover double back pay and attorneys' fees, and there are limitations on employers' abilities to settle or compromise wage claims.

It also is important because it illustrates that the law under the FLSA is complicated. Earlier this year, the Supreme Court allowed employees to recover for time spent changing into work uniforms.

Employers need to audit their wage-and-hour practices regularly to make sure they are complying with this complicated law. Furthermore, when supervisors are hired or promoted, they need to be trained to handle issues under the FLSA. For example, most untrained supervisors believe they can force an employee to fix his mistakes on the employee's own time. Most untrained supervisors believe that if the employee suggests it, they can do it, such as allowing the employee to bank hours without receiving overtime pay in cash.

To avoid problems under the FLSA and other wage payment laws, I suggest you consider the following:

1. Untrained supervisors make mistakes.
2. Paying an employee a salary does not automatically make him exempt from overtime. On the other hand, if an employee is not paid a salary, it is almost impossible for him to be exempt.
3. Understand what you can and cannot dock from an exempt employee's salary. If you dock the wrong thing, you may end up losing the exemption.

## Up on the Roof, Inc

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### MARCA is seeking sponsors to defray the cost of various publications and events.

MARCA sponsorship opportunities offer worthwhile benefits. Flexibility has been built into MARCA sponsorship packages, allowing them to be customized to fit your budget and maximizing the benefits for your company. As a sponsor, your company will receive recognition at the event, in MARCA's quarterly newsletter and on its Web site. Additional benefits vary by publication and event.



If you are interested in being a sponsor, contact Bryan White at (847) 493-7554 or [bwhite@nrca.net](mailto:bwhite@nrca.net).

4. Breaks of less than 20 minutes duration are compensable. Clocking out makes no difference. Smoke breaks are compensable, and lunch breaks over 20 minutes do not have to be paid.
5. Employees can never waive their rights under the FLSA. If the employee says he agrees—with an oath in blood—that he will not be paid for his five-minute smoke breaks, he still must be paid.
6. Most deductions from pay must be authorized in writing. Furthermore, if a deduction takes an employee below the minimum wage, it may not be allowed in that particular workweek.
7. The U.S. Department of Labor (DOL) does not have a problem with employees being disciplined for excessive breaks, making a mistake during a project that requires the employee to work overtime or punching in one minute late. The DOL does, however, have a problem if the employee is not paid for that break, overtime or that one minute. Good and bad employees are treated equally for purposes of payment under the FLSA.
8. The overtime exemptions are based on what employees actually do—not on titles or the amount of their pay. In other words, an employee making \$200,000 a year could, conceivably, be entitled to overtime.
9. The wage-and-hour laws are complicated, and they are not intuitive. Unless you are sure you are in compliance, get legal assistance. If you are hopelessly cheap, the DOL Web site has compliance help. If you can surf the net, you can find an answer (or at least DOL's position on the matter, which is not always correct when it favors employees).
10. There are record-keeping requirements under the FLSA. If you do not keep records, you can be fined. If you do not keep records on hours worked, employees' personal records will be presumed to be correct. Keep good records.
11. In most cases, state wage-and-hour laws trump federal law. If the benefit is greater, the state law supersedes the federal law. For example, the minimum wage in some states is higher. Moreover, if there is a federal exemption, the state can negate the exemption under state law.
12. Most wage-and-hour lawsuits are brought by employees who have been fired. Even where discharge was warranted, employees can seek to recover up to three years of unpaid wages and overtime.

So, celebrate the anniversary of the FLSA with an audit of your payment practices. No gifts please. Just make sure you are complying to the fullest extent possible.

## Industry News

### ❑ Budget plan passes, raises taxes

Legislators passed almost \$1.3 billion in tax increases and \$550 million in spending reductions during a General Assembly special session in Annapolis, Md., Nov. 19, according to *The Baltimore Sun*. A plan from Gov. Martin O'Malley (D-Md.)—which includes raising taxes on corporations, increasing sales tax and adding higher income-tax rates for top earners—was pushed through to help resolve a projected budget shortfall of \$1.7 billion by next fiscal year.

“We’re finding revenues, reducing spending significantly and permanently fixing the structural deficit,” says Democratic Delegate Kumar P. Barve, majority leader from Montgomery County.

Under the plan, corporate income tax will rise from 7 percent to 8.25 percent. With regard to individual income tax, individuals would pay 5 percent on taxable income above \$150,000 a year and couples would pay 5 percent on taxable income above \$200,000 a year; individuals would pay 5.25 percent on taxable income above \$300,000 a year and couples would pay 5.25 percent on taxable income above \$350,000 a year; and all income above \$500,000 a year would be taxed at 5.5 percent. The individual exemption for taxpayers earning up to \$150,000 a year will increase by \$800.

In addition, the plan increases the state sales tax from 5 percent to 6 percent, and a sales tax on computer services would apply to facilities management and operation, maintenance and repair, systems consultants, and hardware or software installation, among others. Although the tax on computer services will provide about \$200 million a year, many were not pleased with the measure.

“A lot of large companies have enough money to hire an [information technology] person in-house,” says Delegate Jeannie Haddaway, an Eastern Shore Republican. “It’s the small businesses that are going to be hurt by this ... we’re just chipping away and chipping away at family businesses and their ability to survive in this state.”

Others are unhappy with the corporate income-tax measures, especially when combined with the effects of the other measures.

“When you combine those things with the increase in the sales tax, which businesses pay 40 percent of, with the increase in the personal income-tax rate, which small businesses are going to pay about a third of, the situation for Maryland employers is one ... we are concerned about,” says Karen Syrylo, tax consultant for the Maryland Chamber of Commerce.

However, one positive tax change included eliminating a

loophole in the transfer tax laws that allowed large companies to buy and sell commercial properties without transferring the deeds, avoiding real estate taxes that homeowners pay. In addition, slot machines would raise as much as \$650 million a year if approved by voters.

The legislature approved \$887 million in tax increases to help with the general fund budget shortfall, \$404 million a year for transportation projects and \$50 million for Chesapeake Bay cleanup. It also specified about \$330 million of cuts, including a slowdown in school funding increases, leaving O'Malley to take care of cutting \$550 million from the fiscal 2009 budget. Local jurisdictions are set to lose about \$250 million next year.

O'Malley has said his proposals were meant to tax the wealthy and corporate America more heavily and make the state's code more progressive. He also has said his original budget plan would have resulted in 83 percent of Maryland residents paying less in taxes; with changes to the plan, only about 45 percent would pay less or see no change.

### ❑ D.C. rewards buildings that install green roofs

Washington D.C.'s Department of Environment is offering a five-year subsidy program to existing building owners if they build new green roof systems on their buildings, according to the *Washington Business Journal*. With this move, the city is hoping to significantly expand the number of green roofs; currently, fewer than 300,000 square feet of the city's 250 million square feet of roof space are green roofs.

An increase of green roof systems—on new and existing buildings—reportedly will help relieve the storm water and sewage that often overflow into the Potomac and Anacostia rivers.

“If all the new construction was required to put green roof systems on, that still would not clean up the Anacostia,” says Sheila Besse, head of the Department of Environment's planning and restoration branch in its watershed protection division. “What we have to do is retrofitting.”

The D.C. agency has paid for 25 percent of green roof system construction on mostly new buildings, distributing almost \$500,000 during the past five years. In addition, the Chesapeake Bay Foundation received \$300,000 from the D.C. Water and Sewer Authority toward green roof systems. Money went toward seven projects that ranged from 1,000 to 12,000 square feet.

D.C. Greenworks, a green roof design and consulting non-profit organization, is managing the most recent \$120,000 two-year grant and targeting existing buildings. It plans to convert another minimum 40,000 square feet of roof space into green roofs.

Project proposals that are chosen will be reimbursed at \$3 per square foot, a fraction of the roof construction costs. Although this amount is small, D.C. officials say it will be required that the subsidized projects hold regular tours for the public, which they hope will advertise the green roof system trend and educate the public.

And cost effectiveness is also a selling point. The American Society of Landscape Architects spent about \$1 million to build its green roof system and says it expects to save just as much in the long term because of the longer lifetime of the roof.

- ❑ **First green roof arrives in Northern Montgomery County**  
Northern Montgomery County's first nonresidential green roof system has been installed on a three-story office building, starting what many hope will be a green movement in construction in Montgomery County.

Montgomery County passed its Green Building Law Nov. 28, 2006, and beginning Sept. 1, 2008, nonresidential buildings more than 10,000 square feet will be required to achieve a silver rating from the Leadership in Energy and Environmental Design (LEED) Green Building Rating System.™

Although the cost of a green roof system can be high, the roof system was chosen for its cost effectiveness, reducing costs associated with aspects such as stormwater management and a longer life span for the roof system. The environmental benefits, such as improving air quality and reducing heat island effects, also were appealing.

"The more eco-friendly roofs we build, the more efficient we will become at installing and handling these materials, which will lead to reduced costs," says Jerry Therrien, president of Therrien Waddell Construction Group, Gaithersburg, Md., the company that installed the green roof system. "Better and less expensive materials to build these roofs may also be developed as further experience and technologies improve.

"Plus," he continues, "greater government incentives would definitely encourage more of this kind of construction in the future."

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In the face of his recent experience, as well as the new Green Building Law, Therrien plans to be a LEED-certified contractor.

"Increasingly, construction is going green," he says. "To stay competitive, we have to know how to build green buildings, how to offer our clients options to stay within the Green Building Law."

- ❑ **Building trend gains momentum**

A new trend is becoming more prevalent in the U.S.—the backyard mall. According to *The Baltimore Sun*, some brokers say the trend, which especially is taking hold in the suburbs, is a result of needing another option in a competitive housing market, as well as seeing economic potential in underdeveloped land around malls.

In fact, Arnold Keller III, director of the Baltimore County Office of Planning, says about 30 percent of the space designated for mall parking is wasted, so developers and builders are finding that land appealing.

"People are looking at land near malls as an incredible resource," Keller says. "It's happening across the country—not in places where land is cheap and plentiful, but primarily in growth-constrained areas, such as California, Miami and the Northeast, including Maryland."

Many shopping malls in Maryland—such as Gallery at Harbor Place in downtown Baltimore, Owings Mills Mall and White Marsh Mall—have housing located nearby. Brian Pakulla, a realtor with Remax Advantage in Columbia, Md., says that although people don't necessarily plan to live near a mall, the lifestyle of such a location is attractive to them.

"Many people want the shopping, movies and restaurants," Pakulla says. "If the mall is well done, then they have those things. They're able to walk across the street and enjoy those amenities."

However, traffic, views of the parking lot and safety concerns may be too much for some people.

"Either you like it, or you don't," Pakulla says. "You have to be open to the hustle and bustle and people around. If you want lots of trees and green space, or peace and quiet, then it's probably not for you."

- ❑ **Council urges more green building**

During a board meeting on Wednesday, Dec. 12, the Metropolitan Washington Council of Governments urged local governments to build environmentally friendly structures that would save energy and water and reduce pollution, as well as to persuade private developers to do the same, according to *The Washington Post*.

Although the council's recommendations are not binding for the 21 local governments on the council, officials hope the laws will change and local governments will require all new government buildings to obtain a Leadership in Energy and Environmental Design (LEED)<sup>™</sup> silver rating and require or encourage private developers to include a lower level of LEED-approved features.

"We can build buildings and hopefully maintain them in a way that sits more lightly on the land," says Joan Kelsch, an environmental planner for Arlington County.

Some jurisdictions already have enacted green regulations. The District of Columbia passed a law that states private projects of more than 50,000 square feet must be built to green specifications by 2012. And private buildings of more than 10,000 square feet in Montgomery County will be required to meet new standards by next year.

The presence of more green buildings also could help offset rapid population growth in the Virginia suburbs, which has been increasing carbon dioxide emission, says Trip Pollard, senior attorney with the Southern Environmental Law Center, Charlottesville, Va. However, he says more public transit and less highway construction also need to be considered to truly make a difference.

"It's important to link green building with smart growth patterns," Pollard says. Pursuing green buildings alone "will only be a small contribution."

#### □ **Governor proposes bonds for college construction projects**

At a Dec. 13 news conference, Gov. Timothy M. Kaine (D-Va.) proposed borrowing \$1.65 billion to fund construction projects at Virginia's colleges and universities, according to *The Washington Post*.

Kaine says the statewide bond package would help develop Virginia's work force and provide facilities that would offer the ability to perform cutting-edge research. It would fund about 75 projects during the next five to 10 years that would focus on medicine, science, education and business, as well as provide classrooms, libraries and a new medical school.

Legislators in general support the contribution to higher education but want to research the proposal more thoroughly.

"It is my intention that the Appropriations Committee will properly vet these projects to ensure that the cost estimates are accurate and reasonable before going to the voters," says Del. Lacey E. Putney (I-Bedford), incoming chairman of the House Appropriations Committee.

General obligation bonds and the Virginia College Building Authority would provide the funds for the proposal; the

General Assembly must approve the bonds during the 60-day legislative session that begins in January, and voters must approve it in November.

Kaine's bond package is the largest bond effort ever proposed for higher education and would come as money runs out from the 2002 bond that provided \$900.5 million for higher education construction projects.

The package includes more than \$105 million for projects at George Mason University, Fairfax, Va., and the construction or renovation of community college buildings in Prince William and Loudoun counties. It also includes a \$45 million increase for school operations; \$9 million increase for student financial aid; and more than \$85 million for research projects.

"We have to realize as we plan that to continue to be a strong state, we've got to keep our higher education system extremely strong; if we do, things will go well in the commonwealth," Kaine says.

Del. Brian J. Moran (D-Alexandria), chairman of the House Democratic Caucus, agrees with Kaine's proposal for a significant investment in higher education.

"Gov. Kaine has taken a bold step today to invest in building capacity at Virginia's colleges and universities," he says.

About 360,000 students attend Virginia's 16 public four-year schools and 23 community colleges. An additional 51,000 students are expected to enroll during the next decade.

#### □ **D.C. could mandate paid sick leave**

Washington, D.C., is preparing to vote on a proposal that could make it the second U.S. city to require employers to provide paid sick leave for all workers, according to *The Washington Post*.

The vote, which took place Jan. 8, would offer up to seven days of paid leave for businesses with 51 employees or more, and three days of paid leave to businesses with 10 or fewer workers. Two other categories of employers would fall in between, and half the number of days would be offered to part-time workers.

According to the Institute for Women's Policy Research, about 48 percent of U.S. workers, including about 210,000 employees in Washington, D.C., do not receive paid sick leave.

Advocates of the bill say it could protect employees—especially workers receiving low wages and working part-time—from having to choose between staying healthy and keeping their jobs. It also could benefit businesses by reducing turnover and slowing the spread of illnesses to co-workers.

However, others say the fiscal effects on business may lead to trimming 401(k) plans, cutting staff and offering narrower health plans.

“The biggest problem we see at this point is that there has not been adequate effort to assess the costs of this to businesses,” says Andrew Kline, general counsel to the Restaurant Association of Metropolitan Washington.

The bill has changed since it was originally proposed by D.C. Council member Phil Mendelson (D-At Large) with a mandate of up to 10 days of paid leave for employers with six or more workers. Mendelson wishes the current bill more closely resembled the original.

“It’s a matter of basic fairness to workers,” he says.

Discussion of paid leave for workers seems to be spreading across the U.S. In February, San Francisco became the first city to employ a paid leave mandate, requiring that employers of 10 or fewer workers offer five days of paid leave and larger employers offer nine days. Additional legislation is pending in eight states and Congress.

## Raising the Roof!

### NRCA will hold 121st Annual Convention

NRCA invites members and roofing professionals to attend its 121st Annual Convention and the 2008 International Roofing Expo at the Las Vegas Convention Center Feb. 19-23.

NRCA will be holding its member luncheon at the Renaissance Las Vegas Hotel Feb. 22, which will feature Gen. James Jones as the keynote speaker. Jones is president and chief executive officer of the U.S. Chamber of Commerce’s Institute for Energy and was the commander of U.S. European Command and Supreme Allied Commander, Europe from 2003-06. NRCA also will hold its member meeting and elections at the luncheon. In addition, The Roofing Industry Alliance for Progress’ Most Valuable Player Awards, Gold Circle Awards, SpecRight Excellence in Design Award and 2007 Charlie Raymond Award will be presented.

At NRCA’s Banquet at Caesars Palace Las Vegas, also on Feb. 22, the J.A. Piper Award will be presented. Hal Wakes and Atlantic Express will provide the entertainment for the evening, performing soul, Motown and R & B hits.

During the convention, attendees will have access to educational courses such as the NRCA/MRCA CERTA Train-the-trainer Program and Roofing Industry Fall Protection from A to Z in English or Spanish. In addition, attendees can participate in ROOFPAC’s golf, tennis and sporting clays tournaments and auction.

Following is a schedule of NRCA’s convention events:

#### Tuesday, Feb. 19

- 8 a.m.-noon** NRCA Executive Committee meeting
- 9 a.m.-4 p.m.** NRCA Affiliate Executives Council meeting and lunch
- Noon-1 p.m.** NRCA Executive Committee lunch
- 1-4 p.m.** NRCA board of directors meeting

#### Wednesday, Feb. 20

- 7 a.m.-6 p.m.** NRCA/MRCA CERTA Train-the-trainer Program
- 7:30-9:30 a.m.** National Roofing Legal Resource Center (NRLRC) Breakfast
- 8 a.m.-5 p.m.** Roofing Industry Fall Protection from A to Z (English and Spanish)  
SpecRight Program
- 10 a.m.-4 p.m.** NRCA/MRCA CERTA Train-the-trainer Reauthorization Program
- 10:30 a.m.-4 p.m.** ROOFPAC Golf Tournament at Angel Park Golf Club
- 11:30 a.m.-4 p.m.** ROOFPAC Sporting Clays Tournament at Desert Lake Country Club
- 1 p.m.-4 p.m.** ROOFPAC Tennis Tournament at ClubSport Green Valley

#### Thursday, Feb. 21

- 11 a.m.-5 p.m.** NRCA’s ROOFPAC silent auction at the Las Vegas Convention Center (NRCA Booth No. 1325)
- Noon-1 p.m.** NRCA Future Executives Institute lunch
- Noon-2 p.m.** National Roofing Council luncheon meeting
- 1-5 p.m.** NRCA Future Executives Institute
- 2-4 p.m.** NRLRC board of directors meeting
- 7-10 p.m.** NRCA former presidents reception/dinner

#### Friday, Feb. 22

- 6:45 a.m.-noon** NRCA Future Executives Institute
- 11 a.m.-4 p.m.** NRCA’s ROOFPAC silent auction at the Las Vegas Convention Center (NRCA Booth No. 1325)
- 11:30 a.m.-1 p.m.** NRCA Luncheon
- 7-10 p.m.** NRCA Banquet

For more information, contact Bennett Judson, NRCA’s associate executive director of meeting services, at (800) 323-9545, ext. 7513 or [bjudson@nrca.net](mailto:bjudson@nrca.net).

## NRCA releases new metal and SPF manual

*The NRCA Roofing Manual: Metal Panel and SPF Roof Systems—2008* was released Jan. 2 and provides in-depth, comprehensive information concerning the design, materials and installation applicable to metal panel and spray polyurethane foam (SPF) roof systems commonly used for low- and steep-slope roof system applications. The 440-page manual is divided into two parts: Metal Panel Roof Systems and SPF Roof Systems. Metal Panel Roof Systems includes guidelines applicable to metal and metal panel roof systems, substrates, architectural metal panel systems and structural metal panel roof systems, as well as 93 details. SPF Roof Systems includes information about materials, design considerations, application and design guidelines, and 100 construction details, including new SPF reroofing construction details.

This publication is the second of a four-part series intended to update and supersede *The NRCA Roofing and Waterproofing Manual, Fifth Edition*, including its 2003 and 2006 interim updates. The first volume in the series, *Membrane Roof Systems—2007*, was released in January 2007. The four-volume series also will include *Steep-slope Roof Systems—2009* and *Reroofing, Architectural Sheet Metal and Moisture Control—2010*.

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Fun in the sun during MARCA's 2007 Annual Trip to Playa del Carmen, Mexico

## Industry Events Calendar

For information about MARCA events, visit [www.marcaroof.com](http://www.marcaroof.com) or contact Bryan White, NRCA's manager of affiliate partnerships, at (877) 508-ROOF or [bwhite@nrca.net](mailto:bwhite@nrca.net).

### January 2008

15 MARCA Board of directors meeting, Crofton Country Club, Crofton, Md.

### February

21-23 NRCA's 121st Annual Convention and the International Roofing Expo, Las Vegas

### March

1 Bull & Oyster Roast, TBA

10 NRCA educational program, TBA

### April

TBA MARCA's 1st Anniversary Dinner, TBA

### May

TBA Scholarship recipient/employee recognition dinner, TBA

*Roof Topics* would like to take this opportunity to **THANK OUR ADVERTISERS**, and we encourage you to do the same by letting them know you saw their advertisements in your association publication.



*Hungry diners at MARCA's 2007 Crab Feast*

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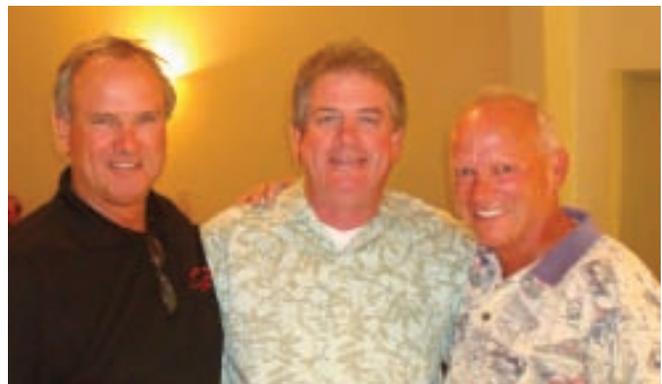
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*Pictured (left to right): Dave Taylor, MARCA's immediate past president; Howard Willis, MARCA's president; and John Deming, a MARCA director, at MARCA's 2007 Crab Feast*

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