



# NEWSLETTER

Vol. 49, No. 5, March 10, 2023

**Nominate a municipal hero for the**

# Sam Mamet Award

**T**he Sam Mamet Good Governance Award, established in 2019 in honor of retired CML Executive Director Sam Mamet, honors an individual who exemplifies and seeks to expand the application of principles of good governance. CML is thrilled to announce we are now accepting applications for the 2023 Sam Mamet Good Governance Award.

The Sam Mamet Good Governance Award is awarded annually to up to three individuals who exemplify and seek to expand the application of principles of good governance, such as efficiency and effectiveness, responsiveness to need, openness and transparency, respect for the rule of law, accountability to self and others, inclusivity, ethical behavior and conduct,

innovation, representation of all constituencies, and fiscal accountability.

The award is presented at the CML Annual Conference. In addition to a plaque or trophy commemorating the award, winners receive complimentary registration to the following year's annual conference and are invited to assist in the presentation of the award to the following year's winner.

Any municipal elected official, staff member, or other individual in public service who exemplifies principles of good governance is eligible for the award. More information is available on CML's website, <https://bit.ly/3EzoN1G>.



**Empowered cities and towns, united for a strong Colorado**

## Staff anniversary



This month, we are celebrating Meeting & Events Planner Karen Rosen's third anniversary at CML. Congratulations Karen!

# MEMBER NEWS

## COLORADO SCULPTOR RESPONDS TO MARSHALL FIRE

If you visit the Superior Community Center, say hello to the 11-foot-tall orchid near the entrance. Join the Town of Superior in welcoming "Regenerato" by artist Roger Reutimann to the town's public art collection. The enormous wooden sculpture was Reutimann's artistic response to the Marshall Fire and was generously gifted to the residents of Superior. For Reutimann, the charred vase with the giant yellow-stained wooden orchid signifies re-growth and beauty from the ashes. Further, yellow orchids are symbolic of new beginnings and friendship.

The community center is at 1500 Coalton Road in Superior. It is open Monday-Thursday, 8 a.m.-8 p.m.; Friday & Saturday, 8 a.m.-10 p.m.; and Sunday, 12-6 p.m.

## DURANGO RECEIVES GRANT FOR INCLUSIONARY ZONING PROGRAM

The state Department of Local Affairs has awarded the City of Durango \$120,000 to promote innovative solutions for the development of affordable housing. The money is available through HB21-1271, the Innovative Affordable Housing Planning Grant Program, which offers grants and other forms of state assistance to local governments. The money will be used to modernize and improve the city's Fair Share Ordinance and administration of the program, which includes a housing feasibility study and other housing program policy work.

The city adopted the Fair Share Ordinance in 2009 as one of the many strategies to address affordable and workforce housing.



The city seeks to streamline the program to clarify financial components of the program, and to assess the gap between market units and below-market affordable and workforce units. The city also wants to become compliant with state law HB21-1117 that now allows rental inclusionary zoning at the municipal level.

The city has recently hired Root Policy Research, a women-owned consulting business based in Denver, to prepare a high-quality and comprehensive review of Fair Share beginning March 1. The city and Root will conduct community engagement in various stages of the project to ensure the community as well as key stakeholders have opportunities to participate.



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

*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: Alex Miller**  
**Circulation/mailling 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.

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## CELEBRATE WITH CML

CML wants to hear about your community's successes. Tell us about a new grant you've won, water tank that's finally finished, or anything else you're excited about! Email CML Research Analyst Melissa Mata, [mmata@cml.org](mailto:mmata@cml.org), or complete the form at <https://bit.ly/3YF8XRM>.

# MUNICIPAL GRANTS & FUNDING OPPORTUNITIES



## ELECTRONIC VEHICLE PLANNING GRANTS

The Colorado Energy Office is requesting applications for local government electric vehicle readiness planning grants.

These grants will provide funding to local governments and their regional partners to develop EV readiness plans. A readiness plan will allow a community to establish a vision for EV readiness, identify key partnerships and strategies needed to achieve the vision, and encourage community adoption of electric vehicles.

This is a competitive grant. The energy office intends to make four to six awards in fiscal year 2023. More information is available on the Colorado Energy Office's website, <https://bit.ly/3y45dgT>.

## FEDERAL GRANTS TO MODERNIZE FLEETS & DEPLOY CLEAN TRANSIT BUSES

The Federal Transit Administration is making nearly \$1.7 billion available through two programs that will support state and local efforts to modernize aging transit fleets with low- and no-emission buses, renovate and construct bus facilities, and support workforce development.

The Low or No Emission (Low-No) Program helps transit agencies buy or lease U.S.-built zero-emission and low-emission transit buses along with charging equipment and supporting facilities. For fiscal year 2023, about \$1.22 billion in grants will be available

The Grants for Buses and Bus Facilities Program supports transit agencies in buying and rehabilitating buses, vans, and related equipment and building bus facilities. For fiscal year 2023, approximately \$469 million for grants will be available.

Application and eligibility information can be found at <https://www.grants.gov>. Complete proposals must be submitted electronically by **April 13**.

## BHA RELEASING \$130 MILLION IN COMMUNITY GRANT PROGRAMS

The Behavioral Health Administration has made available more than \$130 million in grant opportunities for local governments through four programs, the Criminal Justice Early Intervention Grant Program (\$49 million), Community Investment Grant Program (\$34 million), Children, Youth, and Families Grant Program (\$39 million), Substance Use Workforce Stability Grant Program (\$14 million).

The administration is accepting applications on a rolling basis with periodic review through February 2024 or until all funding is allocated. The administration will offer technical assistance and support for local governments submitting applications. For more information, visit <https://bit.ly/3Pcu17p>.

## Proposition 123

Proposition 123, approved by voters in 2022, offers multiple funding mechanisms for affordable housing development in municipalities. To unlock funding in 2024, municipalities need to first commit by **Nov. 1** to adding 3% affordable housing to your baseline each year for the next three years. The Division of Housing has issued guidance to help municipalities set their baseline and understand how compliance will work (available at <https://bit.ly/3IFB-dgb>). The division also confirmed that local governments can qualify for only some of the three-year period and that the required "fast track approval process" does not need to be in place until late 2026.

## Independent Ethics Commission increases gift ban dollar limit

The Independent Ethics Commission on Feb. 22 issued Position Statement 23-01, increasing the gift ban dollar limit from \$65 to \$75.

The gift ban limit prohibits public officers, members of the General Assembly, local government officials, and government employees from soliciting, accepting, or receiving any gift or thing of value with a fair market value or aggregate actual cost of more than \$75 in any calendar year.

The next gift ban adjustment will occur the first quarter of 2027.

Officials and employees of home rule municipalities should consult their local laws and municipal attorney to determine whether this change affects them.

# UPCOMING WEBINARS

## **MUNICIPAL PHILANTHROPY: LESSONS FROM CITY GIVE**

*Wednesday, March 29, 12-1 p.m.*

In 2019, the City of Fort Collins launched City Give, a formalized structure for philanthropic partnerships and charitable giving. This “in-house” approach to philanthropy allows the city to respond to strategic priorities and community needs that fall outside the city budget but are well-positioned for private funding. Presented by City Give Director Nina Bodenhamer, this webinar will cover topics ranging from charitable tax receipts to philanthropic policy, from financial governance to accepting cash of real property, and from how best to partner with friends groups to naming rights. Register at <https://bit.ly/3HrSNDv>.

## **LEGISLATIVE UPDATE**

*Friday, April 7, 12-1 pm*

Get the latest news on this session of the Colorado General Assembly during this webinar with the CML advocacy team. You will have the opportunity to hear about potential legislation and to ask questions



about issues that could affect your city or town. Register at <https://bit.ly/3DvGWDe>.

## **U.S. CUSTOMS AND BORDER PROTECTION**

*Tuesday, April 11, 12-1 p.m.*

The webinar will provide an overview of the U.S. Customs and Border Protection agency, its Office of Field Operations, and drugs at U.S. borders. Attendees will learn about the agency’s operational footprint in Colorado, how it is always prepared to respond to emerging challenges, and the agency’s plans for the future. The agency’s Office of Intelligence will provide an analysis and

statistical overview of tactics, techniques, and procedures for illicit drug smuggling at the borders and within the international mail and express consignment environment. This overview will highlight the effects of the post-COVID border restrictions and how international mail is being used to deliver drugs through illicit e-commerce. Register at <https://bit.ly/3kkun7r>.

## **HOUSING NEEDS ASSESSMENT HOW- TO WITH THE CITY OF GOLDEN**

*Wednesday, May 3, 12-1 p.m.*

City of Golden officials will walk you through the life cycle of a housing needs assessment. The presentation will teach you what to expect when undertaking a housing needs assessment for your community, including the RFP process, community outreach, and implementation of the plan. The webinar is an opportunity to learn from Affordable Housing Policy Coordinator Janet Maccubbin, Director of Community and Economic Development Rick Muriby, and Mayor Laura Weinberg. Register at <https://bit.ly/3mr3SOA>.

## **2023 Water Fluency Program to highlight lessons from the Rio Grande**

Now in its ninth year, the Water Fluency Program curriculum covers statewide water topics blended with local examples of innovative water practices. This year, Water Education Colorado will showcase water management examples from the Rio Grande Basin.

This program provides an opportunity to learn about water through four program days with highly sought-out lectures, discussions, exclusive access to water sector leaders, breakout networking opportunities, reading assignments, and additional coursework.

The 2023 program kicks off with a virtual session in May and includes virtual sessions in June and August, and a two-day in-person workshop in Alamosa in July. To

receive your certificate of completion for this program, you must attend all program days.

The Water Fluency Program is designed so anyone who is interested in learning more about water can participate. Past participants have included city/county staff, elected officials, someone new to Colorado water but has worked in water in other states, a water professional who has been promoted into a position with decision making responsibilities but never had formal water education/training, interested community members, business leaders, educators, special district staff, and more. There will be pre-session homework that will bring someone coming from any knowledge level up to speed and prepared to engage in the classroom program days.

You can anticipate getting 25 hours of program content through the session days, and to spend about 10 hours on suggested homework over the four-month program time frame.

Tuition is \$1,475 and includes all materials and resources needed. Some partial scholarships are available. Priority of scholarships will be given to public officials and non-profit employees.

For more information and to register for the Water Fluency Program, visit <https://bit.ly/3moU3Ar>.

# CML LEGAL CORNER



## Expanding housing affordability by local regulation

By Ashlyn DuThorn, CML law clerk

In 2000, in *Town of Telluride v. Lot Thirty-Four Venture LLC*, the Colorado Supreme Court held that a local land use ordinance enacted by the Town of Telluride to promote affordable housing in new developments conflicted with C.R.S. § 38-12-301, which prohibited counties and municipalities from enacting any ordinance or resolution that would control rent on private residential property or private residential housing units. Telluride's ordinance was a response to an affordable housing issue that has only dramatically worsened due to the state's steady increase in population and housing costs. Local governments have been seeking ways to address this need without meeting the same fate as Telluride.

To relieve local governments of the restriction from the *Telluride* decision without changing the state rent control law, the General Assembly passed H.B.21-1117, amending the Land Use Enabling Act, C.R.S. § 29-20-104, to empower local governments to promote the development of new affordable housing units through direct regulation.

### AUTHORITY TO REGULATE DEVELOPMENT

The statutory changes in HB 21-1117 addressed the difficulties of expanding affordable housing that were present in *Telluride* by explicitly stating that the rent control prohibition of C.R.S. § 38-12-301 does "not apply to any land use regulation ... that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site." C.R.S. § 29-20-104(1)(e.5). The law, however, did not repeal the rent control statute or authorize local rent control.

To align with the requirement to provide alternatives to the construction of new affordable housing units, mandatory affordable housing ordinances should include alternative compliance options that will still contribute to affordable housing needs. These can include a fee in-lieu of the affordable units required, or discretionary agreements that allow for flexibility and benefit the community in alignment with city housing goals. Examples of such agreements include land dedication for new affordable housing development; fewer units but restricted at a greater depth of affordability; developments providing larger layouts, more bedrooms, and family-friendly amenities; or concurrent off-site development of affordable housing.

### LOCAL POLICY CHANGES ARE THE FIRST STEP

H.B.21-1117 conditioned the authority it granted to local governments on demonstration of other actions to expand housing affordability. Subsection (1)(e.7) of C.R.S. § 29-20-104 requires that, before the local government uses its new authority, the local government has also taken action to increase housing supply and density, or to incentivize affordable development. A local government must take at least one step prescribed by statute but may consider doing more.

Such actions include: (a) adopting changes to zoning and land use policies that are intended to increase the overall density and availability of housing; (b) materially reducing or eliminating utility charges, regulatory fees, or taxes imposed by the local government applicable to affordable housing units; (c) granting affordable housing developments material regulatory relief from any type of zoning or other land development regulations that would ordinarily restrict the density of new development or redevelop-

ment; (d) adopting policies to materially make surplus property owned by the local government available for the development of housing; or, (e) adopting any other regulatory measure that is intended to increase the supply of housing within the local government's jurisdictional boundaries.

Potential ways to address the conditional requirement of HB21-1117 and increase the density of housing units through zoning reform include the elimination of occupancy limits for residential properties or allowing single-family residential homes to build accessory dwelling units on their property. Another tactic is reform of zoning requirements that may have the effect of increasing construction costs or reducing the density of units, such as relaxing parking requirements when affordable units are contained in a denser development.

Some municipalities exercised the authority granted by HB21-1117 by creating inclusionary zoning ordinances with affordability components. The City of Littleton's inclusionary housing ordinance, for example, requires all new residential developments in the city with five or more units to make at least 5% of those units affordable. Pursuant to statute, if developers do not include affordable units, the inclusionary housing ordinance will levy fees against them that can then be used on other affordable housing-related projects. Local governments can decide which policies make sense, and where and to what extent they should be applied based on what is appropriate for their communities.

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



**CML**  
**2023 ANNUAL**  
**CONFERENCE**  
AURORA • COLORADO

## See you in Aurora for CML's 101<sup>st</sup> Annual Conference

Registration is now open for the Colorado Municipal League's 101st Annual Conference, to be held June 25-28 at the Gaylord of the Rockies in Aurora.

The conference is CML's signature event of the year, where municipal officials from around the state gather to network and exchange ideas. Year after year, attendees rave about the experience and how inspired they are to get back to work and put their newfound knowledge to use. The conference is a unique opportunity to meet municipal officials from communities across the state and discuss issues of widespread municipal concern.

### CRITICAL MUNICIPAL ISSUES

We know municipal officials have concerns that run the gamut, and our conference intends to cover several topic areas to help you stay informed and feel ready to serve. Participate in sessions on issues including legislation impacting municipalities, affordable housing, water,

accessing resources, communications, mental health, broadband, homelessness, efficient meetings, climate change, rural resources, accessibility, small lot development, an update from DOLA, and much, much more!

### CELEBRATING 100 YEARS OF MUNICIPAL SERVICE

For the past 100 years, CML has worked alongside Colorado's cities and towns to create the communities we cherish today, and the conference falls right in the middle of our year-long celebration.

We're keeping the party going by celebrating CML's 100th anniversary throughout the conference. You won't want to miss our birthday celebration, including the 2023 Sam Mamet Good Governance Award during lunch on Monday, or Tuesday's Meeting of the Minds event, which will bring together some of the great minds of municipal government from CML and the National

League of Cities to reflect on the changes we've seen over the years and what we can expect in the future.

### EXPANDED EXHIBIT HALL

We listened to our attendees last year and are excited to offer an expanded Exhibit Hall! Open all day on Monday and Tuesday, the Exhibit Hall will hold an Exhibitor Showcase each day.

Our conference exhibitors are subject matter experts in municipal projects and services and are ready help you and your municipality in many different areas. You won't want to miss it. CML thanks all our sponsors for their support of CML and our municipalities around the state.

### REGISTER NOW!

Don't miss CML's biggest event of the year. Register at <https://bit.ly/41KaJm7>.

# CENTURY OF SERVICE



CML visited Woodland Park last month. From left are City Manager Michael Lawson, Council member Catherine Nakai, City Clerk Suzanne Leclercq, and CML Meeting & Events Planner Karen Rosen.

## 100th anniversary appreciation tour

CML continued its appreciation tour in February. We want municipalities to know how grateful we are for their continued membership in CML and service to Colorado. More information about CML's 100<sup>th</sup> anniversary and a map of municipalities we've visited are online, <https://bit.ly/3wN1qDT>. Here are photos from the League's recent trips to Woodland Park and Palmer Lake.



From left are Palmer Lake Trustee Nick Ehrhardt, Mayor Glant Havenar, CML Finance & Administration Manager Allison Wright, and Planning Commissioners Tim Caves and Mark Bruce.

## Colorado Municipal League at 100: A history of home rule

In 1902, Colorado voters adopted home rule. Since then, home rule has continued to evolve from the first six home rule municipalities to 105 in 2023.

Our state's home rule provisions for self-governance in local matters and associated protections against legislative preemption are among the most robust in the nation. Since 1923, the League has been a critical

part of the conversation, advocating for and defending the powers of home rule municipalities in the legislature and courts.

CML is celebrating its 100<sup>th</sup> anniversary with a series of articles looking back at the League's history. This month's installment is all about home rule. It takes a look at the court rulings, amendments, and other developments that shaped what we know

as home rule today. Read the full story on CML's website, <https://bit.ly/3KMDsRq>.

CML recently updated its Home Rule Handbook. It is a useful starting point for Colorado municipal officials considering home rule or amending existing home rule charters, and it is available in CML's online store, <https://bit.ly/41HN2v1>.



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- CML celebrates 100<sup>th</sup> anniversary with a look at the history of home rule
- Register now for CML Annual Conference in Aurora
- Enrollment opens for 2023 Water Fluency Program
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