



## Reminder: Executive Board election application period opens April 4

By Kevin Bommer, CML executive director

CML will begin accepting applications for members interested in running for the CML Executive Board on **April 4, 2022**. Applications will be accepted through 5 p.m. on **Wednesday, June 8**.

Each year, 10 of the 21 seats on the Board are up for election. Several positions are to be filled this June:

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

The election will be held at the Annual Business Meeting on **Thursday, June 23**, during CML's 100<sup>th</sup> Annual Conference in Breckenridge. Voting procedures will be detailed in the Notice of Annual Business



Meeting that will be sent to all member municipalities later in April. CML Executive Board members are elected at large, which means each member municipality is entitled to vote at the CML Annual Business Meeting for their choices in all the population categories.

Sample application and endorsement letters, deadlines, and additional details will be available on **April 4** on

CML's website (<https://bit.ly/3ppWKK6>). Additional information and reminders will be published in subsequent newsletters and on CML's website, as well as sent directly to members.

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



## UPCOMING EVENTS

**April 7**  
<https://bit.ly/3ltcJoi>  
Creating a Gigabit Broadband Network Webinar

**April 14**  
<https://bit.ly/3Ke0Eoe>  
Election Webinar  
◆ Worth 1 MUNIveristy credit

**April 26**  
<https://bit.ly/3lfmo1C>  
Colorado Unify Challenge

**May 19**  
<https://bit.ly/3ifaeuQ>  
Overview of CHFA's Colorado Affordable Housing Developer Guide, Webinar  
◆ Worth 1 MUNIveristy credit

## IN RECOGNITION

Several municipal leaders will be leaving office at the end of their current terms. “During the challenging times of the past two years, we all saw leaders lead,” said Kevin Bommer, CML executive director. “We are so grateful to those who continued to serve through tough times and can leave office knowing that Colorado cities and towns are stronger for it. It is our honor and privilege to thank them all for their service to their communities and support of the League over the years.”

Long-serving (8+ years) municipal leaders include:

- Town of Akron Mayor Brittani Kusel and Trustee Harry Slusser
- Town of Alma Trustees Robert Ensign and Michael Matkus
- Town of Basalt Mayor Pro Tem Gary Tennenbaum
- Town of Blue River Trustees Dan Cleary and Ken Robertson
- Town of Breckenridge Councilmember Erin Gigliello
- Town of Buena Vista Mayor Duff Lacy and Trustee David Volpe
- City of Burlington Mayor Pro Tem Kamron Weisshaar and Councilmember Mark Burghart
- Town of Center Mayor Pro Tem Mary McClure
- City of Cortez Councilmember Orly Lucero
- Town of Crestone Mayor Pro Tem Diane Bairstow
- Town of Dinosaur Trustees Charles Winkler and David Heinrich
- Town of Eaton Mayor Pro Tem Lanie Isbell
- Town of Erie Mayor Jennifer Carroll
- City of Evans Mayor Brian Rudy
- Town of Fairplay Trustee Eve Stapp
- Town of Firestone Trustee Samantha Meiring
- Town of Fraser Trustee Andy Miller
- Town of Gypsum Councilmember Chris Estes
- Town of Johnstown Councilmember Amy Tallent
- Town of La Jara Trustee Dee Ann Espinoza
- Town of Limon Trustee Jason Parmer
- Town of Marble Trustee Tim Hunter
- Town of Meeker Trustee Scott Creecy
- Town of Naturita Mayor John D. Riley
- Town of Nederland Mayor Kristopher Larsen
- Town of Norwood Trustees Kieffer Parrino and Kerry Welch
- Town of Olathe Mayor Pro Tem Ruth Dodge
- Town of Pagosa Springs Mayor Don Volger
- Town of Palisade Trustee Susan L’Hommedieu
- Town of Parachute Mayor Roy McClung and Councilmember Tim Olk
- Town of Red Cliff Trustee Tom Henderson
- Town of South Fork Mayor Rodney Reed
- Town of Springfield Mayor Pro Tem Ervin Maltbie

If you or someone you know also deserves recognition, please email Melissa Mata, [mmata@cml.org](mailto:mmata@cml.org).

## Grants to support rural reskilling, upskilling

The Colorado Workforce Development Council is excited to announce a new round of grant funding via HB21-1264 (<https://bit.ly/3ld3lVG>) that is now available to eligible entities through a competitive application process. This round of reskilling, upskilling, and next-skilling grants will support rural organizations

in facilitating training for unemployed and underemployed Coloradans to earn industry-recognized credentials. Applications are due **March 28**. Multiple grants will be awarded, with a maximum individual award of \$225,000. Visit <https://bit.ly/3tenA0Y> to apply.



Registration now open!

[cml.org/conference](https://cml.org/conference)

CML’s 100<sup>th</sup> Annual Conference is sure to be one to remember. With over 40 sessions, two keynotes, and a 100<sup>th</sup> Conference celebration, you won’t want to miss it. See you there!



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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## WILDFIRE & AIR QUALITY



### EPA awards grant to CSU to protect public health during wildfires

The U.S. Environmental Protection Agency (EPA) announced \$992,464 in research grant funding to Colorado State University (CSU) to improve communication of air quality information and smoke exposure risks during wildfire events.

“In the wake of the Marshall Fire, Coloradans understand far too well that climate change has put our communities at increased risk of wildfire,” said EPA Region 8 Administrator KC Becker. “This funding to CSU will improve communication with people about air pollution during wildfire events so that they can better protect their health.”

“As wildfires become more frequent and severe, we must improve how we communicate the risks of smoke exposure to impacted communities,” said Maureen Gwinn, principal deputy assistant administrator for EPA’s Office of Research and Development. “This new EPA funded research will help develop strategies to prevent and reduce the health impacts of smoke from wildfires.”

Wildland fire (wildfires and prescribed fires) smoke is made up of a complex mixture of gases and fine particles, which are produced when wood and other organic materials burn. The biggest health threat from smoke is from fine particles. Outside or indoors, exposure to these microscopic particles can cause burning eyes, runny nose, and illnesses, such as bronchitis. Additionally, fine particles can aggravate chronic heart and lung diseases, and they are linked to premature deaths in people with these health conditions. Wildland fire smoke also contains toxic air pollutants, which can cause cancer and other serious health effects.

The Colorado State University research team will build partnerships with communities within Colorado to expand air quality monitoring coverage and improve communication with impacted communities about smoke exposure. As part of this work, the team will build real-time, high-resolution maps that will help users understand changes in air pollution and make decisions to minimize smoke exposures.

This grant is one of 12 research projects receiving EPA STAR grant funding to address interventions and communication strategies to reduce exposure and the associated health risks from wildland fire smoke.

For more information about these grants, visit <https://bit.ly/3vQXjrd>.

#### EPA’s STAR Program

The goal of EPA’s Science to Achieve Results (STAR) program is to stimulate and support scientific and engineering research that advances EPA’s mission to protect human health and the environment. It is a competitive, peer-reviewed, extramural research grant program that provides access to the nation’s best scientists and engineers in academic and other nonprofit research institutions. STAR funds research on the environmental and public health effects of air quality, climate change, environmental justice, water quality and quantity, hazardous waste, toxic substances, and pesticides.

For more information about EPA research grants, visit <https://bit.ly/3vUQC08>.

# Colorado returns to Washington for NLC conference after 2-year hiatus

By Kevin Bommer, CML executive director

The National League of Cities (NLC) Congressional City Conference returned to Washington, DC, for the first time since March 2020. While NLC, as most did, turned to virtual conferences and meetings during the past two years, nearly 2,400 conference registrants proved that members were ready to get back to work.

Most of the sessions revolved around updates and information on the American Rescue Plan Act (ARPA) and the Bipartisan Infrastructure Legislation (BIL). Passage of both bills represent a historic opportunity for cities and towns to address significant needs, particularly with operations impacted by COVID-19 and delayed infrastructure projects. The message was clear: direct funding from ARPA was historic and unprecedented, and it is vital that local governments show effective and responsible use of those and BIL funds.

General sessions at the conference included



Office of Sen. John Hickenlooper

addresses by President Joe Biden, Speaker of the House Nancy Pelosi, and other key figures in the federal government. NLC President Vince Williams, mayor of Union City, Georgia, presided over the conference and was inspirational in his message to conference attendees. Colorado is well represented on the NLC

Board. Mayor Stephanie Piko of Centennial, Councilmember John Fogle of Loveland, and CML Executive Director Kevin Bommer will all serve on the board through 2023.

On the last two days of the conference, around 50 Colorado officials went to Capitol Hill to meet with members of Colorado's Congressional delegation. While most meetings were done individually, both Sens. Michael Bennet and John Hickenlooper met with all Colorado attendees—including youth delegates—at the Russell Senate Office Building. CML Board President Bob Widner, Centennial city attorney, was also in attendance. Both he and Bommer met with other members of Colorado's delegation and their staff during the week, when possible. Other Colorado attendees were able to schedule individual meetings as well.

Looking ahead, the NLC City Summit will be held **Nov. 17–19** in Kansas City, and next year's Congressional City Conference will be held **March 27–29, 2023**.

## New associate member: Walker Consultants

Walker Consultants is a professional services firm that employs engineers, architects, planners, parking-operations, and technology specialists.

They deliver customized, knowledge-based services relating to forensic restoration and building envelope restoration engineering, parking and mobility planning, parking operations and technology consulting, and parking facility design.

Walker Consultants' practice to obtain the following goals:

- To make it easier for people to access their destination



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CONSULTANTS

- To support transportation mode choice
- To optimize parking and transportation customer service and bottom lines
- To promote recreational opportunities and public health
- To improve quality of lives through economic growth and built environments that work for people.

## Marshall Fire Resilient Rebuild Assistance Fund

As we work to assist our fellow community members whose homes were destroyed in the devastating Marshall Fire, it is important that we help them build back better—by rebuilding homes that are more energy-efficient, fire-resistant, and climate-friendly.

The Marshall Fire Resilient Rebuild Assistance Fund (<https://bit.ly/3icNsDU>) at the Community Foundation is collecting contributions to support a sustainable and resilient rebuild. Please consider a donation and help spread the word!

## Grant supports planning & analysis work for affordable housing

DOLA is setting aside up to approximately \$250,000 from the Affordable Housing Development Incentives Grant Program to assist eligible Colorado municipalities and counties with funds to support preliminary planning and analysis work that is often needed to get an affordable housing development project ready to seek financing.

Many communities and stakeholders have expressed a funding gap for this type of

planning and analysis work, especially in rural areas or in small communities.

Visit <https://bit.ly/3w9stKk> for more details. Applications are due **April 1, 2022**.

Eligible communities include local governments who have adopted at least three qualifying strategies as listed in HB21-1271 (see page 7 of program guidelines, <https://bit.ly/3u2cN9h>).

DOLA is coordinating this program with Colorado Housing & Finance Authority's Small Scale Affordable Housing Technical Assistance program.

Visit <https://bit.ly/3MOF4gZ> for more information. If you have any questions about DOLA's new 1271 program, please contact KC McFerson at [KC.McFerson@state.co.us](mailto:KC.McFerson@state.co.us).

# Spring municipal election preview: Taxes, broadband & marijuana

On **April 5**, voters in almost 100 cities and towns across Colorado will decide their city and town councils and boards of trustees. Twenty-six of those municipalities will also have tax or revenue issues or other questions on the ballot. More than 70 municipalities canceled their regular elections, citing a lack of competitive races. Ballot issues and questions being considered by voters include:

## Tax and bond issues

Sales tax questions will be on the ballot in:

- Burlington—increase to be used for street improvements
- Grover—increase to be used for town operations
- Nederland—extension of sales tax to be used for town's community center
- Hugo—authorization for revenue from existing sales tax for street and storm drainage improvements to be used to finance capital assets
- Crestone—reallocation of dedicated sales tax for water and sewer enterprise funds to a capital projects fund in order to preserve enterprise status.

Lodging taxes will be considered in Larkspur, New Castle, Silt, Silverthorne, and Simla.

Frisco's ballot will include a tax on short-term rentals to be used for affordable housing projects and programs.

Two property tax questions are on the ballot:

- Bethune—for town operations
- Glendale—for constructing and maintaining public improvements.

Carbondale is requesting authorization to increase debt up to \$8 million for park and recreation facilities, including a new aquatic center.

## Revenue retention

Estes Park is requesting authority to collect, retain, and spend all revenues as allowed by voter approval under the Taxpayer's Bill of Rights (TABOR) and to remove any limitation on the uses of the retained revenues previously imposed by the town's 2000 ballot initiative.

## Governance

Creede and Kersey voters will consider reducing the number of trustees on the



board from six to four.

The recall of the mayor is on the ballot in Crestone, as is the option to vote for a candidate to succeed the mayor should the recall be successful.

## Broadband

Timnath is seeking approval to join the 118 municipalities already exempted by local voters from the statutory restriction on providing broadband or telecommunications services that also prohibits most uses of municipal funding for infrastructure to improve local broadband or telecommunications services.

## Marijuana

Marijuana businesses are on the ballot in:

- Burlington—retail stores, in a question that would also authorize a marijuana sales tax
- La Veta—medical and retail businesses
- Morrison—one retail store and a marijuana sales tax.

Taxes on marijuana sales are also being considered in Glendale, Ignacio, and Ordway.

## Publication requirements

To save money on publication costs, Estes Park is requesting authorization to no longer publish in the newspaper the bills list or contracts awarded and to publish ordinances by title only, provided the information be published on the town website instead. Hotchkiss is also requesting permission to publish ordinances by title only in the newspaper and instead publish the ordinance in full on the town's website.

## Election changes

Kersey is asking voters to move their regular elections to November of even-numbered years.

## Charter amendments

Several charter amendments are on the

ballot in home rule municipalities around the state.

- Glendale has two charter amendments on the ballot, to update language to be gender neutral and to implement term limits for the mayor and council members of four consecutive terms.

- Johnstown's charter amendment would make changes to initiative and referendum petition requirements.

- Larkspur has 13 charter amendments up for approval, including several amendments which would update language to be gender neutral, clarify language relating to registered electors, and make changes to conform to state election codes. A final amendment would update sections relating to powers and duties of the council and mayor.

- Pagosa Springs voters will consider a citizen-initiated amendment that would impose a fee on short-term rentals to be used for workforce housing.

- Timnath has two amendments on the ballot: one to re-establish term limits for elected officials as set forth in the Colorado Constitution, except that the terms considered to be consecutive shall be at least two years apart, and one to change certain election-related deadlines to conform to the Colorado Municipal Election Code of 1965.

- Woodland Park has three amendments on the ballot regarding conflict of interest provisions, filling council vacancies, and removal of elected and appointed officials from office.

## Special elections

The City of Glenwood Springs will hold a special election **May 3** with two ballot questions. The first question is a charter amendment that would add an election requirement to any sale or permanent closure of the municipal airport. The second question is a referendum to repeal an ordinance concerning annexation of property.

The City of Louisville will conduct a special election on April 19 regarding a referendum on an ordinance concerning an amendment to a development plan.

CML thanks the city and town clerks who assisted CML staff in compiling this election information.

# CML LEGAL CORNER



## Despite progress, gray areas persist in state's Open Meetings Law

By Rachel Bender, CML associate council

Public meeting laws in Colorado have evolved over time to provide greater specificity and guidance to governmental bodies. Despite this evolution, few Colorado court cases analyze the Open Meetings Law (OML)—the current state law governing public meetings—resulting in limited guidance. As a result, there are significant unsettled gray areas or, at the very least, areas where reasonable minds may differ.

### Threshold for a public meeting

When a meeting must be open to the public and publicly noticed generally depends on how many members of the body are present and whether the discussion involves the public business of the body. While the concept of a “public meeting” is seemingly straightforward, it can be difficult to define.

The OML defines “meeting” as “any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.” C.R.S. § 24-6-402(1) (b). “All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.” C.R.S. § 24-6-402(2) (b). Public notice must be given when a majority or quorum of the body is in attendance or there is potential formal action. C.R.S. § 24-6-402(2)(c)(I).

Not all discussions about public matters involve discussion of public business under the OML. In *Board of County Commissioners, Costilla County v. Costilla County Conservancy District*, 88 P.3d 1188, 1194 (Colo. 2004), the Colorado Supreme Court explained that “for a meeting to be subject to the

requirements of the OML, there must be a demonstrated link between the meeting and policy-making powers of the government entity holding or attending the meeting.”

### When emails can be a public meeting

In 2021, the General Assembly revised the OML through a CML-initiated bill to clarify that only email communications between elected officials about the “merits or substance” of pending legislation or public business are a “meeting”; that includes “any discussion, debate, or exchange of ideas ... related to the essence of any public policy proposition, specific proposal, or any other matter being considered by the governing entity.” C.R.S. § 24-6-402(2) (d)(III). Exclusions include emails about scheduling, forwarding information, posing questions for later discussion, and responding to inquiries from persons outside the body.

Despite this clarification, it may still be difficult to determine when an electronic or individual communication becomes a “meeting” subject to the OML. For example, it is unclear when simply forwarding material or posing questions becomes a discussion of “merits or substance.” It is also unclear whether officials could have the same discussions by phone, by text, or in person.

### Rubber-stamping decisions at a public meeting

An OML violation that invalidates an action can be cured so long as the subsequent compliant meeting is not just “rubber-stamping” the prior action. Colorado courts have not provided a clear explanation of what actions are needed to avoid being labeled as a rubber stamp. It is likely that the more

robust the meeting or the “fix,” including open deliberations and input from interested parties, the less likely it is to be viewed as rubber-stamping.

One state body effectively cured an OML violation by holding a meeting with additional comment from “key players” and “renewed deliberations before announcing its ultimate decision.” *Colo. Off-Highway Vehicle Coal. v. Colo. Bd. of Parks & Outdoor Recreation*, 292 P.3d 1132 (Colo. App. 2012). On the other end, retroactive notice at a subsequent public meeting, without more, did not cure an improperly convened executive session. *Bjornsen v. Bd. of Cnty. Comm’rs of Boulder Cnty.*, 487 P.3d 1015 (Colo. App. 2019).

### Explaining executive sessions

The detail required for an executive session is another gray area in the OML. C.R.S. § 24-6-402(4) requires a public body to identify “the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.” While a public body must typically do more than just provide the statutory citation authorizing an executive session for legal advice, *Guy v. Whitsitt*, 469 P.3d 546 (Colo. App. 2020), there is little guidance as to what more is needed. If an executive session is convened improperly, the record of the session could be opened to the public. A more detailed motion can help to avoid an OML challenge.

These gray areas in the OML highlight the importance of municipal bodies consulting with their attorney on these continually evolving issues.

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

## RESEARCH CORNER

### The Great Resignation & public sector employment

**M**issionSquare Research Institute has been tracking state and local government employee sentiment since the start of the COVID-19 pandemic. The latest data from a survey of public employees shows they are increasingly inclined to leave their jobs. But there are practical steps employers can take to stem resignations.

In November/December 2021, MissionSquare Research Institute conducted an online survey of 1,100 state and local government employees, fielded by Greenwald Research, to assess the impact of the COVID-19 pandemic on public sector workers.

MissionSquare Research Institute (formerly SLGE) promotes excellence in state and local government and other public service organizations so they can attract and retain talented public servants. View the full report at <https://bit.ly/3tVjcmY>.

#### PANDEMIC TAKES TOLL

More than half (52%) of state and local workers are considering leaving their jobs for reasons related to COVID-19. Here are the top types of job changes reported:

Interested in taking new job: **36%**  
\*25% of this group want to leave public sector

Planning to retire: **33%**

Planning to leave the workforce entirely: **28%**

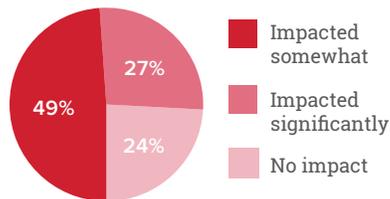
#### WHY ARE PUBLIC EMPLOYEES CONSIDERING LEAVING?

**52%** of surveyed employees said they were motivated to find new employment for better salary or benefits, **36%** want better work-life balance, **26%** are unhappy with their employers' handling of the pandemic, **26%** said the pandemic has left their employers short staffed, creating a heavier workload, **20%** say they are dissatisfied because the nature of their jobs has changed, and **10%** said they need more time or flexibility for childcare.

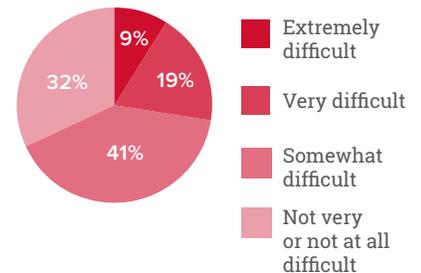
#### WIDESPREAD IMPACT OF COVID-19

More than three-quarters of respondents say COVID-19 has impacted what they do, where they work, and how they go about the tasks required, and more than two-thirds report difficulty adjusting to these impacts.

##### Extent of impact



##### Difficulty adjusting

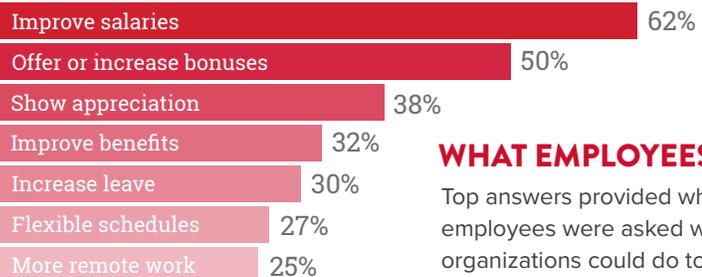
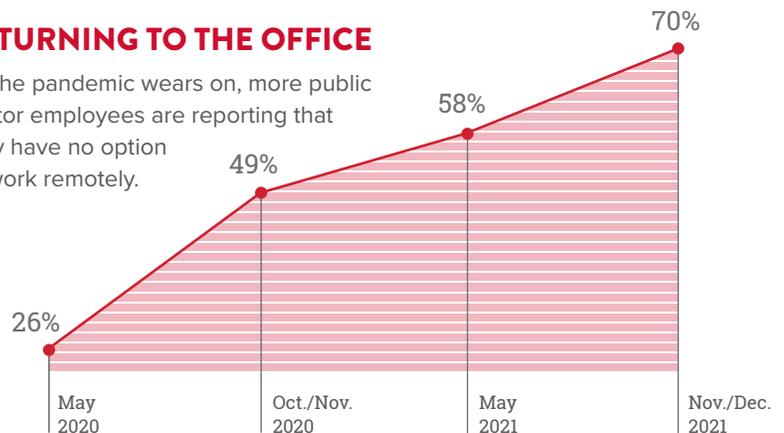


#### Pandemic-related job challenges

**80%** of employees who responded to the survey said potential exposure to COVID-19 was a challenge, while **69%** named working from home while taking care of children, **49%** named managing childcare needs, **38%** named tension with coworkers, **25%** named tension with supervisors, and **23%** named balancing demands of work and homelife.

#### RETURNING TO THE OFFICE

As the pandemic wears on, more public sector employees are reporting that they have no option to work remotely.



#### WHAT EMPLOYEES WANT

Top answers provided when public employees were asked what their organizations could do to retain staff



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# NEWSLETTER

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