

## **AGC plots 2010 strategy**

**By Scott Smith**

The Associated General Contractors, Las Vegas Chapter, is plotting its political strategy well in advance of the 2011 session of the Nevada State Legislature. Some of the chapter's leading members, along with AGC's lobbyists, interviewed candidates for the state legislature and local offices throughout the day on Dec. 8. And recently, chapter President Randy Highland met with staff members, committee chairs and key leaders on the board of directors to map out AGC Las Vegas' plans for the coming year and the legislative session in an extension of November's strategic planning session.

Executive Vice President Steve Holloway described short-term and long-term preparations for forwarding the association's agenda and its priorities on the political front. He identified three topics – capital improvement spending, construction defect litigation and taxation – that will create the greatest impact on the southern Nevada construction industry over the next few years. AGC already has taken steps to drive home to legislators the need to maintain and increase state and local capital improvement construction.

“State and local jurisdictions have diverted more than a half billion dollars from capital budgets to keep the government operating,” Holloway told the panelists. “That was a big mistake.”

Holloway echoed local economic analyst Jeremy Aguero's strategic planning presentation that this move sacrificed thousands of private sector jobs in construction and other industries and was made even more distasteful in that it reversed Nevada's direction on public projects. In the first half of the decade, Nevada spent more than 16 percent of its budget on capital improvement projects, vs. the national average of about 12.2 percent. That was to be expected, Aguero said, given the state's unprecedented population growth during the period. More people required more schools, roads and other infrastructure. But spending on southern Nevada capital improvements is scheduled to fall from \$4.9 billion in fiscal year 2010 to \$2.3 billion in 2014, and not because the state is experiencing less need to build, he note. Though the state's growth rate is slowing, Aguero said Nevada has identified 395 “shovel ready and needed” projects with construction value of \$5.2 billion.

Holloway said AGC Las Vegas and AGC Nevada are working to get Aguero's presentation in front of Governor Jim Gibbons to convince him to put capital expenditures on the agenda for the special legislative session that appears inevitable. The groups, who also have reached out the labor unions, the Southern Nevada Home Builders Association, Nevada Construction Association, National Association of Industrial and Office Properties and others, also hope to convince legislators that public construction projects are crucial to the state's recovery.

The AGC-led informal coalition will seek to emphasize several points supporting its contention that the state will not see real recovery until the construction industry gets back on its feet:

- Construction directly employs more than 8 percent of the Nevada workforce, but has fallen to 69,500 employees from a high of 112,000.
- Construction workers account for one quarter of those receiving unemployment benefits. For every 1 percent the unemployment rate rises, the state pays \$11 million per week in benefits. Putting construction workers back on the payroll saves the state unemployment benefits and infuses the economy with disposable income.

- For every 100 jobs directly attributable to construction, 75 additional jobs are created outside the industry. \$3.5 billion in construction wages creates \$8.1 billion in economic activity.
- Construction workers and companies bear a disproportionate share of local taxes. More projects and more employment mean more revenue for southern Nevada cities and Clark County.
- Construction costs will escalate as the broader economy improves. If we don't build now, it will be more expensive to build later.
- Construction spending creates tangible assets that benefit the community.
- Local capital budgets are vulnerable. When looking for revenue sources from local jurisdictions, "the state asks not 'What projects are important?' but 'What funds are not yet committed?'"

This last point is critical, Holloway said. The pro-construction groups will seek to streamline the process for starting shovel-ready projects for which funding already is available. If local jurisdictions are slow to commit these funds, they remain enticing targets for another state grab to fund its operations. Holloway said during candidate interviews, which the chapter's Government Affairs Committee will consider when choosing who to support in the June 8, 2010 primary and Nov. 2 general election.

"We're looking for the Assembly and Senate candidates to commit to a hands-off approach to local capital improvement funds and to restore funds already appropriated at the next session," Holloway said. "And, we're looking for them to support a comprehensive construction defect bill similar to the one that passed nearly unanimously out of the Senate last session."

That bills, crafted by the Senate Judiciary Committee, would have narrowed the definition of a construction defect to an anomaly "which presents an unreasonable risk of injury to a person or property; or which violates the law, unless the workmanship exceeds the standards set forth in any applicable codes and ordinances, which causes physical damages and which is not completed in a good and workmanlike manner." The bills also would have reduced from six years to three years the time limit to bring a lawsuit on a patent defect; from eight years to three years a latent defect (a defect not easily identified); and from 10 years to three years on a known defect. Combined with the Chapter 40 entitlements, the lengthy statutes of repose set forth in Chapter 11 of NRS have caused nearly every admitted insurance carrier to stop issuing builders and subcontractors coverage for construction defects. Others have increased their premiums to the extent that rates are prohibitive.

The Assembly Judiciary Committee, however, refused to hear either bill.

AGC and its coalition partners will seek to address this issue in the 2011 legislative session, hoping to bring common sense to the definition of a construction defect; provide that a claimant may recover attorney fees and costs in the same fashion as provided in every other type of litigation in Nevada; and Allow a reasonable and responsible time frame for bringing construction defect complaints.

Finally, Holloway and the panel discussed the probable tax discussions at the upcoming session. Most lawmakers are expected to demur on tax plans at least until a Moody's Analytics study is published and a stakeholder group presents its recommendations in summer 2010. Holloway said any new taxes will be broad-based.

Many industry analysts believe the construction industry will have to be willing to accept a significant portion of a tax increase, especially if it is to succeed in convincing legislators of the importance of restoring capital improvement budgets and bringing sanity to construction defect litigation.

A short-term fix might include extending the sales tax increase sunset date.