



COLORADO  
MUNICIPAL  
LEAGUE

# NEWSLETTER

Vol. 50, No. 5, March 8, 2024

## Introducing the new CML District 15 and other updates to district map

*By Denise White, CML engagement  
& communications manager*

**B**uilding stronger connections across Colorado municipalities is one of CML's top priorities. Based on member feedback over the years, the League is excited to announce a modest change to some of the boundaries to CML districts — including the creation of District 15! The new addition will see several municipalities from Districts 11 and 12 also move districts as part of the map's alignment.

### WHY THE SHIFT?

For decades, CML's districts have been based on the State Planning and Management Regions map. The latest changes, primarily affecting the West Slope region starting in Summit County and extending north and west, aim to streamline travel connections, focusing on communities of similar interest and direct travel corridors.

These changes come after careful consideration of member feedback and thorough analysis of meeting attendance

patterns in recent years. This realignment was deliberated and approved during a recent Executive Board meeting.

### INTRODUCING DISTRICT 15!

If you call Avon, Blue River, Breckenridge, Dillon, Eagle, Frisco, Gypsum, Keystone, Minturn, Montezuma, Red Cliff, Silverthorne, or Vail home, you are now part of the new District 15.

We have also adjusted District 11 and 12. District 11 now welcomes Aspen, Basalt, and Snowmass Village, while District 12 includes Craig, Dinosaur, Fraser, Granby, Grand Lake, Hayden, Hot Sulphur Springs, Kremmling, Meeker, Oak Creek, Rangely, Steamboat Springs, Walden, Winter Park, and Yampa.

### WATCH FOR SPRING DISTRICT MEETINGS

These changes come alongside the exciting news of holding district meetings in the spring instead of the

daytime outreach meetings that have been held for years. The League is also retooling the meeting agendas to start with a social hour for networking and an enhanced focus on member connection.

### FREEDOM TO CHOOSE

Remember, while these changes aim to offer convenient locations for attending district meetings, you're always welcome to participate in any district meeting that interests you or fits your schedule. Explore different communities, connect with diverse members, and discover the vastness of our organization!

For more information about CML's district realignment and to download a copy of our new map, please visit <https://tinyurl.com/35sy22r4>.



Empowered cities and towns, united for a strong Colorado

# EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO



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.

**Editor: Denise White**  
**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.

Subscription to CML Newsletter is offered as a portion of member dues.

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](http://bit.ly/CMLNewsletter).

## CML UPDATE



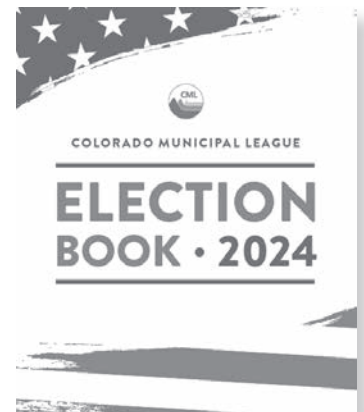
This month, CML is celebrating the staff anniversary of Meeting and Events Planner Karen Rosen. Karen has been with CML for four years. Congratulations!



## 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, processes 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/3yavwy7s>.



## WEBINARS

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

**Change of date:** This webinar is moving to **Thursday, March 21** (it was originally scheduled for March 14).

During this webinar, participants will learn information and tips on what happens after the polls close, including recounts and canvassing the vote. 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/bd6xm987>.

### 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. Register online at <http://tinyurl.com/mtpv7eep>.

## 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](mailto:amiller@cml.org).

## Severance celebrates water tank, design for new police building

The Town of Severance is celebrating the ongoing construction of a water tank and anticipated construction of a new police department headquarters.

The 1.5-million-gallon elevated water tank is being built by Landmark Structures. The contractor has completed the water line installation, foundation, and construction of the steel water tank, along with installation of the water piping, ladder, and electrical and communications equipment. Work has been suspended until April, when temperatures will allow

the steel water tank to be painted. The total project budget is \$5.88 million, and it received no grant funding. The tank project is about 78% complete and is anticipated to be completed by the end of October.

The town is looking forward to the construction of a new police department headquarters. The design and intent of the project is to create a visually appealing and highly functional public safety building in Severance's town core. The current police department building

is located on this site, and it will be demolished along with three additional buildings to revitalize the old town area. The new building will be approximately 5,250 square feet and is anticipated to be completed by December. The majority of funds for this project were either received through a Department of Local Affairs Energy Impact Grant or through impact fees paid by developers and new growth. The project's anticipated budget is \$3.47 million.

## State awards more than \$7 million for 171 affordable housing units

The Department of Local Affairs, through the Division of Housing's State Housing Board, recently voted on, approved, and allocated \$7,215,000 for 171 new affordable housing units across the state.

To address the needs of an ever-changing population, Colorado aims to provide a continuum of housing options for households with varying needs and area median incomes, as well as for persons seeking housing in conjunction with social services.

### RIDGWAY DUPLEX

*\$100,000 — adding two units*

Home Trust of Ouray County was granted \$100,000 to assist with new construction of two affordable housing units in Ridgway. Home Trust is partnering with On-Sight Construction and Habitat for Humanity of the San Juans to build a duplex that will provide two homeownership opportunities for local families.

### LA LUNA

*\$1.24 million — adding 31 units*

La Luna Community Cooperative was awarded \$1.24 million for the acquisition of the mobile home park in which they reside in Lafayette in Boulder County. This is an existing 34-home community currently known as Mountain View Mobile Home Park. The residents seek to acquire the park as a business operated



by the community with the goal of lot rent stabilization. A primary purpose in this acquisition is the preservation of affordable housing.

### BRIGIT'S VILLAGE

*\$1.6 million — adding 40 units*

Brigit's Village, a nonprofit affiliate of St. Brigit's Episcopal Church, in partnership with the developer Jon Peterson, was awarded \$1.6 million to assist with new construction of Brigit's Village in Frederick. This will be the first affordable housing community in Frederick,

providing 40 rental units, and the first family low-income housing tax credit project in town, affording low-income seniors the ability to age in place and with their families—many of which are single parent households—and the opportunity to live close to jobs and schools without the risk of being priced out.

### HAWTHORN COURT: DIAGONAL PLAZA

*\$1.9 million — adding 73 units*

Boulder Housing Partners (BHP), the Housing Authority of the City of Boulder, was awarded \$1.9 million for the new construction of Diagonal Plaza. The development of this 73-unit apartment complex is located in an underutilized and blighted parking lot in north central Boulder. This infill site has long been a goal for redevelopment for BHP, and Boulder will help with the transformation of the adjacent corridors into mixed-use, walkable neighborhoods.

### ADVENTURE INN

*\$2.375 million — adding 25 units*

The Community Investment Alliance was awarded \$2.375 million for the purchase of the Adventure Inn (the Inn) in La Plata County. The project will provide a long-term, stable location for a regional bridge housing program to prevent homelessness. The motel features 25 rooms, each with a bathroom, refrigerator, and microwave.

## Register now for CML 2024 Annual Conference

Registration is open for the 2024 CML Annual Conference. The conference is the premiere educational event for municipal officials in Colorado. It draws over 1,200 leaders throughout the state to share the latest information on accomplishments, growth, legislation, and policies that impact their municipalities. The conference offers more than 40 sessions with two keynotes and two lunch programs. Session topics include Organizational Leadership, Professional or Personal Development, Strategic Planning, Affordable Housing, Technology, and much more. Hear from keynote speakers, explore the exhibit hall, connect, network, and exchange ideas. The conference will take place June 18-21 in Loveland. Register online at <https://www.cml.org/conference>.

## Do you know a municipal superhero?

### NOMINATIONS OPEN FOR THE 2024 SAM MAMET GOOD GOVERNANCE AWARD

Remember Mayor Marc Williams' inspiring leadership of Arvada? Lyons Town Administrator Victoria Simonsen's dedication to community through 10 years of flood recovery? These are just two examples of past heroes recognized by the prestigious Sam Mamet Good Governance Award, honoring exceptional individuals in municipal government. Now, the search is on for the 2024 champions!

Does someone in your community exemplify the principles of good governance? Are they champions of efficiency, transparency, accountability, innovation, and inclusivity? Do they go above and beyond to serve their community, inspiring others with their dedication and impact? If so, nominate

them for the Sam Mamet Good Governance Award!

This is your chance to shine a light on their achievements and empower them to inspire others. Recipients receive recognition and complimentary registration to the CML Annual Conference and the opportunity to share their story and motivate future generations of public servants.

Do not let their dedication to effective governance go unnoticed. Nominations are open now until March 29. Visit <http://tinyurl.com/rzefxway> to nominate someone today and help us celebrate excellence in public service.

Together, let us celebrate the unsung heroes shaping a brighter future for our municipalities.





## The storied history of the municipal clerk

By Karen Goldman, Colorado Municipal Clerk Advisor Program

The municipal clerk is the oldest of public servants in local government, along with the tax collector. The profession traces back before biblical times. The modern Hebrew translation of town clerk is “mazkir ha'ir” which literally translated, means city or town “reminder.” The early keepers of archives were often called “remembrancers,” and before writing came into use, their memory served as the public record.

The title “clerk” as we know it developed from Latin. During the Middle Ages, when scholarship and writing were limited to the clergy, clerk came to mean a scholar, especially one who could read, write, and thus serve as notary, secretary, account-

tant, and recorder. In ancient England, the township and borough developed a strong system of democratic local government. And one of the first officials these freemen elected was “clarke.”

The beginning of the office of city clerk in England can be traced back to 1272 A.D. The “remembrancer” was called upon to remind the councilors what had transpired at their previous meetings, since the meetings of the early councils were not recorded in written minutes.

When the early colonists came to America they set up forms of local government to which they had been accustomed, and the office of clerk was one of the first to be established. When the colonists first settled in Plymouth, Massachusetts, they quickly appointed a person to act

as recorder. That person kept all the vital records for births, marriages, and deaths for the church, as well as various other records of appointments, deeds, meetings, and the election of officers at the annual town meeting.

In Massachusetts, the town clerk was one of the earliest offices established in colonial towns. The settlers were aware of the importance of keeping accurate written records of their agreements and actions including grants of land, regulations governing animals, the collection of taxes, and the expenditure of town funds.

The Colorado Municipal Clerks Association was established to promote educational opportunities to clerks throughout the state and to continue the long tradition of serving their municipal officials.

## MUNICIPAL GRANT OPPORTUNITIES

### STATE REVOLVING FUND AND WIFIA PROGRAM WORKSHOP

The Colorado State Revolving Fund (SRF) and Water Infrastructure Finance and Innovation Act (WIFIA) programs are hosting an in-person workshop in Denver with a virtual option on March 14. The workshop will be held in the Colorado Water Resources and Power Development Authority office (1580 N. Logan St. No. 820, Denver, CO 80203), from 1-4 p.m.

The workshop will cover WIFIA program

and SRF basics, details about Bipartisan Infrastructure Law funding, and how communities can benefit from these programs. Staff will be available to answer questions about specific projects and discuss situations unique to your community. Registration is available online, <http://tinyurl.com/3hhfydv>.

### LEAD SERVICE LINE REPLACEMENT GRANTS

The Water Quality Control Division has

an additional \$325,000 in grant funding to help public water systems complete the initial service line inventory and lead service line replacement plans.

The division is accepting applications until April 1. The division will prioritize projects that will lead to the timely submission of initial service line inventories and lead service line replacement plans by the due date of Oct. 16. More information is available on the division's website, <http://tinyurl.com/2buxw7ex>.

## Stakeholder process for landfill grants

The Colorado Department of Public Health and Environment (CDPHE) is conducting a stakeholder process for the Closed Landfill Remediation Grant Program. The program will provide grants to eligible local governments to help with the costs of environmental remediation efforts for, and management of, closed landfills owned by local governments.

The Solid and Hazardous Waste Commission will adopt rules on how the Colorado Department of Public Health and Environment will administer the grant program.

The proposed rules are posted online, <http://tinyurl.com/yrda7fsb>.

CDPHE will host a virtual stakeholder meeting March 18, from 10:30 a.m.-12 p.m. Register at <http://tinyurl.com/mr2b6y6e>. Stakeholders are invited to provide written comments on the proposed regulations to [taylor.pierce@state.co.us](mailto:taylor.pierce@state.co.us) on or before March 12. More information can be found on the Solid Waste and Materials Management Program's Closed Landfill Remediation Grant Program webpage, <http://tinyurl.com/3mbw8rvu>.

## EPA environmental justice community collaboration

In this webinar, learn about environmental justice issues as well as EPA grants and technical assistance. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to environmental laws. The webinar will take place 10:30 a.m.-12 p.m. March 11. Registration is available at <http://tinyurl.com/2c53ha98>.

# Updates on municipal law

By Robert Sheesley, CML general counsel

## TECHNOLOGY ACCESSIBILITY RULES PUBLISHED

By July 1, 2024, municipalities are required to comply with rules for technology accessibility established by the Governor's Office of Information Technology (OIT), 8 CCR 1501-11. The rules apply to all actively used information and communication technology (ICT), including both public and internal facing ICT. The rules adopt W3C WCAG 2.1 conformance levels A and AA and hardware standards established in Section 508 of the Rehabilitation Act of 1974.

Failure to establish an accessibility plan by July 1, 2024, and to comply with OIT's new rules constitutes discrimination. C.R.S. § 24-34-802(1)(c). Municipalities must develop and publicly post a technology accessibility statement that includes a process for requesting accommodations and reporting inaccessible ICT and a commitment to timely respond.

The rules establish apparent safe harbors for non-conforming ICT. Further, the rules do not require actions that would fundamentally alter the nature of the entity's programs, services, or activities, impose an undue burden, or pose a direct threat to health or safety. Read the rules at <https://bit.ly/OITAccessibility>.

## AMICUS UPDATE

CML filed an amicus curiae ("friend of the court") brief in the Colorado Supreme Court this month in support of the City of Aurora's city clerk. In *The Sentinel Colorado v. Rodriguez*, the city asked the Colorado Supreme Court to review three holdings of the Court of Appeals relating to an executive session held for the purpose of receiving legal advice pursuant to the Open Meetings Law (OML): 1) whether the disclosure of direction to counsel in executive session constituted a waiver of the attorney-client privilege; 2) whether the council's direction to its legal counsel in executive session constituted formal action in violation of the OML; and 3) whether a local public body can cure a violation of the OML. CML's brief highlights the state-wide importance of the attorney-client relationship between municipalities and their legal counsel. Read CML's brief at [https://bit.ly/amicus\\_Feb24](https://bit.ly/amicus_Feb24).

## SMALL LAWN AND GARDEN EQUIPMENT LIMITS

In 2025, state agencies and local governments will be subject to restrictions on the use of gas-powered lawn and garden equipment in the ozone non-attainment area designated through the U.S. Environmental Protection Agency. The Air Quality Control Commission recently adopted Regulation No. 29, Emission Reduction Requirements for Lawn and Garden Equipment (5 CCR 1001-33). From June 1 to Aug. 31 each year, local governments are prohibited from using gas-powered push and hand-held equipment with an internal combustion engine smaller than 7 Kw (10 hp) (state agencies cannot use engines smaller than 19 kW (25 hp)). The rules also apply to government contractors. All public entities are expected to report information about gas-powered equipment used and to retain records for 5 years.

The limits do not apply to equipment used during emergencies or by emergency services, for fire hazard reduction or recovery, for riparian, forest, or grassland management, or public safety purposes. To comply with the mandate, municipalities in non-attainment areas should plan for the acquisition and deployment of equipment, consider modifying landscaping practices, and establishing reporting systems. Contract documents should be reviewed and updated to ensure contractors comply as needed. Read the rules at <https://bit.ly/Reg29>.



# CML LEGAL CORNER



## Appeals court rules on rubber stamping under Open Meetings Law

By Sarah Walker, CML law clerk

Colorado's Open Meetings Laws (OML) generally requires that a local public body discuss policy or take "formal action" in a noticed public meeting. A body can violate the OML by making decisions outside of the meeting unless the OML authorizes that action in executive session. A later action to make the same decision in a public setting may be described as "rubber stamping" that is insufficient to show that an OML violation never occurred or was cured. Recently, the Colorado Court of Appeals provided some insight to the concept of "rubber stamping" when it reversed the district court decision in *Anzalone v. Board of Trustees*.

### FACTUAL BACKGROUND

This case arose after a town board called a special meeting at the mayor's request to hold an executive session for purposes of receiving legal advice from the town attorney about removing a board member. Approximately four minutes into the start of the meeting, the board approved a motion to go into executive session. The executive session lasted approximately 90 minutes.

Then, in the brief public portion of the meeting, the board heard a lengthy written motion to censure the board member. The board approved the motion without substantive discussion and then canceled a future meeting scheduled to consider the board member's removal. The public meeting then adjourned just over five minutes after the board completed the executive session.

The board member asserted that the board violated the OML during the executive session. The district court rejected that claim and concluded that the censure did not constitute a formal action, but rather only an expression of the board's opinion unrelated to the "formation of public policy."

The Court of Appeals reversed, finding that discussion and approval of the censure was the adoption of a policy or formal action under the OML. The court further held that, under the facts, it could only conclude that the board decided to censure the member in the executive session and the public adoption of censure was merely "rubber stamping." As a result, the court invalidated the censure and determined that the board member was entitled to her attorney fees.

### FINDING CENSURE AS A "FORMAL ACTION" SUBJECT TO OML

The board's censure was based on complaints from town residents and employees about actions the board member took in her official capacity as a trustee. These allegations included the board member having discussions about code enforcement with residents, attempting to call a special board meeting, and discussions with town employees about turnover rate of town positions.

The Court of Appeals held that "adopting a resolution to discuss the possible removal, or alternatively the censure under threat of future removal, of a duly elected public official clearly constitutes a formal action involving the public's business and is subject to the OML." The court felt that the subjects of the complaint and potential removal affected town residents. Further, the court found that the board understood that it was exercising its policy-making powers by substantively and procedurally acting to remove a board member.

### RUBBER STAMPING FACTORS IDENTIFIED

The court went on to conclude that there was "no rational way to conclude that the substance of the censure resolution was not discussed and

agreed upon during the executive session."

The court held the vote held during public session amounted to a rubber stamping of the improper formal action taken during executive session. The court identified six different factors that were relevant to this analysis: (1) whether the board holds a substantive discussion during public session; (2) whether the board took evidence (through a hearing or public comment); (3) the immediacy of a vote after executive session; (4) the time spent in executive session; (5) the time spent in public session; and (6) who attends the executive session.

In this case, the court felt that the board held no substantive discussion about the removal or censure before or after the executive session. Second, the board held no hearing, presented no evidence, and took no public comment (notwithstanding whether any was required). Third, the board immediately moved to vote to censure the member and read a long, written censure motion. Fourth, the executive session lasted 90 minutes while the public session afterward lasted only about five and a half minutes before adjourning. Lastly, various town employees joined the board and the town's attorney for the executive session.

Municipal officials and attorneys can avoid the court's "inevitable conclusion" in this case by using care in conducting executive sessions and ensuring that the key elements of policymaking are done in public.

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



COLORADO  
MUNICIPAL  
LEAGUE

USPS 075-590

Periodical postage  
PAID  
at Denver, Colorado

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

- CML unveils new district map
- Severance celebrates water tank, design for new police building
- Updates on municipal law
- Legal Corner: Appeals court rules on rubber stamping under the Open Meetings Law

Featured in this issue:

Vol. 50, No. 5, March 8, 2024

# NEWSLETTER

COLORADO  
MUNICIPAL  
LEAGUE

