

COLORADO MUNICIPAL LEAGUE

# NEWSLETTER

Vol. 47, No. 7, March 26, 2021

## **Executive Board election application period will open in April**



By Kevin Bommer, CML executive director

Beginning on Monday, **April 5**, CML will start accepting applications for members interested in running for the CML Executive Board. Applications will be accepted through 5 p.m. on Wednesday, **June 9**.

Members whose names are placed on the ballot by the CML Nominating Committee will be voted on by the membership at the CML Virtual Annual Business Meeting scheduled for Thursday, **June 24**, beginning at 10 a.m. Voting procedures will be detailed in the Notice of Annual Business Meeting that will be sent to all member municipalities later in April. CML Executive Board members are elected at-large, which means each member municipality is entitled to vote at the CML Annual Business Meeting for their choices in all the population categories.

The vacancies to be filled at the election are:

- One position from municipalities with a population of 250,000 or more for a two-year term;
- three positions from municipalities with a population of at least 60,000 but less than 250,000, each for two-year terms;
- four positions from municipalities with a population of at least 8,000 but less than 60,000 for three two-year terms and one one-year term; and
- three positions from cities and towns with a population of less than 8,000, each for two-year terms.

Under CML bylaws, population figures for the June 2021 election will be based upon population estimates from the Colorado Department of Local Affairs (DOLA). These are the same figures that were used in computing 2021 municipal dues for member municipalities and may not be the most recent DOLA estimate.

CML bylaws also require CML Executive Board members be elected or appointed officials of member cities and towns. Any official who desires to be nominated for a position on the CML Executive Board can ensure nomination by:

- Filing an application for nomination, in letter or other written form, with the CML Nominating Committee. The application must be received in writing by the CML office at least 15 days prior to the annual business meeting, that is, by 5 p.m., Wednesday, June 9; and
- including with the application an endorsement in writing from the applicant's city council or board of trustees, which also must be received by the CML office by Wednesday, June 9. Please note that a city council or board of trustees may endorse the nomination of only one official from the city or town for election.

Beginning on **April 5**, sample application and endorsement letters will be available on the CML website, *www.cml.org*, under About CML > CML Executive Board. Additional information and reminders will be published in subsequent newsletters and on CML's website, as well as sent directly to members.

Questions about the CML Executive Board or the election process should be directed to Kevin Bommer, executive director, at *kbommer@cml.org*, (303) 831-6411, or (866) 578-0936.

## American Rescue Plan Act details and what to expect next

#### By Kevin Bommer, CML executive director

On Thursday, March 11, President Joseph Biden signed the American Rescue Plan (ARP) Act into law. Contained within the \$1.9 trillion legislation was the original House-proposed amount of \$65.1 billion of direct aid to every municipality in the nation.

The direct aid to local governments comes after significant and sustained efforts by the National League of Cities (NLC), CML, and 48 other state municipal leagues. While revenues in Colorado municipalities varied, according to CML's "State of Our Cities and Towns" survey, municipalities around the state delayed or deferred infrastructure projects, reduced or eliminated programs, and furloughed or let go staff. Municipalities will be able to use the funds to ensure health and safety of residents, help municipal workers, renters and businesses get back on their feet, and restart projects and services. These investments will grow jobs and the economy, and they will allow local governments to lead the nation through a speedy recovery. Unlike the CARES Act, there will be no ability to for states to delay or diminish dollars intended for local governments.

Within the ARP, the Coronavirus Local Fiscal Recovery Fund provides \$350 billion for states, municipalities, counties, tribes, and territories, including \$130 billion for local governments split evenly between municipalities and counties. This funding will be released in two allotments, half in the next 60 days following enactment of the legislation and the second half 12 months after the first payment.

## CML listservs are a great resource

CML has seven listservs targeted towards municipal staff. Listservs allow groups of individuals signed up for the service to share information and ideas by email. Any subscriber can post a question or provide information to the listserv, which then is automatically emailed to all the members of the group. All responses from other members of the group are emailed to all subscribers. All listserv subscription requests are subject to CML approval and municipal membership status.

Listservs are available for:

- attorneys
- clerks
- finance officers
- human resources
- managers
- public information officers
- public works and utilities directors

If you cease to represent a municipality, you must unsubscribe from the list. To unsubscribe, email *cml@cml.org* and ask to be removed from the listserv.

CML reserves the right to remove anyone from the listserv for violation of the CML Listserv Rules & Guidelines (*bit.ly/3bzSo3l*) or for any other reason.

To sign up, visit *bit.ly/3cib8U6* and click on the listserv that matches your role.



#### COLORADO MUNICIPAL LEAGUE

*CML Newsletter* (ISSN 7439903) is published biweekly by the Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207, for Colorado's municipal officials. (USPS 075-590) Periodical postage paid in Denver, Colorado.

#### Designer and editor: Leslie Hough Circulation/mailing lists: Mark Vanderbrook

POSTMASTER: Send address change form 3579 to Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207; (p) 303-831-6411 / 866-578-0936; (f) 303-860-8175.

Subscription to *CML Newsletter* is offered as a portion of member dues. Cost to nonmembers is \$300 a year.

Get this newsletter by email. The CML Newsletter is available by email three days before it arrives in the mail! Sign up at bit.ly/CMLNewsletter.

## Continued from page 1 - American Rescue Plan Act details and what to expect next

The \$65.1 billion allocated directly to municipalities is being distributed through a modified Community Development Block Grant (CDBG) formula. Direct funding means:

- Federal funding for each of the 19,000 municipalities nationwide,
- Not co-mingled in any way with state or county funds, and
- Safeguards and penalties in place to discourage state interference or placing additional state mandates on the use of these funds.

For all municipalities with more than 50,000 residents, funds will be made available directly by the U.S. Treasury Department. Grant amounts will be calculated using the CDBG formula that measures population, poverty, and housing instability. For all municipalities with less than 50,000 residents, states are required to suballocate funding according to a simple per-capita formula. States that fail to suballocate funds to small cities will be penalized by the U.S. Treasury Department. No city with less than 50,000 residents can receive a grant that is larger than an amount equal to 75% of their pre-pandemic budget, regardless of whether the estimates indicate an amount greater than that figure.

The funding has no minimum population threshold for communities, can be used for replacing lost revenue, can be transferred between jurisdictions or to non-profit partners, and finally, does not expire until **Dec. 31, 2024.** Prior to the disbursement of revenue, guidance will be issued by the U.S. Treasury Department. We expect the U.S. Treasury Department to provide a way for small cities and towns to certify their revenue cap limitation, as well as overall certification to the U.S. Treasury Department that funds will be used for the purposes identified in ARP and clarified by Treasury guidance.

As more details become available, CML will post them on CML's COVID–19 resource page at *bit.ly/3IME3Eg*.

## **DOLA urges municipalities to participate in 2021 land use survey**

By Beauclarine Thomas, legislative and policy advocate

The Colorado Department of Local Affairs (DOLA), in partnership with the Colorado Municipal League, Colorado Counties, Inc., and the Colorado Chapter of the American Planning Association, is administering its 2020 Land Use and Planning Capacity Survey (LUPCS). The LUPCS is administered every five years and is an opportunity for DOLA to identify the planning priorities, trends, gaps, and needs of Colorado's communities so that it can share best practices and direct its services to provide the most benefit. The results from the 2015 municipal and county surveys can be found at *bit.ly/3jvxSTZ*.

The 2021 LUPCS is the first part of a new two-step approach. Information collected from this survey will guide voluntary individual follow-up with communities to discuss their specific needs, resulting in the creation of best practice reports that address the most pertinent planning issues statewide. The LUPCS should be completed by the staff member who is most familiar with your municipality's planning/land use policies and regulations. If you are not the staff member best suited to complete this survey, please forward this invitation to the staff member who is. Only one survey should be submitted for each municipality. If you are having trouble accessing the survey or have questions about any part of it, please contact sean.rusnak@state.co.us. The LUPCS is an inventory, so your jurisdiction's response is critical to its validity and impact. It takes approximately 35 minutes to complete. To take the survey go to *bit.ly/39YgVOM*. Responses are due by March 31, 2021.

So far only 32% of municipalities have completed the survey. Please make sure you complete this survey by the deadline as it will provide critical information for DOLA'S investments and services. Every jurisdiction that completes the survey will be automatically entered into a raffle to win a free membership to the Colorado Chapter of the APA (national membership not included).

## Northern Engineering adds staff to support strategic plan

In support of a multi-year strategic plan set in motion in late 2019, leading Front Range civil engineering and land surveying firm Northern Engineering bolstered its staff with seven new employees. "Even during the pandemic, we kept our commitments to our employees and our clients," says Nick Haws P.E., LEED AP., Northern Engineering president and CEO. "I attribute much of this positive outcome to the improvements we made in our outlook and operations, including revisiting our mission, vision, and values. We are now building on this achievement by adding seven extremely competent and purpose-driven individuals to our growing staff."

Haws adds that the new hires not only provide deeper technical resources for the firm, but some bring experience in markets and disciplines that Northern Engineering has typically not served. This includes expanded capabilities in water and wastewater engineering. "Our region is growing, the needs of our clients are growing, and we're growing to meet these needs," says Haws.

A major component of the new strategy was establishing director-level positions overseeing land development, municipal services, land surveying and employee engagement. Five of the new hires are in the land development group, with two others in municipal services. Land development:

The following employees were hired to serve in the group headed by vice president Andy Reese, who joined the firm in 2003 and was named director of engineering/land development in early 2020:

 Robbie Lauer, project manager - A graduate of Northwest Kansas College, Lauer has 20 years of experience in civil engineering. He has worked on a variety of commercial and residential projects throughout the Front Range, including some of the fastest-paced subdivisions in northern Colorado.

- Austin Snow, PE, civil engineer A Colorado State University graduate in environmental engineering, Snow's experience combines land development and public works.
   His recent projects include waterline improvements for a local water district and residential development for a regional builder/developer.
- Christian Fierro, civil engineer After serving for almost five years in the U.S. Army and attending Technical Engineer School, Fierro worked as a Civil3D drafter for a firm in Fort Collins before joining Northern Engineering.
- Cody Pape, civil engineer With a degree in civil engineering from Iowa State University, Pape has worked as a survey technician and design engineer in his six-year engineering career. He is a certified engineering intern (EI) from the State of Iowa.
- Sterling Hallauer, civil engineer A graduate of Colorado School of Mines with a Bachelor of Science degree in petroleum engineering, Hallauer has worked as a geotechnical engineering technician, as well as a quality assurance inspector for Denver International Airport Infrastructure Management. He is an El and holds certifications for soils testing and concrete inspection.

#### Municipal services:

- Bradley Curtis, PE, helms the new municipal services group, which welcomes two new hires. A registered professional engineer in five states, as well as a LEED accredited professional, Curtis spent more than 10 years in municipal government before joining Northern Engineering in late 2019.
- Leah Santiago, civil engineer Santiago holds a Bachelor of Science in environmental engineering from Syracuse University, and a Master of Science in environmental/ water engineering from the University of Colorado at Boulder. Prior to joining Northern Engineering, Santiago served as a

process engineer for a global engineeringconstruction company serving water/ wastewater treatment facilities, as well as for a treatment technology company and Boulder's Wastewater Treatment Facility.

 Michael Castillo, civil engineer - with a Bachelor of Science in civil engineering from the University of Colorado at Boulder and working to complete a Master of engineering from Colorado State University, Castillo has more than four years of experience in water conveyance, conventional water and wastewater treatment, membrane treatment systems and stormwater management systems. Castillo is a member of the Water Environment Federation (WEF) and American Water Works Association (AWWA).

#### Land surveying:

• Matt Lockwood, who has been with Northern Engineering since 2002, was elevated to the position of director of land surveying in early 2020. Also a vice president, he is part of 16 person surveying team with physical presence in both Larimer and Weld Counties. Lockwood's group recently promoted two employees to the associate surveyor position, Travis Kish in the Fort Collins office and Josh Pepek in the Greeley office.

#### Employee engagement:

Once the co-founder and principal of her own engineering firm, Jodee Hinton, PE, serves in the role of director of employee engagement. A blend of human resources, wellness, development and corporate strategy, her role is ultimately to help all employees be their best and reach their highest potential.

About Northern Engineering—founded in 1987, Northern Engineering is the largest locally owned civil engineering and land surveying firm in the region. The firm has offices in Fort Collins and Greeley. Contact Kim Hammond at (970) 488-1101 for more information or interview requests.

### The Colorado Oil & Gas Conservation Commission offers an overview of the adopted Mission Change Rules to local governments

The Colorado Oil & Gas Conservation Commission (COGCC) is offering to provide an overview of the recently adopted Mission Change Rules to local governments. The rulemakings were required to implement the change to the COGCC's mission from "fostering" to "regulating" oil and gas development in a manner that protects public health, safety, welfare, the environment and wildlife resources and became effective Jan. 15, 2021.

If you are interested in having COGCC Commissioner Chair Jeff Robbins or Commissioner John Messner join an upcoming meeting to discuss and provide an overview of the new Mission Change Rules, complete the form at *bit.ly/3vIXcvc* and Hannah Hickam will reach out to you to schedule. For more information about the recent rulemakings, see below information and links. **COGCC Links:** 

- COGCC website: bit.ly/3c7YkAT.
- Mission Change Fact Sheet: *bit.ly/3IFZ6YV*.
- Mission Change Rules: *bit.ly/2QtXp5s*.
- Mission Change Rulemaking Overview
- Presentation: *bit.ly/2NFoyRJ*.

## Colorado Department of Local Affairs awards \$13.28M in Energy Impact Grants

The Colorado Department of Local Affairs (DOLA) through the Division of Local Government (DLG) recently awarded \$13.28 million for 27 Energy and Mineral Impact Assistance Fund (EIAF) Tier II grants for a wide range of projects across the state. Among the recipients are the towns of Mancos and Bennet, Prowers County, a fire district in Boulder County, and Winter Park.

"Colorado's local governments work hard to ensure sustainability and resiliency in their communities," said Chantal Unfug, DLG director, "And DOLA is proud to support their efforts."

DOLA awarded the Town of Mancos \$850,000 to replace a 330,000-gallon water storage and distribution tank that will include an updated automation system to replace the existing one, which currently runs on cassette tapes. The new system, accompanied by UV light cleaning technology, will provide safer, more stable and resilient water supply to the people of Mancos.

DOLA awarded the Town of Bennet \$500,000 for a new one million-gallon water tank that is double the capacity of their current one, which is suffering from structural degradation. The new tank will increase fire flow reserves, improve water quality and increase water capacity for a community with growth forecasted in the near future.

DOLA awarded Prowers County Hospital District \$750,000 for a new MRI installation at Prowers Medical Center in Lamar. The new machine will allow 12 times more imaging sensitivity for specialized views of brain trauma, heart conditions, orthopedic disorders and breast abnormalities. The new technology will provide imagery that can eliminate the need for biopsy or surgery, reducing the risk and vulnerability of healthcare to this rural population.

DOLA awarded the Town of Winter Park, \$250,000 for water, gas and power infrastructure to Hideaway Junction, an attainable-housing development of 20 homes targeted at the local workforce. Following a 2015 housing-needs assessment which showed only 19% of housing units are occupied by local residents, this project gives local workers an opportunity to compete for homeownership in a market dominated by the purchase of second homes. DOLA awarded the Four Mile Fire District in Boulder County \$250,000 for a new fourwheel drive Type 3 Wildland/Urban Interface fire engine. The new engine has capability for pumping water while moving—referred to as "pump and roll", has increased water capacity and ground clearance, and will accommodate four firefighters. The district has limited resources but is prone to wildfires in rough terrain. This updated fire apparatus will help reduce the impacts of fires as well as medical response times.

Funding from the EIAF program is ongoing to help areas socially or economically affected by the development, processing, or energy conversion of minerals and mineral fuels. EIAF awards help achieve Gov. Jared Polis' Four Bold Goals for renewable energy, education, health, and economic development, while also meeting the needs vocalized by rural communities. "It is more critical than ever to leverage funding toward public infrastructure," Unfug added.

For a complete list of cycle 21–01 awards, please visit: *bit.ly/21-01Tierll*.

## State stimulus package unveiled

and Minite	States Oreas
	05 08 29
	Pay to the order of JOHN GUA
000489	ECONOM PRESID

By Meghan Dollar, CML legislative advocacy manager

Last week, the legislature and the Governor's Office unveiled a proposed economic stimulus package. The plan outlines specific areas where additional money will be spent to boost Colorado's economic recovery, particularly programs to aid small businesses, boost infrastructure, and provide aid to rural Colorado. The plan also prioritizes one-time investments into broadband infrastructure and affordable housing development. You can find the full plan at *bit.ly/3sbVD6W*. Specific items that impact local governments are below. This is not an exhaustive list.

- \$3–5 million for arts and culture relief funding.
- \$170 million for shovel-ready infrastructure projects.
- An additional \$30 million for the Revitalizing Mainstreet Program.
- •\$60–80 million in matching funds to create sustainable affordable housing in urban areas.
- \$50–75 million in broadband infrastructure investments.
- \$10–20 million for state water plan projects.
- \$2–5 million for the RENEW program, which provides funding to local governments to invest in clean energy.
- \$10–15 million for local governments to purchase or rent rooms for persons experiencing homelessness.
- \$8–10 million for a program to incentivize local governments to adopt certain policies for affordable housing.
- \$10–20 million for wildfire grants for wildfire recovery and mitigation.

- \$10–25 million for watershed restoration programs.
- An additional amount up to \$6 million for the Rural Jump Start and REDI programs.

In addition to the current programs listed in the plan, CML initially proposed using some of the money to restore some of the nearly \$400 million in transfers out of the Energy Impact Assistance Fund (EIAF) from 2008–2013 that were used to backfill the state's budget during the recession and the TABOR refund in 2015. Colorado Counties, Inc. (CCI) joined CML in supporting this opportunity to return some of that funding. Historically, a large portion of grants go directly to local infrastructure programs and are matched with local funding-making the program highly stimulative to local jobs and economies. This is precisely what Gov. Polis and legislative leaders have identified as a cornerstone of the proposed stimulus plan.

CML will support legislation required to implement the plan that also benefits Colorado municipalities.

### Four San Luis Valley communities selected for the 2021 Colorado Challenge Accelerator Program



## COLORADO CHALLENGE ACCELERATOR PROGRAM

Downtown Colorado, Inc. (DCI) is announcing four San Luis Valley communities selected to participate in the 2021 Colorado Challenge Accelerator Program as well as the IN THE GAME: Small Town Challenge Studios **April 27–30, 2021**.

The purpose of this 2021 SLV Challenge initiative is to inspire the people of the San Luis Valley to reclaim and restore beloved community places in their region through community connectivity, a cohesive vision, and partnerships to ultimately leverage local and outside investment for local social entrepreneurship. In 2021, DCI will work with Antonito, Center, La Jara, and San Luis for a full year, with intensive team building and planning during DCI's IN THE GAME: Small Town Challenge, spanning the month of April, virtually on DCI's Zoom. Communities are also eligible for ongoing support to build and maintain momentum around implementing solutions to affect their challenge.

"After years of planning and one crazy pandemic, the SLV is ready to get it done. The Colorado Challenge Program was created as a dynamic approach capable of adapting to specific community needs. The pandemic has showcased how this program, when paired with amazing community partners, is able to address unexpected challenges. The 2021 SLV Challenge Communities have already demonstrated innovation and we are excited to expand the work surrounding placemaking and community engagement." said Katherine Correll, DCI executive director.

Since 2017, each year DCI selects a cohort of communities to participate in a fivephase accelerator focused on turning challenges to opportunities. DCI partners with the University of Colorado Denver School of Public Affairs Program Economic Development class. The program includes participating in IN THE GAME: Small Town Challenge Studio Workshops where DCI invites peer communities, consultants, and state and federal resources to create an action plan to move from idea to implementation.

"We are proud to partner with this program to give our students a dynamic, hands-on economic development experience that also helps Colorado local governments find solutions," said Randy Harrison, CU Denver senior fellow-director of the Certified Public Manager Program. "These student project coordinators are thrilled to use the skills they are learning to help a Colorado community and to network with so many professionals from Colorado State and consulting agencies."

The 2021 Colorado Challenge cohort will also work on a placemaking and activation event to be unveiled in June 2021. The 2021 Challenge Communities have each received a \$20,000 grant from Colorado Housing and Finance Authority (CHFA) to support the creation of a placemaking installation for each community. This group of dynamic, small, and rural San Luis Valley communities is ready to engage through place as the SLV dives into implementing the future. The SLV is ready and DCI is ready to GET IT DONE.

"It's exciting to see this investment in San Luis Valley and CHFA is proud to support this effort," Jeff Owsley, CHFA's south central Colorado community relationship manager. "Not only will the selected communities and the students they'll be working with benefit from this program, but the entire region will be strengthened as a result."

#### DCI's 2021 IN THE GAME: Small Town Challenge Studios

DCI's 2021 IN THE GAME: Small Town Challenge, San Luis Valley Edition will be virtual and deliver four days of immersive and upbeat workshops for two hours each morning to dive into a topic and turn challenges into opportunities for our small rural towns. We will reflect on how the past year has reshaped our possibilities for the future and create a vision for a stronger, more equitable future.

- April 27 Engagement + Inclusivity in La Jara
- April 28 Design + Activating Space in San Luis

- April 29 Connectivity + Activity in Antonito
- April 30 Entrepreneurship + Building Reuse in Center

To prepare for the Challenge Studio Workshops, join DCI for all of our April 2021 IN THE GAME: Small Town Challenge programming with five Master Talks taking place in our Knowledge Marketplace.

#### Knowledge Marketplace

Participants will hear from Colorado community leaders, leading downtown experts, and local practitioners on strategies for building local ecosystems, encouraging local investors, supporting your small businesses, and telling your story.

- April 1 Downtown Programming
  Clearinghouse
- April 8 Telling Your Story: Marketing 3-4-5<sup>™</sup>
- April 15 Small Town Entrepreneurship + Access to Capital
- **April 22** Repurposing Downtown: Small Scale Manufacturing
- April 26 The State of Colorado: Demographics for Colorado + the San Luis Valley

Since its creation in 2017, the Colorado Challenge Accelerator Program has worked with 30 Colorado communities to consider solutions for challenges including housing, historic building rehabilitation, business attraction, seasonal economies, and more. The IN THE GAME: Small Town Challenge will build stronger resources, assess progress and roadblocks, and develop a strategy for small towns in Colorado to address their challenges and recovery.

Upon conclusion of the IN THE GAME: Small Town Challenge event, Challenge Studio communities will receive a written report with action steps for overcoming their challenge and accessing resources. DCI and CU Denver School of Public Affairs will plan to hold educational events in the Challenge Studio Communities to showcase the process for problem-solving and implementing action plans in the community. This program will help facilitate lasting solutions for these communities and a meaningful experience for the Public Affairs students.

## CML LEGAL CORNER

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*



## Hiring a "chief executive officer" in compliance with state sunshine laws



By David W. Broadwell, CML general counsel In the 1990s a series of amendments were made to the Colorado Open

Records Act (CORA) and the Colorado Open Meetings Law (OML) addressing the hiring process for the "chief executive officer" of a public entity. Aspects of these amendments have befuddled municipal attorneys and their clients ever since.

The objective of the amendments was to bring more public scrutiny to the appointment process before a final decision is made. Controversies over the hiring of school superintendents by school boards were very much in the forefront when these changes were being made to state law starting in 1994. But the new statutory language was written broadly enough to include municipal governing bodies as well, and thus apply to the hiring of city managers and town administrators.

From the outset, the amendments created significant tension for one primary reason: Public entities want to attract the best pool of applicants for any executive position. But if prospective applicants know that their names will become public information even if they are not ultimately selected for the job, will this chill their willingness to apply in the first place?

## What the laws say and how municipalities have complied

The amendments to CORA and the OML were unique. Instead of just defining what sort of information is or is not "public," the amendments effectively dictated procedural details of the hiring process for chief executives. There is nothing else in state sunshine laws quite like it.

For example, the OML refers to the obligations of a "search committee" to prepare job criteria and publicly lay out a hiring process, without clearly specifying whether a search committee is even required, or accounting for circumstances when the governing body may not choose to utilize a "search committee."

The source of the greatest ambiguity and uncertainty, however, centers on the term "finalist." Basically, the law says applicants for a chief executive position who are not "finalists" can remain confidential, but anyone who is a "finalist" should expect to have their identity revealed to the public at least 14 days before the governing body votes to make an appointment. Originally the word "finalist" was explicitly tied to those persons who were selected for "interviews" by the governing body, but these provisions were soon removed and replaced by more nebulous language implying that the last three persons standing might be finalists.

Through the years, some municipalities have chosen to use a "search committee" and winnow the field of candidates down to a group of "finalists" before making the decision. At the same time, they have worked closely with applicants to explain the state sunshine laws, including giving applicants the ability to withdraw from consideration if they did not want their identity revealed.

But some municipalities and other public entities have navigated the law by naming only one "finalist," thus allowing all of the other applicants to remain confidential.

#### Recent activity in the courts

In 2020, a couple of district courts in El Paso County and Denver County interpreted CORA and OML for the first time to require "finalists" to mean a group of candidates for the job, not just one person. The highest profile case involved the process used by the University of Colorado (CU) Board of Regents to hire current President Mark Kennedy. However, on March 4, a divided panel of the Colorado Court reversed the decision in the CU case and determined that the language in CORA and the OML does not require that there be a minimum number of candidates revealed to the public in advance of the selection. Remarkably, the majority commented, "this result may make little sense" and suggested that the Colorado General Assembly should clarify the statute if the state wants a different outcome.

#### Recent activity in the Colorado General Assembly

Between the time of the district court rulings and the court of appeals reversal explained above, House Bill 21-1051 was introduced in the current session of the General Assembly at the behest of public entities that want to preserve the option of publicly revealing only one "finalist" for a chief executive position. CML is supporting the bill. HB 1051 rekindles the whole conversation about whether or not Colorado law discourages highly qualified individuals from applying for executive positions for fear that their status as an applicant might become public.

Note: This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorneys.

## **Research Corner: Magellan Strategies releases Colorado voter opinion survey results**

CML Associate Member Magellan Strategies recently released the results of an online survey of registered voters in Colorado, conducted from Feb. 9 to 17, 2021. The survey results were weighted to be representative of the demographics of the registered voter population in Colorado as of Feb. 1, 2021. The survey toplines, crosstabs, verbatim responses and presentation can be downloaded at *bit.ly/3IHOMzS*.

### **KEY FINDINGS:**

While there are significant differences by generation and party affiliation, the top issues Coloradans want addressed are:





COLORADO



Vol. 47, No. 7, March 26, 2021

### Featured in this issue:

- Executive Board election application period will open in April
- Northen engineering adds staff to support strategic plan
- State stimulus package unveiled
- swel aninana The legal corner: Hiring a "chief executive officer" in compliance with state
- Research corner: Magellan Strategies releases Colorado voter opinion survey results

1144 Sherman St. • Denver, CO • 80203-2207



COLORADO **MUNICIPAL** LEAGUE

Periodical postage PAID at Denver, Colorado

USPS 075-590