



COLORADO
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LEAGUE

NEWSLETTER

Vol. 47, No. 26, December 17, 2021

CML Board accepting applications for medium and small population categories



By Kevin Bommer, CML executive director

Letters of application are being accepted through 5 p.m. on Friday, **Jan. 14, 2022**, to fill two positions on the Colorado Municipal League (CML) Executive Board.

There is one vacancy in the “medium” category and one in the “small” category.

Elected or appointed municipal officials in municipalities with a population between 8,000 and 60,000 (medium category) and the under 8,000 (small category) who wish to be considered for appointment by the CML Executive Board should follow the instructions below. Under CML bylaws, population figures are based upon

population estimates from the Colorado Department of Local Affairs (DOLA) used in computing 2022 municipal dues. These numbers may be different from the most recent estimates, due to the timing of receipt from DOLA of populations for dues calculations.

Executive Board members must be elected or appointed officials of member cities and towns.

Any official who desires to be considered for the position must:

- Submit an application for nomination, in a letter or other written form, no later than 5 p.m. on Friday, **Jan. 14, 2022**.

- Include an endorsement in writing from the applicant’s city council or board of trustees with the application. (Please note that a city council or board of trustees may endorse the nomination of only one official from the city or town for appointment.)
- Hold Friday, **Jan. 28, 2022**, from 9 a.m. to noon, to attend the CML Executive Board meeting, if selected to be recommended to the full board for appointment. The board meeting will be virtual.

A sample application and a sample endorsement letter may be found on CML’s website at bit.ly/3lxYSyd. The endorsement need not be a formal resolution. A letter signed by the mayor affirming the support of the council or board will suffice.

All application materials should be emailed to Executive Director Kevin Bommer at kbommer@cml.org.

Municipal officials meeting the above qualifications will be considered for appointment by the CML Executive Board and interviewed by the executive officers, who will make a recommendation to the full Board for approval on **Jan. 28**, with the intention to seat the nominee at that meeting. Application materials or any questions about the process should be emailed to Executive Director Kevin Bommer at kbommer@cml.org.

Thank you, CML members!

As we say goodbye to 2021, we’d like to thank our members for your continued support and partnership. We’re excited for what lies ahead for Colorado’s cities and towns in 2022.

The CML newsletter will pause for the remainder of the year. Watch your mailbox for the first newsletter of 2022 on **Jan. 14**. Be sure to visit our website for the most current news, and don’t miss the special video from CML Executive Director, Kevin Bommer.

Thank you for your membership support! We look forward to seeing you in the new year.

With gratitude,
The CML Team

Empowered cities and towns, united for a strong Colorado

Meet CML's new executive assistant!



Please welcome Lara Larkin, CML executive assistant. Lara is responsible for the administration of CML Executive Board meetings, communications, and

minutes at meetings, and provides support for the Board and other CML projects. Lara has an extensive background in customer service, sales, and social work. Lara is a great addition to our administration team and we are excited to have her join us.

CML's Election Webinar series is back!

We're excited to provide clerks with essential information concerning elections throughout the next few months. CML will host Karen Goldman, MMC, on a series of webinars focused on essential election practices. Goldman has provided training for municipal clerks in the elections arena during her almost 20 years as a municipal clerk in Colorado and currently runs the League Municipal Clerk Advisor Program. You can register for the next webinar at bit.ly/3dlOyFc.



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Revitalizing Main Streets: Additional funding available



Grant opportunities update: Notice of Additional Funding Announced for Larger Safety Infrastructure Grants

As of Dec. 6, 2021, Grant Opportunity 1: Larger Safety Infrastructure Grants now has an additional \$22,160,000 available to support transportation infrastructure projects across the State of Colorado. Eligible applicants are encouraged to submit transportation infrastructure projects of up to \$2 million that will improve safety and transform streets and street spaces across the state, especially for vulnerable users. The deadline for submission is Friday, **Feb. 4, 2022**.

Eligible applicants are encouraged to attend the Revitalizing Main Streets Pre-Application Workshop on Thursday, **Jan. 6, 2022**, from 3-4:30 p.m. This workshop will cover applicant eligibility requirements, eligible project locations, funding requirements, project funding, evaluation criteria, selection process, and award conditions. Register for the pre-application workshop at bit.ly/3rSWkEX.

Award criteria

Applicants may be awarded up to \$2 million to improve user safety along urban arterials or main street corridors, especially for vulnerable users such as pedestrians, bikers, motorcyclists, transit users, elderly adults, and people with disabilities. This grant is a statewide version of the Safer Main Streets grant offered in CDOT Regions 1 and 4 within the DRCOG Metropolitan Planning Organization boundary in fall 2020.

Applicable roadways must be non-freeway corridors that accommodate multiple modes of transportation. This opportunity is open to state highway facilities and local roads. This grant includes the following safety and economic recovery goals:

- Reduce fatal and serious injury crashes on the transportation system, particularly among bicyclists and pedestrians.
- Support a transportation system that safely accommodates all modes of travel.
- Improve transit access and bike and pedestrian safety and mobility.
- Support the development of connected urban/employment centers and multimodal corridors.
- Provide safe access to opportunity and mobility for residents of all ages, incomes, and abilities, including vulnerable users.
- Help communities adjust to the "new normal" travel patterns caused by COVID-19.
- Deliver practical, simple projects that help stimulate the economy and provide immediate business and employment opportunities in the construction industry.

All application information can be found on the Revitalizing Main Streets website at bit.ly/3IlvFRk. Please contact cdotmainstreets@state.co.us if you have any additional questions.



CML establishes 2022 Legislative Priorities

By Meghan Dollar, CML legislative advocacy manager

On Dec. 3, 2021, the CML Policy Committee met to discuss legislation and act. All of their recommendations were approved by the CML Executive Board on Dec. 10, 2021. The adoption of these positions, as well as those from October, establish CML's 2022 Legislative Priorities.

Collective bargaining

CML opposes legislation that purports to confer collective bargain rights to public employees of municipalities—as well as other local governments, school districts, and higher education. CML has historically opposed any legislation both mandating or prohibiting collective bargaining, arguing that it is an unconstitutional infringement by the state on home rule authority over the terms of municipal employment and an egregious infringement of local control for all municipalities.

Funding for affordable housing

As in 2021, CML is focused on affordable housing. CML is working with the legislature to prioritize a permanent source of affordable housing funding. CML is also advocating for part of the American Rescue Plan Act funding to go directly to local governments to develop projects.

Additionally, CML will support legislation that funds and allows for the rehabilitation of existing affordable housing.

Mobile home parks

CML staff was directed to pursue legislation that creates more opportunities and flexibility for residents to purchase mobile home parks. This could include allowing governmental entities to act as a third party, increase transparency, and extend the timeline for residents to make an offer. Legislation is currently being drafted and CML will work to make sure there are more opportunities for residents in the bill.

Remove competitive bidding prohibition

CML will run legislation to remove the prohibition on competitive bidding for undergrounding projects outlined in C.R.S. § 29-8-132. Removing this prohibition modernizes statutory language, increases transparency between local governments and utility providers, and ensures good fiscal stewardship of municipal monies.

Statewide “Safety Stop” standard for intersections

Over the interim, the Transportation Legislation Review Committee approved legislation that creates a statewide “Safety Stop” for cyclists. The bill would supersede

any conflicting local ordinance or resolution and would expand the Safety Stop to traffic lights. Because the proposed legislation overrides local control of traffic stops and lights, CML will be opposing the bill in the 2022 legislative session.

Text reminder program

CML is working on legislation to establish a grant program for municipal courts to create text message reminder programs. This is a response to the loss of many tools for municipal courts. Text reminders are shown to get individuals to court.

Wildfire impacted communities

CML is supporting legislation in the upcoming legislative session which will provide state matching funds to local governments that raise dedicated revenue for forest management and wildfire mitigation. CML will also support legislation that provides reimbursements for local fire departments primarily staffed by volunteer firefighters for wildland fire suppression activities, and to support recruitment and retention of volunteer firefighters.

For questions on legislation contact Meghan Dollar, CML legislative advocacy manager at mdollar@cml.org.

USDA accepting applications for \$1.15 billion in loans and grants for rural communities to access high-speed internet

Includes up to \$350 million for grants in tribal and socially vulnerable communities

On Nov. 21, U.S. Department of Agriculture (USDA) Secretary Tom Vilsack announced the Department has begun accepting applications for up to \$1.15 billion in loans and grants to help people in rural areas get access to high-speed internet. This announcement comes on the heels of the recently enacted Bipartisan Infrastructure Law, which provides another nearly \$2 billion in additional funding for the ReConnect program. USDA anticipates issuing a new Notice of Funding Opportunity to make the additional funds in the Bipartisan Infrastructure Law available in 2022.

Background: ReConnect Program

USDA is making \$1.15 billion in funding available through the ReConnect Program. Eligible applicants are state, local or territory governments; corporations; Native

American tribes; limited liability companies; and cooperative organizations.

This funding, which does not include the nearly \$2 billion from the Bipartisan Infrastructure Law, is available for projects that serve rural areas where at least 90% of the households lack broadband service at speeds of 100 megabits per second (Mbps) (download) and 20 Mbps (upload). USDA will give funding priority to projects that will serve people in low-density rural areas and areas lacking internet access services at speeds of at least 25 Mbps (download) and 3 Mbps (upload).

Applicants must commit to building facilities capable of providing broadband service at speeds of 100 Mbps (download and upload) to every location in a proposed service area at the same time. In making funding decisions, USDA will also consider the economic needs of the community to be served; the extent to which a provider will

offer affordable service options; a project's commitment to strong labor standards; and whether a project is serving tribal lands or is submitted by a local government, tribal government, non-profit, or cooperative.

Applications for funding must be submitted through USDA Rural Development's online application system on the ReConnect webpage at bit.ly/3DTRjOJ.

Under the Biden-Harris administration, Rural Development provides loans and grants to help expand economic opportunities, create jobs, and improve the quality of life for millions of Americans in rural areas. This assistance supports infrastructure improvements; business development; housing; community facilities such as schools, public safety, and health care; and high-speed internet access in rural, tribal, and high-poverty areas. For more information, visit rd.usda.gov.

In memoriam



Bob Briggs, a former Westminster city councilmember and mayor pro tem, county commissioner, RTD board member, and state representative, passed

away on Dec. 2 of a heart attack. A Greeley native born on Christmas Eve in 1937, Briggs was 83 years old. He is survived by his wife, two children, and two grandchildren.

"He was such a wonderful person to work with," said CML Executive Director Kevin Bommer. "I spent a lot of time with Bob in the statehouse in 2004, the year he sponsored the trifecta beer & liquor bill that gave us tastings in liquor stores, cork & go at restaurants, and a .08 BAC legal limit. He knew how to navigate tricky political landscapes and always had a smile on his face."



Justice Greg Hobbs
Former Colorado Supreme Justice Gregory J. Hobbs Jr. passed away on Nov. 30 at the age of 76. He is survived by his wife,

Bobbie, and two children. While not ever in service as a municipal official, his impact

on Colorado municipalities throughout his distinguished career is incalculable.

Hobbs is considered one of the state's foremost authorities on water law and authored numerous opinions on the subject while on the bench. He was a presenter at CML Annual Conferences and workshops on water issues several times in the 2000s. He began his career in 1973 in Denver as an attorney for the Environmental Protection Agency, spent four years in the Colorado Attorney General's office, and then entered private practice in 1979. He served on the Colorado Supreme Court from 1996–2015.

He closed his career serving as vice president of Water Education Colorado and authored many educational publications and articles for the nonprofit.

In lieu of flowers, his family requested donations be made to Water Education Colorado, 1600 N. Downing St., Suite 200, Denver, CO 80218.



Bret Wade

Bret Wade, trustee for the Town of Elizabeth, passed away on Nov. 28 at the age of 47. CML extends our deepest sympathies to his

family. He is survived by his wife, Devin, and his son, Justin, as well as his parents, grandmother, sister, and two nephews.

According to his obituary, Bret became very active in the American Legion after he was discharged from the U.S. Army. He eventually started work as a financial services professional for New York Life. He was devoted as a trustee in the Town of Elizabeth and volunteered at the Stampede Rodeo for 15 years alongside many other community groups in Elizabeth.

Elizabeth Mayor Megan Vasquez said, "On behalf of the Board, we are saddened and devastated to lose one of our board members. Bret was a huge asset to the town and to the community. He served his community to the fullest capacity and was a bright light to all he encountered. He had a passion to serve in every way. We will dearly miss our friend and team member. Our thoughts and prayers are with Devin and the family during this tragic time. We hope the community will surround them with the support they need in the days and weeks to come."

PFAS Grant Program now accepting applications

What is PFAS?

PFAS are man-made chemicals with properties that make them useful for many products. The same properties make them hard to remove from the environment. PFAS chemicals are toxic. They can get into groundwater and surface water and contaminate drinking water. Exposure to PFAS can lead to adverse human health effects including:

- low infant birth weights;
- cancer;
- negative immune system effects.

The state continues to address PFAS issues through Senate Bill 20-218. Gov. Jared Polis signed the Hazardous Substances Response Act (SB20-218) into law on June 29, 2020 (C.R.S. 8-20-206.5(7)). This act creates fees on the transportation of fuel products. The fees will apply from 2020 to 2026 when the

available balance in the fund is less than \$8 million dollars. These fees provide PFAS Cash Fund. This provides funding for the PFAS grant program and other PFAS programs and efforts.

PFAS Grant Program

The PFAS Grant Program, administered by the Colorado Department of Public Health and Environment, provides money to eligible entities through three project categories:

1. Sampling—for standard sampling and independent environmental studies.
2. Emergency assistance—for communities and water systems affected by PFAS.
3. Infrastructure—treating existing PFAS and strategies for preventing upstream sources of PFAS.

Drinking water providers can apply to test their treated drinking and source waters.

Each PFAS grant program category has different criteria. Review the 2022 Request for Applications and apply on the PFAS Projects webpage bit.ly/3IWbwND.

Important dates

- **Dec. 2021**—The application period for the Sampling category opens.
- **Apr. 1, 2022**—The application period ends.
- **Apr. 29, 2022**—Applicants will receive notification of award status by April 29, 2022.
- **May 2022**—If any funds remain, a rolling application period will begin.

Projects with public drinking water emphasis will receive approval immediately after application review. All other projects will receive notification after the application period closes.



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CML Annual LEGISLATIVE WORKSHOP

9 a.m.–3:30 p.m.

Receive state and federal updates and hear panelists discuss pertinent legislative topics.

4–5:30 p.m.

Legislative Workshop Reception at CML, 1144 Sherman St.

Cost

Member: \$110 before Feb. 7 and \$140 after Feb. 7

Non-member: \$225 before Feb 7 and \$255 after Feb. 7

Registration opens Jan. 3, 2022.

CML LEGAL CORNER



Act locally, think narrowly when regulating speech activities near roads and medians

By Robert Sheesley, CML general counsel

Medians and public spaces near roads are often used for activities that could be characterized as speech protected by the First Amendment to the U.S. Constitution. Some people wave signs, some protest, and some seek charitable contributions for organizations or for themselves (the latter commonly called “panhandling”). Recognizing the inherent risk that comes with doing these things near potentially fast-moving traffic, communities have restricted non-transit activities in medians, traffic lanes, and other road-adjacent public places. Outright bans and restrictions adopted without careful consideration of local evidence, however, can violate the First Amendment, as explained in a trio of decisions from the U.S. Tenth Circuit Court of Appeals over the last three years.

A law that regulates a public space like a road or median, without reference to the subject matter of speech that may occur there, will be invalidated by a court if the government cannot satisfy a standard called “intermediate scrutiny.” The government must show the law is both “narrowly tailored” to serve a “significant governmental interest” and leaves ample alternative channels for communicating information. A narrowly tailored law does not burden much more speech than necessary to further a legitimate government interest (road safety, for example). In other words, there must be a “close fit” between the means (the law) and the ends (the government interest). Any excess regulation indicates that protected speech is being unconstitutionally limited. The closeness of this fit between the means and the ends seems to be the driving the success or failure of road and median regulations.

Evans v. Sandy City: The medians and the law were narrow enough

Surviving a challenge in 2019, Sandy City, Utah’s narrowly tailored ordinance prohibited sitting or standing in unpaved medians and medians less than 36 inches wide. The city had an undisputed significant safety interest in “keeping pedestrians off thin slices of pavement and unpaved traffic dividers where pedestrians could be injured by passing traffic.” To support the ordinance, the police chief identified several near accidents involving pedestrians on medians. After a survey of all medians in the city, the law was limited to only those deemed too dangerous for a person to sit or stand because there was not enough room or where the ground was unstable (under 36 inches). Given the tight fit of the limited ordinance to the city’s safety purpose, the ordinance was upheld even though the city had no evidence that accidents had occurred. That the complainant in this case could have moved a few feet to a wider median probably helped the city succeed.

McCraw v. Oklahoma City: Pure speculation about accidents is insufficient

A year later, an Oklahoma City ordinance restricting people from medians was struck down even though the city had narrowed the scope to streets with speed limits over 40 miles per hour. The city, however, could not show a real risk of auto-pedestrian crashes related to medians, and the city’s engineer even suggested that a person could safely stand 18 inches back from a curb. As a result, the city could not show that the harms it sought to prevent were not just speculation and, if they were real, that the blanket prohibition would stop them from happening. The city was not helped

by the fact that the ordinance was initially introduced to reduce panhandling and later rebranded as promoting pedestrian safety.

Brewer v. City of Albuquerque: Common sense only goes so far

This November, an expansive Albuquerque ordinance met a similar fate, except this ordinance was even more burdensome on speech and less tailored to a questionable public safety interest. Among other things, the ordinance prohibited standing in medians under 6 feet wide and within 6 feet of a highway ramp and barred physical interactions between pedestrians and vehicle occupants. The sweeping prohibitions imposed major burdens on speech, but the city could not connect the law to any real safety issue. The city’s reliance on over 900 accident reports backfired—because none involved an accident involving medians, they suggested the harm did not actually exist. Without concrete evidence, the city’s reliance on common sense (as was allowed in Sandy City) was not enough.

Making the least of median regulations

Communities considering restrictions on the use of medians should first identify sincere and legitimate risks and seriously consider alternatives before committing to a law that will burden speech. Given the strong First Amendment protections involved, such laws should be shown to be truly needed and then should be written to directly address discrete risks in the spaces to be regulated.

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

Research Corner: How local governments plan to use American Rescue Plan Act dollars

Results for America and Mathematica, two firms focusing on data-based policy research and analysis, released a new tool – the ARP Data and Evidence Dashboard – which highlights how local governments are investing their American Rescue Plan (ARP) funds, including assessing how they are using evidence and data, tracking outcomes, engaging with the public, and ensuring an equitable recovery for their residents.

The dashboard is based on an analysis of Recovery Plan Performance Reports from 150 municipalities, counties, and tribal nations across the country. Results for America and Mathematica hope the tool will help policymakers learn from each other and increase the impact of available funding.

In addition to reporting on funding priorities, the dashboard assesses the strength of each jurisdiction's Performance Report based on its adherence to the provisions in the Treasury guidance for how governments should invest these dollars to advance economic recovery, economic mobility, and racial equity. The dashboard also features initiatives by individual local governments including meaningful community engagement to determine best uses of funds, innovative workforce investments, and the implementation of evidence-based methods to evaluate the interventions made possible by this funding.

Explore the tool at bit.ly/31EpxsB.

FUNDING PRIORITIES

Supporting public health expenditures



72%

are investing or plan to invest in public health, including combating COVID-19 through vaccine outreach and distribution.

Replacing lost public-sector revenue



61%

are investing or plan to invest to replace lost revenues.

Providing premium pay for essential workers



24%

are investing or plan to invest in premium pay for essential workers.

Investing in water, sewer, and broadband infrastructure



56%

are investing or plan to invest in infrastructure, such as broadband, sewer, and water infrastructure.

Addressing negative economic impacts of the pandemic



75%

are investing or plan to invest in addressing the negative economic impacts of COVID.



43%

are investing or plan to invest in workforce programs to help workers and the local economy recover.



69%

are investing or plan to invest in expanding services to disproportionately impacted communities.

56%

are investing or plan to invest in stable housing, housing services, or new housing development.

38%

are investing or plan to invest in piloting new programs.

19%

are investing or plan to invest in emergency rental assistance.

34%

are investing or plan to invest in education and youth development.

13%

are investing or plan to invest in guaranteed basic income.

31%

are investing or plan to invest in justice, crime reduction, and public safety.

EVIDENCE, DATA, PUBLIC ENGAGEMENT AND EQUITY

Public Engagement



77%

demonstrate clear or promising investments in engaging all residents to help shape their spending plans.

Advancing Equity



77%

demonstrate clear or promising investments in plans to ensure equitable outcomes.

Evidence-Based Interventions



55%

demonstrate clear or promising investments in evidence-based interventions.

Evaluation



45%

demonstrate clear or promising investments in evaluation for those programs without a strong evidence base.

Building Data and Evidence



31%

demonstrate clear or promising investments in building data and evidence capacity.





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