



COLORADO
MUNICIPAL
LEAGUE

NEWSLETTER

Vol. 50, No. 1, January 12, 2024



Get funded

DOLA grant writing assistance program available for cities & towns

By Kevin Bommer, CML executive director

Municipal leaders, regardless of the size of the city or town, have unprecedented opportunities to access federal grant funding from both the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA). The programs are expansive, covering energy and power infrastructure, access to broadband internet, transportation, water infrastructure, and more.

The Department of Local Affairs would like to remind local governments about the existence of the IIJA and IRA Grant Writing Assistance Program. Made possible by SB 22-215 and SB 23-283, which created the IIJA Cash Fund, state law allows some of the funds to be used for grant writing support and project planning technical assistance in order to assist state agencies, local governments, and the two federally recognized tribes located in Colorado in obtaining IIJA and IRA funds.

Eligible applicants are local governments and tribes in Colorado with limited budgets and limited in-house grant writing capacity. The applicant for grant writing or project planning assistance must be an eligible applicant for the federal funding they are seeking.

The total budget for the program is \$1 million, and municipalities are encouraged to act quickly before the funds are depleted. The application period opened on Dec. 19 and will remain open until all funds have been committed.

More information, including contacts and a program guide that should be reviewed prior to applying for funds, is available at <http://tinyurl.com/mry8sdpu>.

Empowered cities and towns, united for a strong Colorado

EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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CML UPDATE



This month, CML is celebrating a pair of staff anniversaries. Finance and administration manager Allison Wright has been with CML for 18 years, and senior associate counsel Rachel Bender has been with CML for two years. Congratulations!

IN MEMORIAM

Edith “Edie” Evans CML past president & Sterling mayor

Edith M. Evans, loving mother and grandmother, of Sterling, passed away Dec. 9 in Greeley. “Edie” was born on March 10, 1927 to Gade and Gladys Harms. She graduated from Haxtun High School in 1945 and then attended the University of Colorado where she graduated with a bachelor’s degree in business in 1949.

She then taught business courses at Alamosa High School for two years and then Sterling High School for four years, which led to employment at Northeastern Junior College (NJC) in 1955 where she taught business courses for several years. She then worked as instructional director for the NJC Business and Science Division and Cosmetology programs for her last six years at NJC. She earned a master’s degree in business education from the University of Northern Colorado in 1958 and retired May of 1992.

Edie was appointed to the Sterling City Planning Commission from 1968 to 1986 and was elected to the Sterling City Council in 1977, serving as mayor pro tem for six years and as mayor for six years. While mayor, Edie was elected to the Colorado Municipal League Executive Board in 1984 and served as president from 1988 to 1989. She was very active in the League of Women Voters and was appointed by Gov. Roy Romer to the Colorado State Council on Vocational Education from 1990 to 1994. In addition to numerous other activities, her list of awards and achievements is significant.



She married D. Eugene Evans in August 1957. She was preceded in death by her husband, her parents, two sisters, a brother, and daughter-in-law Angie. She is survived by her son, Timothy Evans of Hutchinson, Kansas; daughter Stephanie Hayes and husband Clifford of Greeley; sister Carolyn Anderson of Arizona; six grandchildren: Alison Evans, Daniel Evans, Joshua Tafolla, Jolene Lewis, Kimberly Barnes, Eric Hayes; eight great-grandchildren; eight great-great-grandchildren.

“Edie was a great CML President and cared deeply about the issues affecting Sterling as well as communities across the state,” said Sam Mamet, retired CML executive director. “She was a wonderful person I was lucky to know.”

Adapted from the Sterling Journal Advocate on Dec. 21, 2023.

UPCOMING WEBINARS

2024 LEGISLATIVE UPDATE

Learn what to expect during this session of the Colorado General Assembly in this Jan. 19 webinar with the CML advocacy team. Get the latest news on potential legislation and ask questions about issues that could affect your city or town. Register at <http://tinyurl.com/j4pv4zz3>.

CML MUNICIPAL ELECTION SERIES: CANVAS, RECOUNTS, AND FINAL ELECTION QUESTIONS

Thursday, March 14

During this webinar, participants will learn information and tips on what happens after the polls close, including recounts and canvassing the vote. Additionally, you'll have a chance to ask your final election questions. While intended for clerks whose municipalities will be having elections in spring 2024, all clerks are welcome to participate. Co-hosted by CML, Colorado Municipal Clerks Association, and CIRSA. Register at <https://tinyurl.com/3khz724e>.

CML MUNICIPAL ELECTION SERIES: ELECTION DEBRIEF AND TALES TO TELL

Thursday, May 9

During this webinar, a wide-ranging conversation will engage attendees in an election debrief, provide insights, and share stories covering what worked, what did not, and what clerks wished they had known ahead of the elections. While intended for clerks whose municipalities will be having elections in spring 2024, all clerks are welcome to participate. Co-hosted by CML, Colorado Municipal Clerks Association, and CIRSA. Register at <https://tinyurl.com/54vskchf>.

AFFORDABLE HOUSING SURVEY

The Department of Local Affairs (DOLA) is gathering stakeholder input on the Proposition 123 requirement to expedite review of affordable housing, which will take effect in 2027. This stakeholder engagement process is in the early stages, and DOLA is seeking to understand the needs of, and gather input from, valued stakeholders.

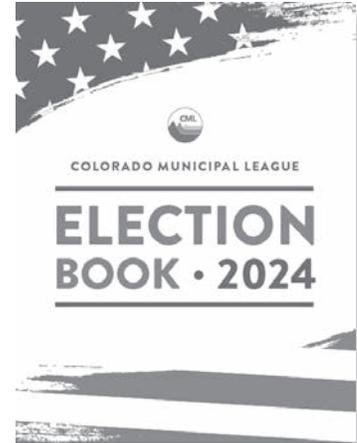
Local government planning representatives, the developer community, and other key partners are invited to give input through this survey to help inform DOLA's guidance materials. Please take a few minutes to share your perspective. The survey will remain open through Friday, Jan. 19. The survey is online at <http://tinyurl.com/2p9553ks>.

The outcome of this effort is that DOLA will publish guidance and present informational workshops on the Prop 123 statutory language, and present different approaches to accomplish expedited review. DOLA appreciates your input, insights, and time to support this important effort.

CELEBRATE WITH CML

CML wants to hear about your community's success. Tell us about a grant you've won, a new water tank, or anything else you're excited about. Email CML Publication & Design Specialist Alex Miller, amiller@cml.org, or complete the form at <https://tinyurl.com/4dm3n82w>.

CML PUBLICATIONS



ELECTION BOOK 2024

CML is pleased to announce the publication of a new edition of our *Election Book*. The 2024 *Election Book* is an essential guide to running municipal elections. It is designed to assist municipal clerks in managing elections in towns and cities, both statutory and home rule. Thoroughly updated for 2024, CML's *Election Book* will answer your questions about regular and special elections, the Fair Campaign Practices Act, signature verification, process for referendum and recall elections, and much more. The *Election Book*, in print and e-book editions, is available now in the CML Bookstore, <http://tinyurl.com/3yavvwy7s>.

BOB'S RULES OF ORDER

Rules of order are vital to an efficient local government meeting. To be most effective for local government, the rules should be tailored to the government's specialized needs and should avoid the length and complexity found in *Robert's Rules of Order*. *Bob's Rules of Order for Colorado Local Governments* seeks to fill the need for reasonable, workable, and easily understandable parliamentary procedures.

Get it in the CML Bookstore, <http://tinyurl.com/3yavvwy7s>.

MUNICIPAL GRANTS & FUNDING OPPORTUNITIES



\$1.5 BILLION AVAILABLE IN RAISE GRANTS

The U.S. Department of Transportation (DOT) has published a Notice of Funding Opportunity for \$1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program for 2024. The popular program helps communities around the country carry out projects with significant local or regional impact.

RAISE discretionary grants help project sponsors at the state and local levels, including municipalities, tribal governments, counties, and others complete critical freight and passenger transportation infrastructure projects. The eligibility requirements of RAISE allow project sponsors to obtain funding for projects that may be harder to support through other U.S. DOT grant programs. Recent examples of funded projects include a grade separation project in Chula Vista, California, a new downtown transit center in New Orleans, and reconstruction of Route 6 on the Standing Rock Indian Reservation in South Dakota.

RAISE grant applications will be accepted through *Grants.gov* through Feb. 28. More information is available online at <http://tinyurl.com/3u9ayd3y>.

SMALL COMMUNITIES, BIG CHALLENGES

The U.S. Environmental Protection Agency (EPA) is launching the Small Communities, Big Challenges competition. The goal of this competition is for local governments to identify innovative and effective ways to

holistically engage rural communities around environmental health issues and to identify any associated barriers to better protecting human health. Through increased engagement, this competition would ideally help local governments and communities better identify and understand rural community-based environmental public health issues, which may help in the protection of the community's environmental public health.

Up to ten selected winners will each receive \$25,000. Five individual challenge winners will be given a one-year National Environmental Health Association membership. The deadline for submissions is Jan. 31. More information is available online at <http://tinyurl.com/4rdaem78>.

COMMUNITY CHANGE TECHNICAL ASSISTANCE

The EPA Environmental and Climate Justice Program's Community Change Grants aim to support environmental and climate justice activities that benefit disadvantaged communities through projects that reduce pollution, increase community climate resilience, and build community capacity to respond to environmental and climate justice challenges. Under the Inflation Reduction Act, the EPA received \$200 million for technical assistance. More information is available at <http://tinyurl.com/529h6uvt>.

LOW-CARBON TRANSPORTATION MATERIALS GRANTS PROGRAM

The Inflation Reduction Act established the Low-Carbon Transportation Materials Grants program, which provides funding

for the use of construction materials that have substantially lower levels of greenhouse gas emissions. The purpose of the program is to reimburse or provide incentives to eligible recipients for the use, in projects, of construction materials and products that have substantially lower levels of greenhouse gas emissions. State departments of transportation, metropolitan planning organizations, local governments or agencies, and federally recognized tribes will be eligible to participate. This grant program will open in winter of 2024. More information is available online at <http://tinyurl.com/r3emvr47>.

SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

The Bipartisan Infrastructure Law established the Safe Streets and Roads for All (SS4A) discretionary program with \$5 billion in appropriated funds over five years, 2022-2026. The program funds regional, local, and tribal initiatives through grants to prevent roadway deaths and serious injuries.

The program supports the development of a comprehensive safety action plan that identifies the most significant roadway safety concerns in a community and the implementation of projects and strategies to address roadway safety issues. Action plans are the foundation of the SS4A grant program.

Applications for the next round of SS4A grants are anticipated to open in February 2024. More information is available at <http://tinyurl.com/44kubzdn>.

RESEARCH CORNER

LOCAL GOVERNMENT EMPLOYEES UNDER 35 ASSESS PUBLIC SECTOR CAREERS

Data visualization by
RACHEL WOOLWORTH, CML municipal research analyst,
 and **ALEX MILLER**, CML publication & design specialist

Last spring, MissionSquare Research Institute and Greenwald Research surveyed more than 1,000 state and local government employees aged 35 and under. The survey assessed young public sector employees' motivations for working in the sector, current job satisfaction, and views on salary and employee benefits.

More than half of all survey respondents reported intending to remain in public service for a long time while almost half said they would recommend a career in public service to friends or family members. Despite this, some public sector employees expressed dissatisfaction with their salaries; around 40% of respondents identified public sector wages as "not competitive." Survey respondents commonly described those fit to work in public service as caring, compassionate, empathetic, and understanding.

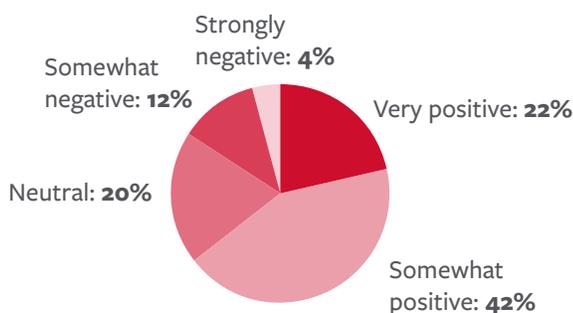
Download the report at <http://tinyurl.com/3k6szjuu>.

Attitudes about public sector work

1 Top factors attracting respondents to public sector:

- Job security
- Work/life balance
- Health insurance
- Personal satisfaction from job

2 Current morale regarding job:



3 Job elements employees reported the highest levels of satisfaction with:

- Job security
- Ability to serve community
- Quality of coworkers
- Quality of supervisors

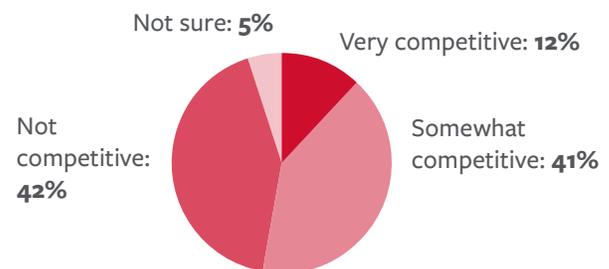
4 Job elements employees reported the lowest levels of satisfaction with:

- Remote work policy
- Salary
- Non-traditional benefits
- Flexibility of work hours

5 Importance of job characteristics:

Improves communities	67%
Strong team dynamics	65%
Cultural of intellectual engagement	64%
Aligns with your values	64%
Allows you to see direct impact you are having	63%
Inclusive environment for all identities	63%
Is highly professional	60%
Has other young people	51%
Is innovative and entrepreneurial	44%

6 Competitiveness of wages offered by employer when compared with labor market:



* Of respondents who are considering changing jobs, 71% identified wanting a higher salary as the reason why.

CENTURY OF SERVICE



CML PHOTO BY DENISE WHITE

CML Executive Director Kevin Bommer replaces the building time capsule removed in October 2023, as part of the celebration of the 25th anniversary of the opening of the Ken Bueche Municipal League Building. Future CML leaders will open the refilled time capsule in the year 2048

LEGISLATIVE WORKSHOP

Join the Colorado Municipal League for this daylong workshop on Feb. 15. The CML advocacy team will bring you up-to-date on key legislation before the Colorado General Assembly affecting cities & towns.



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CML LEGAL CORNER



New boundaries for executive sessions for legal advice

By Robert Sheesley, CML general counsel

Since Colorado's Open Meetings Law (OML) was expanded in 1991 to include municipal governing bodies, the law has authorized the use of executive sessions to allow the governing body to meet with its attorney outside of public view. These sessions have been understood as an opportunity for the body to privately confer with attorneys to the same extent as any other person or entity in Colorado.

A December 2023 decision from the Colorado Court of Appeals has complicated the use of executive sessions for attorney conferences. In *The Sentinel Colorado v. Rodriguez*, No. 2023COA118, the court held that, under the facts of that case, a city council improperly adopted a position in violation of the OML during an executive session by giving direction to its attorney regarding an ongoing investigation and potential agreement to end a dispute. That direction, in the court's view, equated to the adoption of a position or a formal action, despite the council's later approval of the negotiated agreement in a public meeting.

The impact of the *Sentinel* decision may ultimately be limited to the specific circumstances of that case, but it raises significant questions about how municipal governing bodies can consult with their attorneys. Even if steps are taken to adhere to the OML's boundaries more closely, the decision threatens the accessibility or effectiveness of legal advice that is essential to well-run local government.

ATTORNEY CONFERENCES UNDER THE OML

The OML allows a local public body to enter executive sessions for, among other things, "conferences with an attorney

for the local public body for the purposes of receiving legal advice on specific legal questions." C.R.S. § 24-6-402(4)(b). The announcement of the executive session must provide more than a general reference to "legal advice" and must identify the subject matter with some particularity, without compromising the purpose of the executive session. C.R.S. § 24-6-402(4)(b); *Guy v. Whitsitt*, 469 P.3d 546 (Colo. App. 2020).

The OML does not expand on the nature or scope of the attorney-client interaction that might occur in executive session. Although the OML generally prohibits the adoption of positions or formal action in executive sessions, other grounds for executive session allow for deliberation and even some form of pre-decisional direction.

The OML explicitly allows the body to decide on positions relative to negotiated matters, to develop strategy for negotiations, and to instruct negotiators. C.R.S. § 24-6-402(4)(e). It is reasonable to expect that an attorney-client interaction should include similar collective pre-decisional instruction or direction to the body's attorney regarding privileged communications.

MITIGATING THE RISKS

Despite the Colorado Court of Appeals' decision in the *Sentinel* case, governing bodies should never hesitate to seek legal advice through their city or town attorney. Good governance involves understanding the legal boundaries of authority, opportunities for action, and potential liabilities. But, absent reversal by the Colorado Supreme Court, municipalities must ensure that their attorney conferences meet the expectations identified in the *Sentinel* decision.

Keeping the attorney actively engaged in the discussion helps to ensure that

the conference is focused on asking questions or receiving legal advice on the subject matter in question. Straying to off-topic subjects or debates among members could lead the session into inappropriate territory.

In some cases, it may be appropriate to pair the attorney conference with another statutory basis for the executive session that explicitly allows the body to give direction on a specific issue before formal action is taken in public, like providing instructions to negotiators.

Maintaining the attorney-client privilege remains a critical component of this issue. Generally, the attorney-client privilege is held by the city and cannot be waived by a staff member or an accidental disclosure. One troubling aspect of the *Sentinel* decision is the court's view that the city's inclusion of a document in a subsequent meeting agenda waived the attorney-client privilege; in that case, the document was a letter from the council's attorneys discussing the executive session.

Conferring with legal counsel remains an essential part of governance that must involve a free exchange of information, the ability to ask frank questions, and the power of the attorney to give robust, candid advice. These and other aspects of the attorney-client relationship should not be considered policymaking functions that must occur in public under the OML.

For more information, the Aug. 26, 2022, and Dec. 15, 2023, editions of the CML Newsletter discussed the basics of holding executive sessions and certain nuances of attorney conferences.

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



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Featured in this issue:

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- Legal Corner: New boundaries for executive sessions for legal advice

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