



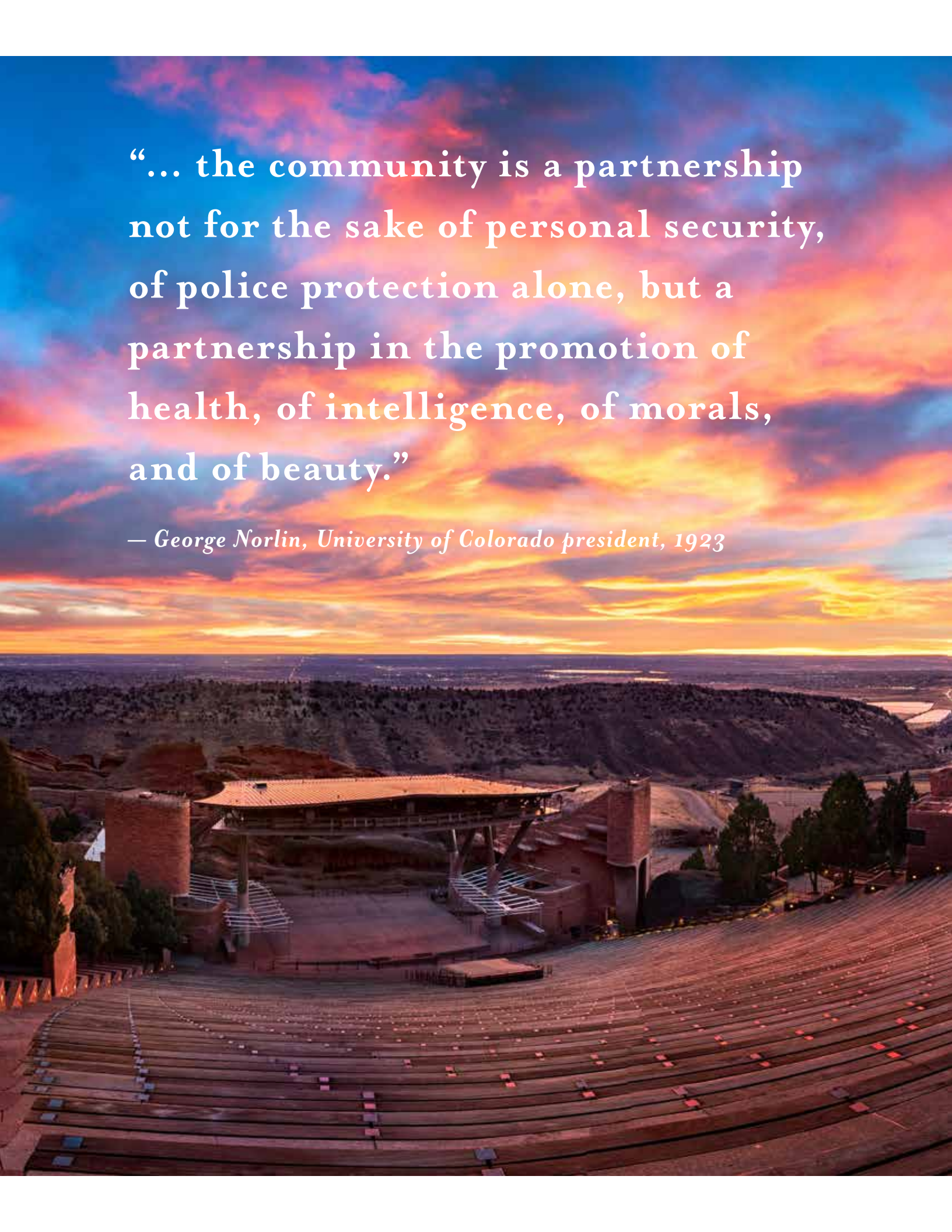
Colorado Municipalities

Vol. 99, No. 3, July 2023



**CML CELEBRATES A CENTURY OF SERVICE
TO COLORADO CITIES & TOWNS**





“... the community is a partnership
not for the sake of personal security,
of police protection alone, but a
partnership in the promotion of
health, of intelligence, of morals,
and of beauty.”

— *George Norlin, University of Colorado president, 1923*



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About CML

The Colorado Municipal League is a nonprofit association organized and operated by Colorado municipalities to provide support services to member cities and towns. The League has two main objectives: 1) to represent cities and towns collectively in matters before the state and federal government; and 2) to provide a wide range of information services to help municipal officials manage their governments.

MISSION

Colorado Municipalities is published to inform, educate, and advise appointed and elected municipal officials about new programs, services, trends, and information to help them perform their jobs and better serve their citizens and communities.

Letters to the editor

Have thoughts about an article that you read in *Colorado Municipalities*?

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CML welcomes thought-provoking letters to the editor! Send comments to CML Engagement & Communications Manager Denise White at dwhite@cml.org.

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CLARIFICATION

In our April 2023 edition, the article "Modernizing a Home Rule Charter" may have suggested that the constitutional requirements for redistricting focused on the number of "registered voters." Readers noted that U.S. Supreme Court has focused on total population to evaluate redistricting plans, although in some cases reliance on eligible or registered voter counts has been deemed appropriate. See *Evenwel v. Abbott*, 578 U.S. 54 (2016); *Burns v. Richardson*, 384 U.S. 73 (1966). Municipalities should consult with their attorneys to determine the appropriate standard.

— DEDICATION —



A trio of past and present executive directors of the Colorado Municipal League with over 100 years combined with CML. Sam Mamet, left, stands with Ken Bueche, center, and current executive director Kevin Bommer.

This edition of Colorado Municipalities is dedicated to Ken Bueche and Sam Mamet. Bueche, the esteemed executive director of CML from 1974 to 2005, is the namesake of the Ken Bueche Municipal League Building — a testament to his enduring vision and lasting impact. Mamet, a dedicated member of CML staff from 1979 to 2019, served as executive director for the final 14 years of his tenure. His unwavering commitment to fostering excellence in leadership and governance led to the establishment of the prestigious Sam Mamet Good Governance Award, an annual recognition presented at CML’s conference. Through their visionary leadership spanning more than four decades, Bueche and Mamet played an instrumental role in elevating CML to the forefront of state leagues nationwide. Combined with the current executive director, Kevin Bommer, who joined CML in 1999 and assumed the position of executive director in 2019, the combined experience of Bueche, Mamet, and Bommer stands at an impressive 102 years and continues to grow. Combined with the many dedicated employees of CML currently and over its 100 years, this rich tapestry of knowledge and expertise serves as a testament to the enduring legacy of CML as it continues to empower cities and towns, united for a strong Colorado.

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For associate membership information, contact CML Engagement & Communications manager Denise White at dwhite@cml.org.

CML'S CENTURY

BY KEVIN BOMMER

EXECUTIVE DIRECTOR OF THE COLORADO MUNICIPAL LEAGUE

When I started at the Colorado Municipal League in 1999, CML had just the year before celebrated many momentous milestones. The League turned 75 and published a booklet about its establishment in 1923, its growth over the years, and — most importantly — how municipalities and municipal issues had evolved in that time.

Around the same time, the League moved into its permanent home at 1144 Sherman St. in Denver in 1998. After leaving the campus of the University of Colorado in Boulder, birthplace of CML and its home for many years thereafter, the physical home of the League moved around several times. Foresight and planning by the ex-

ecutive board and CML's incomparable executive director Ken Bueche (1974-2005) allowed the League to seize the opportunity to construct the building and own it free and clear after only a few years. That vision is why the executive board named the Ken Bueche Municipal League building after him when he retired in 2005.

Later this year when the board, staff, and members gather at CML to commemorate the building's 25th year, the time capsule in the building's turret will be opened to reveal relics of that moment in time. They will be carefully preserved, and new items will be placed back in the time capsule to remain for leaders to marvel at in 2048.



While the history and growth leading to the 75th and now the 100th anniversaries of the Colorado Municipal League and the 25th anniversary of its home provide the starting point for celebrations, they appropriately have more to do with the legacy of municipal leadership in Colorado and making the places citizens live and work better. The fabric of the League is municipalities themselves, as the League exists not just *for* its members but also *because* of its members. What started as 11 municipalities joining together in 1923 “for the betterment of all” has grown in 100 years to 270 municipalities, which in turn allowed CML to more effectively represent municipal interests and provide robust information and training.

Throughout its history, three core functions have guided the League and informed every decision and action — advocacy, information, and training. I submit that without the participation, support, and leadership of Colorado municipal leaders from Aurora to Akron, Denver to Dove Creek, Colorado Springs to



Craig, and all points in between, CML would not be able to perform at the level and capacity members have come to expect. Those who step up to lead their communities, whether elected officials or staff, do not do it for glory or gratitude and certainly not as a get-rich-quick scheme! The common thread among them is a commitment to service that CML will always strive to reciprocate by being in service to them.

If looking back on 100 years of CML history tells us anything, it confirms that the League exists to collect and tell the stories of municipal leadership and ingenuity as much as it does to support and defend the ability of leaders and citizens to make their cities and towns better for future generations.

Our collective challenge, then, is to ensure that those in 2123 looking back 100 years to this point in time can say that the League has continued to remain true to its vision: Empowered cities and towns, united for a strong Colorado.





1923: A LEAGUE IS BORN

By **Makenna Sturgeon** | Raftelis Associate Consultant

The first story in a series celebrating CML's dedication to serving Colorado's municipalities over the past century.

Representatives from 15 Colorado municipalities gathered at the University of Colorado in Boulder on April 26, 1923. For three days, those gathered discussed municipal issues facing Colorado, and on adjournment, 11 stayed to establish what is now known as the Colorado Municipal League.

Seated in the Senate room of the University's newly built Macky Auditorium, the delegates listened to an opening address presented by George Norlin, president of the University of Colorado.

"... The community is a partnership not for the sake of personal security, of police protection alone, but a partnership in the promotion of health, of intelligence, of morals, and of beauty. ... And the best thing which has happened is the dawn of the conviction among us that the municipality can and should be a partnership in promoting the best and fullest life."

The delegation gathered to discuss the issues facing their communities and tap their network of municipal colleagues to develop new solutions. The conference's opening remarks focused on the importance of municipal government, and its subsequent discussions demonstrated the value of strong and effective governance. The convention's topics covered various municipal issues, including accounting, business methods, street railway investment, the relationship between municipal administration and public health, and more.

Pueblo Council President John M. Jackson attended the meeting and spoke about the difficulties faced by cities and towns.

"Municipal problems are not easy; on the other hand they are often complex and knotty—and at times call for great resources.

"We are gathered here for the purposes of discussing problems that are vital to all of us and to the cities and towns we represent ... Our par-

ticular mission here at this time is to discuss specific subjects in relation to our municipal governments, hoping thereby to benefit ourselves and our constituency."

**" ... the best thing which
has happened is the
dawn of the conviction
among us that the
municipality can and
should be a partnership
in promoting the best
and fullest life."**

— George Norlin

FORMING A LEAGUE

To maintain consistent municipal discussions and continue serving constituencies across the state of Colorado, representatives from 11 of the 15 municipalities present stayed at the end of the conference and created the League. They included Arvada, Boulder, Brush!, Cañon City, Fort Morgan, Grand Junction, Haxtun, Loveland, Pueblo, Trinidad, and Windsor.

When creating the League, delegates charged it with benefiting municipal governments across the state by serving as an agency for cooperation, advocating on behalf of or opposing legislation, and holding an annual conference to encourage cooperation and education.

While this occasion is established

as the First Annual Conference, reports note that a meeting with the same intention was held nearly a decade before.

According to the NLC publication *State Municipal Leagues: The First Hundred Years*, "There is no indication that anyone at the meeting knew about a similar meeting at the university in 1914 from which came reports published by the National Municipal League that Colorado had formed a state league that year. Colorado was listed as having a league on rosters published in 1916 and 1917, but not in 1918."

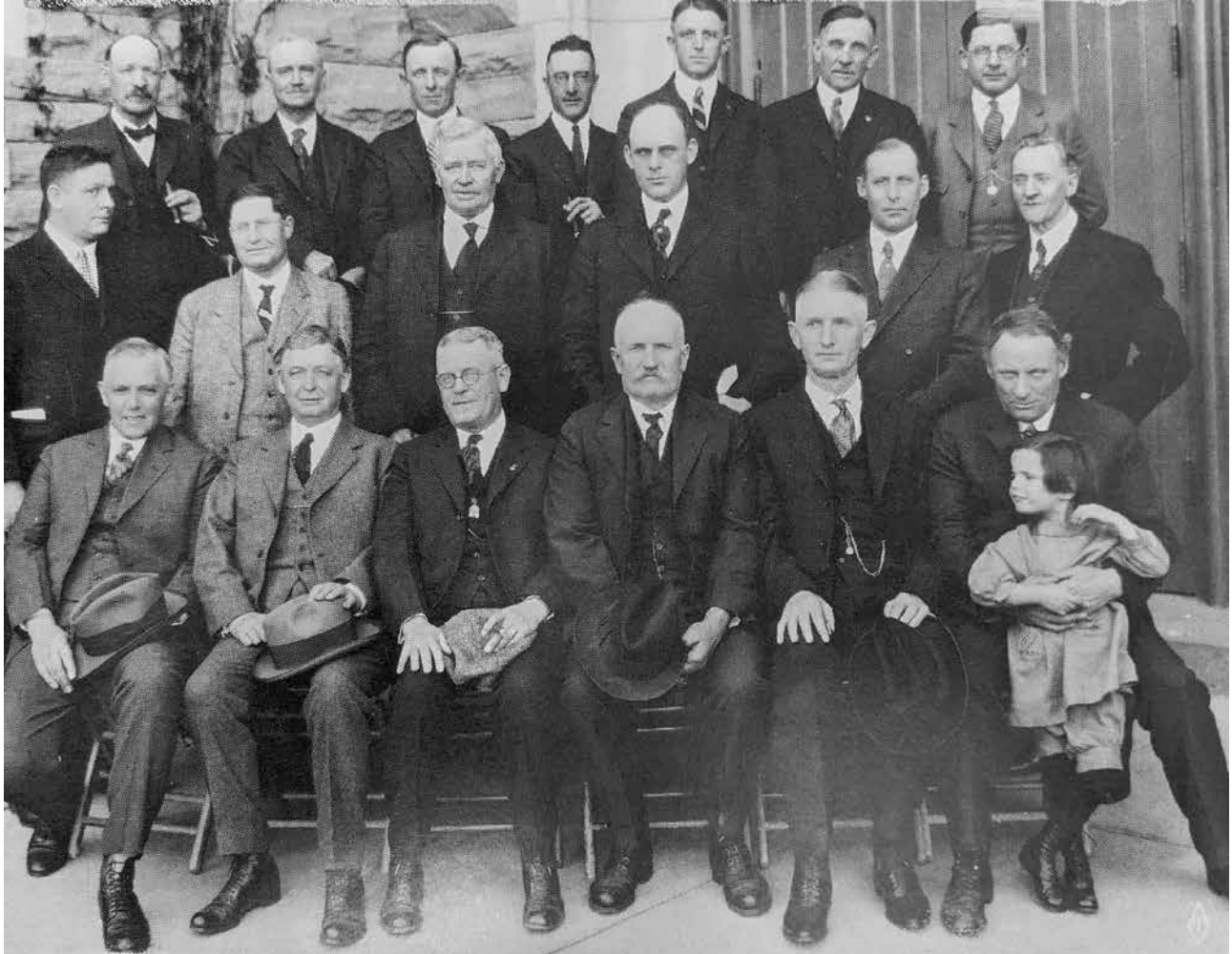
BEGINNINGS OF AN INFORMATION HUB

Following the creation of CML and its new constitution, the League began work for municipalities across the state. It hosted its Second Annual Conference in Pueblo, home of the League's first board president, Pueblo Council President John M. Jackson. The League also began establishing its information and legislative legs.

In 1925, the League published the first volume of *Colorado Municipalities*. The League's Secretary-Treasurer and Boulder Executive Secretary of the Bureau of Business and Governmental Research Don Sowers, elected to his position at the first convention, served as the magazine's editor from 1925 to 1942. Its first publication featured an editorial highlighting its intent to serve all types of municipal government, hinting at the League's continued protection of local control.

"It is not the object of the league or

CML'S FIRST CONFERENCE



Some participants in the first CML Annual Conference, held April 26-28, 1923, gathered outside the Macky Auditorium to produce the League's lone photographic record of the event. Pictured are, back row from left, Mark B. Gill, mayor of Fort Morgan; Edward H. Day, mayor of Trinidad; Dan J. McQuaid, former city manager of Yuma; William H. Bloom, city superintendent of Brush; Henry M. Sayre, city auditor of Boulder; Scott Mitchell, city manager of Boulder; and Elmore Peterson, director of the Extension Division of the University of Colorado. Middle row from left, Walter J. Millard, field secretary of the National Municipal League; Roy Ray, mayor of Windsor; F.C. Murchison, trustee of Arvada; D.W. Thomas of the Civic and Commercial Association; Don C. Sowers, executive secretary of the Bureau of Business and Government Research; and Charles R. Streamer, secretary of the Boulder Chamber of Commerce. Front row from left, J.O. Billig, mayor of Boulder; John M. Jackson, chairman of the Pueblo City Commission; George J. Stumpf, commissioner of safety for Pueblo; J.A. Brooks, mayor of Haxtun; George G. Cox, city manager of Fort Morgan; W.C. Arthur, mayor of Cripple Creek (and daughter).

the magazine to promote any particular form of governmental organization or municipal policy since all types of municipal organization, mayor and council, commission plan and city manager plan are represented in the membership of the league, and the cities vary widely on questions of policy. It is rather the province of the league to maintain a scientific attitude toward the problems of government, to collect, analyze, classify and interpret facts, to chronicle what cities are doing and report on the success or failures of the various projects, to the end that the best practices and best methods may be adopted by each and every city.”

Since its inception, Colorado Municipalities has been published on different schedules — including monthly, bimonthly, and quarterly. It remains one of the League’s most consistent publications and continues to examine critical issues facing Colorado’s cities and towns and to report on the creative solutions addressing them.

Facilitation of municipal collaboration was a driver during the League’s first decade, evident in its annual conferences hosted by different municipalities each year. These conferences saw discussion of a variety of topics and continued membership growth. By 1928, 16 Colorado cities and three Nebraska cities were present, with 60 delegates and visitors in attendance.

The League’s 10th Annual Conference, hosted in Boulder to commemorate the League’s founding, was themed “economical management of municipal affairs.” Eighty-two delegates from 18

Colorado municipalities attended. The League also reported a membership of 100 cities and towns. Much like the development of its reputation as an information resource, the League’s efforts to bring municipalities from across that state together would continue to grow in the ensuing years.

**At the 1930 Annual
Conference, delegates
heard a presentation by
Fort Collins City
Attorney Fred Stover on
how a new state
constitution would
benefit municipalities.**

**BEGINNING A
LEGACY OF ADVOCACY**

In its first decade, the League achieved its first major legislative victory as well. In 1929, after several years of lobbying efforts, the 27th General Assembly approved a gasoline tax law that apportioned cities 3% of the total gasoline tax collected. The law recognized streets in incorporated cities as necessary links and integral parts of the state highway system. The gas tax furnished more than 25% of total state tax receipts and amounted to more than that of general property tax proceeds.

With this victory and other successful advocacy efforts notched, the League began developing new ways to

advocate for cities and towns. In less than a decade, municipalities across the state trusted the League to bring forth a conversation about a new state constitution, while guarding against amendments that would negatively impact municipalities.

At the 1930 Annual Conference, delegates heard a presentation by Fort Collins City Attorney Fred Stover on how a new state constitution would benefit municipalities. A key element of his remarks was encouraging the League to watch the process closely and advocate strongly on behalf of Colorado’s municipalities.

“A properly drawn Constitution should contain only fundamental principles and should then need but limited revisions from time to time, leaving to the Legislature the duty of providing for the needs of a growing civilization and changing economic conditions. It would be wise indeed for the Municipal League to be very watchful in respect to any constitutional amendments contemplated. [An] ill-considered change or amendment might be very detrimental to municipal government.”

A year later, a statewide vote on whether to call a constitutional convention appeared on the 1931 ballot.

In the following decades, the League would continue to establish itself as a key player in the legislature, fighting on behalf of cities and towns. It would continue to strengthen its network of municipalities, provide its members with networking opportunities, and serve as a source of information for cities and towns across the state of Colorado.



A history of home rule

By **Makenna Sturgeon** | Raftelis Associate Consultant

The second story in a series celebrating CML's dedication to serving Colorado's municipalities over the past century. For more information, please refer to the League's publication, Home Rule Handbook.

State voters adopted municipal home rule in Colorado in 1902. Since then, home rule has been expanded to be available to all municipalities and remains as highly valued and relevant as ever. Municipal home rule is a system of government written into the Colorado Constitution, making Colorado one of thirty-one states with some form of home rule in the state constitution.

Colorado's home rule provisions and protections against state preemption are among the most robust in the nation. The Colorado Municipal League has championed the benefits of home rule from the League's inception and has worked to protect the rights of home rule municipalities in the legislature and courts.

A SHORT LESSON ON HOME RULE

Home rule is a form of government that gives local governments the power to make laws regarding matters of local and municipal concern, as opposed to being directed in those matters by the state government. Authority to act on matters of local and municipal concern is derived from the Colorado Constitution and a municipality's locally enacted charter and ordinances, rather than state statutes. Cities and towns that adopt a local charter do not have to wait for the state to authorize actions and are protected from state interference in local matters. In its essence, home rule allows local policies to be set by those most immediately affected by them.

COLORADO'S EARLY HOME RULE

Colorado's home rule movement was fueled by frequent amendments to Denver's territorial charter by the General Assembly as part of ongoing partisan disputes. In 1901, Denver Senator John Rush, with the support of Governor James Orman, passed legislation referring a constitutional amendment to statewide voters to form Denver as a consolidated home

rule city and county, and give citizens of first- and second-class cities the right to adopt local charters and become home rule municipalities. In his inaugural address, Governor Orman strongly supported home rule.

"The question of home rule for Denver has been a disturbing one ever since the enactment of the law under which the governor appoints the Denver board of public works and the fire and police board. It may occur that governors will be elected that have little or no knowledge of the governmental affairs of such a city as Denver [and] the responsibilities for all city employees should be cast upon the people who live in the cities. Place the responsibility where it belongs — upon the voters of the city."

Colorado voters overwhelmingly approved the constitutional amendment, located in Article XX to the state constitution, by a vote of 59,750 to 25,767. In 1912, Colorado voters amended Article XX to broadly endorse home authority by listing several rule powers. The amendment confirmed the "full right of self-government in local and municipal matters" and all powers essential to exercise that right.

When home rule became part of Colorado's Constitution, six municipalities initially adopted home rule: Colorado Springs, Delta, Denver, Durango, Grand Junction, and Pueblo.

COLORADO MUNICIPAL LEAGUE ADVOCATES FOR HOME RULE

The League, established in 1923, began advocating on behalf of home rule nearly immediately. A few initial

members were home rule municipalities when they formed the League, surely establishing the importance of local control when they founded it.

Of the League's 11 founding members, four were home rule when it was established in 1923 — Boulder, Denver, Fort Morgan, and Grand Junction. Other founding members may have been prevented from adopting home rule based on population restrictions in Article XX at that time.

The League has advocated for home rule through its advocacy and amicus program. The League advocates in state and federal courts on behalf of Colorado municipalities as an *amicus curiae* ("friend of the court"). Throughout the decades, the League has continued to provide commentary in the courts and the legislature in support of home rule.

1970 EXPANDS HOME RULE TO ALL MUNICIPALITIES

In 1970, voters approved a home rule amendment that presented the opportunity for smaller communities to become home rule as well. The amendment extended the right to adopt home rule to the citizens of each municipality, regardless of population or date of incorporation, and directed the General Assembly to enact statutory procedures to facilitate the adoption, amendment, and repeal of home rule charters. The 1970 measure was approved by an overwhelming vote of 325,512 to 170,986.

Since it became law, municipalities across the state of Colorado have made the shift and taken on more local control

The longevity and vitality of home rule depend on the vigilance, assertiveness, and loyalty of those who understand and value local control on issues that matter to them locally.



The town hall of Ophir, Colorado.

HOME RULE LIVES ON

The longevity and vitality of home rule depend on the vigilance, assertiveness, and loyalty of those who understand and value local control on issues that matter to them locally.

Where home rule authority ends is, to some extent, always in flux. Our understanding of home rule continues to evolve as it is challenged in the legislature or in courts, just as it has been for 120 years.

At least one result is certain — home rule continues to provide flexibility and diversity in addressing local needs in a way that works for a particular community.

THE ADVOCATE

By **Makenna Sturgeon** | Raftelis Associate Consultant

The third story in a series celebrating CML's dedication to serving Colorado's municipalities over the past century.

IN 1923, the Colorado Municipal League was formed with three founding principles in mind—advocacy, information, and collaboration.

While researching other state municipal leagues in preparation for the formation of Colorado's, the University of Colorado's Bureau of Business and Governmental Research's Don C. Sowers determined that each league served as an advocate at the state level. Since then, the League has been a fierce advocate on behalf of Colorado's cities and towns in the Colorado statehouse, with state agencies, and at the federal level.

"The objects of the Leagues are to study the needs of the cities and to promote the application of the best methods in all branches of municipal service; to secure legislation which will promote the interest of cities and oppose legislation which is deemed injurious ..." Sowers said.

While the suits and faces changed between 1923 and now, many essen-

tial issues have stayed consistent over the century, evolving with our growing state's needs and bending only slightly with the changing times.

In 1923, the Colorado General Assembly approved the Colorado River Compact.

MAKING WAVES IN THE STATE'S WATER DISCUSSIONS

Some of the big issues being discussed during the 24th Session of the Colorado General Assembly informed policies we see today. In 1923, legislators were discussing some of Colorado's largest issues, including water — specifically the Colorado River Compact.

In 1923, the Colorado General Assembly approved the Colorado River Compact, which determined how the water from the Colorado River would be allocated between the Colorado

River Basin states. This decision helped inform important water policy, growth, and development well into Colorado's statehood.

While the League was not directly involved in the formation of the Colorado River Compact, it would soon become a key player in water discussions. In 1927, Colorado Municipalities provided a legislative update to members that included a bill concerning municipal water use. As the legislation took shape, the League advocated for municipal interests.

Advocating on behalf of municipal interests when it came to water did not stop after the League's first decade. In 2005, the General Assembly formed the Colorado Basin Roundtable with support from the League. Consisting of stakeholders and water managers, the roundtable brought together diverse interests from across Colorado to meet the state's water-related needs and find new ways to approach water conversations ranging from conservation to supplies. The roundtable still



exists and was the foundation for the Colorado Water Plan, which continues working to solve Colorado’s water challenges. The League was instrumental in helping shape the state’s discussions about water.

KEEPING CONSERVATION CONSISTENT

Conservation, while in a different context in 1923, was also a major issue during the Session taking place in the League’s first year. The General As-

sembly extended Colorado’s existing wildlife protection legislation, adding regulation to game hunting.

Over the course of its lifetime, the League has come to the table for several discussions focused on conservation. The League played a critical role in establishing the Colorado Lottery. The lottery, which is celebrating its 40th anniversary, has “given \$4 billion back to preserve and protect Colorado’s parks, trails, and open spaces,” according to its

website. Much of the funds generated through the lottery return directly to Colorado’s municipalities, benefiting their local economies, tourism, and quality of life.

While it might seem like a no-brainer today, establishing the lottery and ensuring it benefited local governments required advocacy at the ballot box, then in the General Assembly. The League worked tirelessly to get the lottery approved on the ballot, then passed through the legislature.



LOCAL CONTROL: A GUIDING LIGHT

Since its beginning, the League has been a staunch advocate for local control and home rule. The League served as a resource to municipalities interested in becoming home rule, advocated on behalf of local control in the legislature, and served as an advocate in the courts.

In one of its first issues, Colorado Municipalities published an article titled “How to Secure a Home Rule

Charter in Colorado.” This article outlined the history of home rule, and procedural guidance for cities interested in pursuing a home rule charter.

Within its first year, Colorado Municipalities argued that a public utilities amendment the legislature was considering would “deprive cities of certain powers of local self-government.”

These are just a few examples of the early home rule and local con-

trol discussions the League led. Between then and now, with the 105th home rule municipality being established in November 2022, the League has served as a supporter and advocate of Colorado’s home rule municipalities.

While the League’s legislative efforts may seem to span diverse topics, one guiding theme remains the same — success relies on the voice of Colorado’s municipalities. When water, taxes, or housing become subjects of

legislative scrutiny, CML ensures municipalities' voices from across the state are heard, and their interests are represented.

HOUSING AFFORDABILITY AND ACCESSIBILITY

Housing has been, and continues to be, top of mind for municipalities across the state. Housing is not a new topic of conversation among Colorado's municipal leaders. Several of the League's early conference programs included sessions about housing. However, as our state has grown and become more dense, housing challenges have evolved.

The recent legislative session was a great example of the League's advocacy on behalf of Colorado's municipalities at the legislature. A failed land use bill, SB23-213, would have preempted home rule and local control on local land use and zoning decisions. The League worked tirelessly to protect local control, and the grassroots response from cities and towns across the state was enormous.

As affordable housing continues to be a key challenge in the state of Colorado, this conversation will continue. The League wants to ensure a continued partnership with the state without heavy-handed preemptions that would deny cities and local governing bodies the power to define the future of their communities.

TALKING TAX

Taxes have been, and likely will continue to be, a municipal and state focus. Taxes are what ensure pro-

grams remain efficient and beneficial, public health and safety are addressed, and government is able to serve its communities.

The League's first major legislative win came in the tax realm. In 1927, the League began dealing with a state gasoline tax. In the early

The League urged cities and towns across the state to speak with their senators and let their needs be known. The collaboration proved immensely powerful.

draft legislation, the funds raised by the tax would not be distributed to cities and towns. The League lobbied for their inclusion.

As part of its effort, the League urged cities and towns across the state to speak with their senators and let their needs be known. The collaboration across the state proved immensely powerful.

After several years of municipal lobbying efforts, the 27th General Assembly approved a gasoline tax law that apportioned 3% of the total gasoline collection to cities. The law recognized that streets within the limits of incorporated cities were necessary links and integral parts of the state highway system. Nation-

wide, the increase in revenues from the gasoline tax was phenomenal — from \$4 million in 1921 to \$431 million in 1929. The gas tax furnished more than 25% of total state tax receipts and amounted to more than general property tax proceeds.

Tax advocacy extends beyond the legislature. In most cases, it requires strong relationships with interests that might differ from those of municipalities. Over the course of its 100 years, the League has worked diligently to develop these relationships and ensure interest groups are able to compromise and find the best solution for the state of Colorado.

The League collaborates closely with Colorado's business community through the Colorado Chamber of Commerce and the Colorado Retail Council to continue to support opportunities for sales tax simplification without sacrificing local authority over sales and use tax collection.

Colorado municipalities are heavily dependent on sales tax, deriving a significant portion of their general purpose tax revenues from this source. Colorado home rule municipalities are able to require local businesses to remit directly to a municipality (known as "local collection"), decide their own tax base, and audit local businesses directly. In 2014, a bi-partisan group of legislators attempted to standardize the system through legislative efforts. The League successfully advocated for recognition that the legislature had no authority

over sales taxes in self-collecting home rule municipalities.

The effort eventually evolved into Senate Joint Resolution 14-038, which tasked CML with developing a package of standardized definitions, repeating a successful effort led by CML in 1992 that continues into the present. The League engaged the business community consistently through this process, using a successful partnership to find solutions that benefited municipalities and businesses.

ADVOCATING AS A FRIEND OF THE COURTS

Laws passed at the statehouse and through local actions are only the start of the story. Cities and towns often find themselves in the state and federal courts when implementing or challenging laws. The details of the cases can be fact specific, but the outcomes can have an effect on all of Colorado's municipalities. By filing *amicus curiae* ("friend of the court") briefs in these cases, the League extends its advocacy to provide courts with a statewide municipal perspective on both substantive issues and nuanced legal theories.

Since 1950, the League has filed over 175 *amicus curiae* briefs in select cases and joined in many others written by its partners. These briefs were written by the League's attorneys or by municipal attorneys on the League's behalf.

The League's appearance in an appellate case can provide insights to explain municipal operations,

context for municipal ordinances, or legislative history derived from the League's work at the capitol. The League's impact can often be seen in questions at the argument of a case or in parts of a written opinion. Occasionally, the courts specifically acknowledge the importance of the League's brief to the decision, as in the Supreme Court's 1975 decision in *Stroud v. City of Aspen*:

"We have the benefit of an excellent *Amicus curiae* brief filed by the Colorado Municipal League. We are swayed by its argument that off-street parking requirements, as a part of municipal zoning ordinances, should be subject to the same general standards of judicial review as zoning ordinances generally."

Even when the outcome does not appear positive, the League's advocacy may be credited with ensuring that the potential negative impact is narrowed.

AN ADVOCATE IN THE PAST, PRESENT, AND FUTURE

Through its history, the League has extended its reach beyond the Colorado General Assembly. The League gives a voice to Colorado's municipalities at the federal level as well, providing municipalities with guidance on federal issues.

In 1924, the League was one of the founding members of the National League of Cities, which began as the American Municipal Association. Now in its 99th year, NLC has more than 2,700 municipi-

pal members, as well as all 49 state leagues that are strong partners with NLC on federal advocacy for cities and towns nationwide.

During World War II, the League offered guidance to municipalities on a regular basis, helping them play a part in the wartime effort and ensure they were aligned with the nation's needs. The League uses its national partnerships to prepare municipalities for many challenges, like floods, fires, or most recently, COVID-19.

When the pandemic began, the League took an active role in federal discussions, lobbying for federal funding for cities and towns, and assisting municipalities as they navigated allocating and spending those dollars. With NLC, state leagues and municipal leaders were able to successfully advocate for an unprecedented amount of direct assistance with the American Rescue Plan Act of 2021, as well as assistance through the Bipartisan Infrastructure Act and the Inflation Reduction Act, among others.

From inviting the state's leaders to speak at conferences or share opinion pieces in Colorado Municipalities, to bringing municipalities to the table, the League is a champion of Colorado's cities and towns through the many forms of advocacy in which it engages, and will continue to play this role well into the future.



“It is indicative of the health and vigor of our organization that on the second anniversary of its founding the league should undertake the publication of a magazine devoted to the improvement of municipal government in Colorado.”

— M.B. GILL

COLORADO MUNICIPAL LEAGUE PRESIDENT 1924-1925



Matters of municipal interest

By **Makenna Sturgeon** | Raftelis Associate Consultant

The fourth story in a series celebrating CML's dedication to serving Colorado's municipalities over the past century.

Information is among the Colorado Municipal League's foundational pillars. When the League's founding members came together in 1923, they determined that the League would be an information hub for municipalities across the state.

The League has become a resource for municipalities, and those seeking to understand them, by surveying municipal interests and challenges, responding to inquiries, researching, navigating municipal challenges and opportunities, and

sharing these findings through collaboration and publications.

COLORADO MUNICIPAL LEAGUE PUBLICATIONS

While the League has spent a century serving municipalities, it has been in publication for 98 years. Its first publication, Colorado Municipalities, was sent to 107 municipalities with populations over 500 in April 1925. At the time, a subscription cost \$1 per year and a single copy cost 25 cents.

The League's president at the time, M.B. Gill, opened the inaugural issue with a letter announcing that the magazine would highlight improved municipal practices, new projects, and statewide movements that municipalities needed to be aware of.

“The Colorado Municipal League is two years old this month. It is indicative of the health and vigor of our organization that on the second anniversary of its founding the league should undertake the publication of a magazine devoted to the im-

provement of municipal government in Colorado.”

Until 1941, municipalities received the magazine every other month. For 30 years after that, the League published Colorado Municipalities monthly, covering topics including fire prevention, housing, municipal practices, and federal issues.

In 1945, soon after moving to a new magazine circulation schedule, the League began delivering timely information through a newsletter called the CML Special Bulletin. Primarily intended to deliver legislative news in more rapidly than the magazine might, the Bulletin eventually evolved into the newsletter that the League’s members receive today.

Colorado Municipalities was recognized several times for communicating municipal issues. The League’s 1962 Annual Report noted that the magazine won first place in its class in the American Municipal Association’s — now known as the National League of Cities — annual magazine competition.

Another publication the League’s members are familiar with today became available around when Colorado Municipalities was winning awards. The Colorado Information Bullet series was released in 1962 to investigate specific issues more thoroughly. This continued on into the future, eventually evolving into Knowledge Now.

January 1974 marked the first month of the Colorado Municipalities circulation we know today and the official beginning of the CML Newslet-

ter. The newsletter started as a twice-monthly publication, supplementing Colorado Municipalities as it moved into a quarterly.

Because Colorado Municipalities is written by and for municipal officials, its pages are an archival history of municipal government in Colorado. CML’s publication archive, at the League’s office in Denver, chronicles advances in every aspect of municipal government for a century. While publishing regular magazines and newsletters, the League also provided detailed books to ensure municipalities were up to date on the most pressing

issues. From operation and administration of municipal golf courses to procedures for adopting and revising home rule, the League’s information role was deeply involved in helping develop strong municipal governance across the state.

Over the course of a century, the League has found creative ways to tell Colorado cities’ and towns’ stories. Creating a publication to better communicate municipal challenges has proven essential to helping address them.



About 15 years ago, the League began publishing State of Our Cities and Towns, a survey intended to better understand the challenges facing Colorado's municipalities and the innovative solutions officials implement in response to them. The data stories developed from this survey have covered how municipalities addressed big and small challenges, including COVID-19 and inflation.

All of CML's publications are written with education in mind. While serving as an information resource, the League was adamant that it provide cities and towns with the most accurate, up-to-date information possible.

MUNICIPAL COLLABORATION

Collaboration spans across disciplines, and it's not surprising that it plays a key role in how the League shares information. While the League does its own research and develops educational materials, it goes to great lengths to help cities and towns learn from each other.

This collaboration among municipalities helps ensure innovation and good governance practices.

Records dating back to 1942 indicate that the League answered inquiries from municipalities across the state and likely engaged in similar discussions before then.

The League works diligently to ensure municipalities across the state know what others are doing. When answering inquiries, the League often offers examples from other municipalities addressing similar challenges or implementing similar policies. Ensuring this information is available to cities and towns across the state helps foster municipal collaboration year-round and continues the conversation about municipal best practices.

The number of inquiries increased dramatically between 1942 and 1972, indicating that members might have become more involved with the League in this time.

Tracking the number of inquiries ended in 1972; however, answering them remains a key function of the League.

As part of its collaboration effort, the League makes opportunities for municipalities to regularly communicate with each other. Districts and listservs are a key part of the League's effort to keep cities and towns connected. The League began districting in 1952 with 11 districts, eventually moving to 14. In 1973, the districts were reorganized into 12. The League's executive board hoped the reorganization would improve member involvement.

The districts have remained nearly the same since the change in 1973. Today, district meetings continue to foster collaboration among neighboring communities and help

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Affecting Municipal Governments

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municipalities and the League better understand issues facing the varying geographic regions in the state.

While district meetings are an effective tool for collaboration, they don't happen often enough to support cities' and towns' questions all year. With the emergence of the internet, consistent communication became available. The League took advantage of virtual collaboration by establishing listservs.

In 2009, discussions about listserv templates began. These would be communication channels for specific groups under the umbrella of municipal government. Listservs provided a place for subject matter experts to ask

others about policies within their departments, helping ensure municipalities had access to the wealth of knowledge the state's cities and towns have to offer.

Now, the League has seven listservs for attorneys, clerks, finance officers, human resources, managers, public information offices, and public works and utilities directors. Information about subscribing is available at <https://tinyurl.com/236a7hm7>.

In addition to encouraging municipal collaboration across the state of Colorado, the League played a

key role in creating the organization that facilitates nationwide municipal collaboration.

In 1924, the League was one of the 10 charter league members of the Association of American Municipal Organizations. Eventually, the Association would become what we know as the National League of Cities.

NEWSLETTER

Vol. 49, No. 11, June 2, 2023



YEARS OF CML

policy, procedure, and matters of municipal interest

and opportunities, and sharing these findings through collaboration and publications.

training programs to collaborative meetings to League's role as an information hub

Ensuring our members



LIQUOR & BEER HANDBOOK

A GUIDE FOR MUNICIPAL GOVERNMENT

6TH EDITION
UPDATED AUGUST

FROM PROHIBITION TO PRESENT

Liquor AND Local Control

By **Rachel Bender** | CML Associate Counsel

ON December 5, 1933, the 21st Amendment to the United States Constitution was ratified, bringing an end to the Prohibition Era. By that time, Colorado had already adopted an amendment to Article XXII of the State Constitution providing that the manufacture, sale, and distribution of all intoxicating liquor would be done through agencies and regulations enacted by the state legislature. At the end of 1933, facing the imminent passage of Amendment 21, state and local governments were busy contemplating how best to handle the regulation of liquor.

At the outset, the conversations centered around the idea of a primary system of state control with some level of local control as well as revenue sharing with local government. Although implemented from the start, over the decades, this concept evolved to today's dual liquor licensing system. One significant change that has occurred over time, however, is the shift away from stricter, virtue-based laws. Despite this shift, the evolution of liquor laws has resulted in a complex set of state statutes and regulations, with numerous different types of liquor licenses and differences in the rights and restrictions associated with each of those license types. A state-convened liquor working group is meeting to decide how best to overhaul and simplify current state liquor laws, including consideration of what local control will be allowed. Rest assured, the League will continue to maintain the role of local government in liquor regulations as has been the case for the past 90 years.

The following article provides a peek into the concerns and initial concepts around state and local liquor regulation at the end of the Prohibition Era.

Toward Liquor Control

Colorado Municipalities, Volume 9, Number 8 (November-December, 1933)

The repeal of the 18th Amendment will raise new problems of governmental control and regulation of vital concern to municipalities.

Colorado has already amended Article XXII of the State Constitution to provide for the repeal of all intoxicating liquor laws and to provide further that after July 1, 1922, the manufacture, sales, and distribution of all intoxicating liquors shall be performed by and thru such agencies and under such regulations as the legislature may enact; but no such laws shall ever authorize the establishment or maintenance of any saloon. This amendment was adopted by the people on November 8, 1932.

The beer control law which has been passed in Colorado requires a license for the manufacture, importation, and sale of beer. The administration of the system is vested in the liquor permit and license division of the Department of Finance and Taxation presided over by the State Treasurer. The proceeds of all licenses and permits issued under the provision of the state law for the manufacture and sale of beer and other

beverages go to the County Pension fund for the purpose of paying old age pensions.

The legislation thus far enacted in Colorado has been enacted for revenue purposes largely and is not the expression of a carefully thought out plan for social control of the liquor problem. The way is open for Colorado to make a fresh start and work out a plan which will be for the interests of social welfare. In a number of states special commissions have been busily at work during the past summer studying various kinds of liquor control laws and their adaptability. One of the most comprehensive of the studies is the report entitled "Toward Liquor Control" made under the direction of Raymond B. Fosdick and Albert L. Scott at the request of John D. Rockefeller, Jr. A staff of more than a dozen trained investigators studied the control methods used in 16 foreign countries, the system followed in the Canadian provinces and the state laws of pre-prohibition days. This report recommends the abandonment of the licensing system of pre-prohibition

days and the adoption of an altogether different system of control for the reason that there are certain weaknesses inherent in the licensing system which cannot be eradicated.

In the first place, the primary weakness of the licensing system consists in the preservation of the profit motives. A greedy liquor traffic looking only for larger profits will circumvent and evade any system of local defenses which ingenuity can erect. Even if prices are fixed and profits are limited there would still be the hazards of corruption.

In the second place, any licensing system tends to project the whole question into politics and to keep it there. Indeed, it compels the traffic to be in politics for self-protection. The licensing body become a powerful political engine. Every licensee, as well as every manufacturer who sells to a licensee, or has an interest in the business, begins to marshal his own political strength to serve his own ends. A multitude of private traders means a multitude of opportunities for political favoritism. Even if the initial results were fairly satisfactory

under severely restrictive licensing arrangements, the test would come later as vendors learned the ropes. They would appear the annual flood of bills in the legislature proposing amendments designed to relax the license system's stranglehold on licenses. The advocates of restriction would counter with their lobbies, and the whole miserable conflict would again be upon us.

In the third place, a system of licenses to private traders is, theoretically at least, incompatible with any idea of temperance education. While individual vendors of the better class may, from motives of self-interest and conscience, join with temperance forces in curbing individual abuse, this is as far as they will go. They will not welcome a general falling off in consumption. If we assume, first, that it is of prime importance to avoid stimulation of demand for alcoholic beverages and, second, that private traders will in fact endeavor to stimulate demand, then we are faced with a contradiction which plainly cannot be reconciled within a single system of control.

In the fourth place, to adopt the license method is to follow the easy path, but it is a path which affords no sure retreat if the system proves unsatisfactory. For the establishment of a licensed liquor trade means the deep entrenchment of a far-flung proprietary interest. This interest would have a large capital investment to be protected at all costs. Building, leases, fixtures, inventories, stocks and bonds—representing millions of dollars—would require defense against

those who in the public interest might threaten curb or reduction. The question of property rights would at once be involved, and the states adopting the license system would be faced, as England is faced today, with a widespread disinclination to disturb a business into which so much money had been put.

Moreover, such a vested interest is bound to employ aggressive tactics in its own defense, opposing every restriction of opportunities to sell.

The plan recommended in this report is for the state to take over the management of the distribution and sale of all the heavier alcoholic beverages as a state monopoly through its own retail stores. The state would have the exclusive authority to sell or control the sale of all alcoholic beverages, to lease, run or operate retail stores, to lease or operate warehouses, to fix prices on its goods and to change prices at will, to establish a system of personal identification of purchasers, to establish rules and regulation and to hold hearings on complaint about any matters in dispute.

A state board of three members appointed by the Governor for nine years with overlapping terms, subject to removal only for cause, is recommended, to determine questions of policy. A managing director would be appointed to have charge of administration of the system. Under a state monopoly system the liquor would be sold directly by the state thru a chain of stores and the profits turned into the state treasury. There would be no incentive for anyone connected with the system to encourage or stimulate

the sales of liquor. Under the licensing system competing private dealers are under constant temptation to build up their sales and profits.

The report answers the objection that this plan puts the government in the liquor business in the following ways.

“For better or worse the liquor business is here. The private profit motive by which sales are artificially stimulated is the greatest single contributing cause of the evils of excess. It can be eliminated most effectively by state control. Moreover, the government always has been identified with the liquor business. For centuries it has regulated it in minute detail and has shared its profits thru taxation.” It would facilitate the control of advertising which is a most powerful stimulant to the demand for alcoholic beverages. Advertising can be practically eliminated if the public interest so demands. The state authority by fixing prices can checkmate the bootlegger and illicit dealer and curtail the use of spirits. This could be done without the slightest opposition from private interests because the authority would own the liquor.

The state authority would set high standards in the physical care of its sales outlets and for the personnel in charge of them. State employees could be selected on the basis of efficiency, loyal and personal character and not on the basis of merely excluding criminals from the trade. Stores could be established only when and where they were needed.

The state authority plan could be adapted to local sentiment and local preferences. It could go farther than a



strict local option law by establishing dry zones within certain areas in cities which are strongly opposed to the sale of liquor. It could ship liquor by mail or express to persons living in dry areas wherein retail shops are excluded by local option vote. This plan is suggested as a measure to suppress possible bootlegging in dry areas and also to satisfy those who otherwise would be uncompromising opponents of the plan if they were unable to buy liquor when they wished it. The plan would minimize opportunities for political interference and corruption. Politics and corruption entered into the license system because liquor dealers attempted to maintain and expand sales, for private profit. Under the state authority plan there is substituted a force of state employees who have nothing to gain from expanded sales. Their success will depend upon maintaining high standards of service.

Finally the plan would keep clear the road for temperance education.

STATE TO SHARE LIQUOR REVENUE WITH LOCAL UNITS OF GOVERNMENT

A state which creates an Alcohol Control Authority need levy no taxes upon beverages. It will take its revenue in the form of profits included in retail prices, without encumbering itself with special tax administration in addition. However, if a state adopts the license system or any other system of private sale of liquor, taxes will be necessary. For such states we recommend that the liquor dealer sellers' tax consist of two elements: one, a small flat license not to exceed approximately \$250 per year; two, an excess profits or an income tax to be computed after all other tax payments.

We are convinced that all liquor taxes within a state should be administered by the state. There should be no additional local liquor taxes or licenses. It may be desirable for the state to share the yield of the taxes with the local units of government as

has been done with the various taxes in New York State for many years.

In levying these taxes, no beneficial interests in liquor revenues should be created. All revenue should go into the general fund and should not be designated or earmarked for charities, hospitals, or old-age pensions. To weigh the needs for education, for example, against the requirements for the control of the alcohol traffic is impossible. It would provoke bitter controversy and confuse unrelated governmental problems. Moreover, when particular governmental activities are made dependent upon particular revenues, changes in the tax rates, and therefore in the yield, can be made only with the greatest difficulty, if at all, because of the effect of such changes on wholly unrelated enterprises.

By **Robert Sheesley** | CML General Counsel

Public safety and emergency response drills are common practices for municipalities. During the Cold War, communities engaged in civil defense drills that might not be so common today. The cover of *Colorado Municipalities* in April 1952 featured a photo of a B-29 bomber flying low over Longmont as part of an air raid drill. The edition described the dramatic events of the day.

“Bombs” hit Longmont — Citizens prove prepared

Colorado Municipalities, Volume 28, Number 4 (April, 1952)

AT 9:50 A.M. Monday, March 3, the Longmont Fire siren screamed its warning, church bells and factory whistles picked up the alarm, and a full-scale mock air raid was staged to test the effectiveness of this community’s civil defense training.

At 10 A.M., a B-29 bomber flew low over the city, coming in from the north and flying at an altitude of 1000 feet over Main Street. Four fighter planes provided “cover.” The bomb bay doors opened to release a barrage of civil defense pamphlets.

On ground smoke generators laid a screen of pungent smoke, and fire equipment moved in to fight incipient “fires” the bombs had created in two business houses.

Ambulances, including vehicles from Boulder and Denver present



to represent “mutual aid,” went into action 5 minutes after the “all clear” sounded. “Casualties” were taken to two emergency hospitals where Red Cross workers and doctors, aided by medical supplies, plasma, and additional doctors flown in by the Flying Farmers, gave “treatment.”

Another transportation fleet, 52 vehicles, was assembled within min-

utes at the high school athletic field. These would have been used to evacuate civilian personnel, had this been necessary. Food for the “homeless” was provided by a Red Cross commissary.

The raid was launched without notice as to exact timing, although, of course Longmont civil defense workers directed by Robert Coulson had put in many hours of preparation. The demonstration was declared a great success by the official observers who represented the armed forces, various state departments, and the Red Cross.

Longmont will have national publicity as a result of the “air raid.” The event was covered by Fox Movietone, Paramount News, Denver newspapers and radio stations, and national press associations.

By **Robert Sheesley** | CML General Counsel

New municipalities are not common — only six communities have incorporated in the past 30 years, including Keystone in 2023. Even more uncommon is the incorporation of a major population center. In 1969, Jefferson County residents voted to incorporate Lakewood to create Colorado’s fourth largest city, with 93,000 residents. The new city came to life as described in this 1971 Colorado Municipalities article.

A municipal phenomenon

BY JOHN TOOHEY, THE DENVER POST

Condensed from Colorado Municipalities, Volume 47, Number 2 (February, 1971)

Most one-year-old cities are new, from scratch, after coming into reality from the drawing boards of a land developer’s office.

They come into being gradually after the first showings of model homes, the first construction of shopping centers, a new bank and churches. They take their places on the role of organized communities after a few interested citizens get together and say to themselves: “Let’s organize and plan our own destiny.”

Not so Lakewood, Colorado’s fourth largest city.

It was just “there” before, a “bed-room” area one passed through from Denver heading to the mountains. It was filled with undistinguished subdivisions, some 60 years old. It had people, and business and activity in every direction. But it remained the

Lakewood came into being on the crest of resident reaction to a proposed annexation of the whole area to Denver.

nations most populous unorganized area, and it was growing that way. It was unorganized still after two unsuccessful attempts in the early 1960’s to incorporate.

Then, all of a sudden in June, 1969, Lakewood, called at first Jefferson City, found itself a city as voters in an incorporation election approved the idea . . . 8,478 “for” to 3,371 “against.”

After its first municipal election in August and a second in November 1969, Lakewood had a mayor, clerk, treasurer, and a ten-member city council.

By a stroke of luck, Lakewood also found a home almost right away. Mayor James J. Richey gained a 10-year lease-option agreement with the school board on their former headquarters at 1580 Yarrow Street, a block north and west of the new city’s main intersection, West Colfax Avenue and Wadsworth Boulevard.

When the city government moved into the two-story building, just vacated by the schools, its hollow semi-darkness echoed with the click-click of the shoe heels up and down the main hallway made by Mrs. Jean



An aerial view of Lakewood, Colorado.

Rogers, city clerk, and Mrs. Rozella Mullen, Richey’s secretary and first city employee.

Lakewood came into being on the crest of resident reaction to a proposed annexation of the whole area to Denver, but on its first year or more of life has been one of thoughtful response to the people and the property lying within its 30 square miles.

But the realization still pervades that much more has to be done to achieve the goals set out by Richey,

city council and [city administrator Walter] Kane.

There are those 25 special districts. There’s the nagging problem of storm drainage, long neglected by the county for lack of funds and by original land developers.

There’s that still untarnished idea of Lakewood uniqueness, cohesion and identification which must be sold to every resident.

There are the day to day difficulties of growing crime, increasing auto traffic, zoning, youthful drug

users, proper planning and those basics of human existence — cheap water and sanitation.

Lakewood leaders see that traditional applications of efforts in solving these problems aren’t enough. The city started with a law enforcement agency — unique to Colorado — and undoubtedly will use tactics, just as unusual, in solving other difficulties.

Richey’s, Kane’s, and council’s “team effort” may be the key.”

By **Robert Sheesley** | CML General Counsel

Today, laws governing public records, open meetings, and government immunity are well known and part of the ordinary course of business for municipal officials and attorneys. Many of these laws had their origins in mid-century policymaking, including the Colorado Governmental Immunity Act of 1971. The Act has been updated and litigated over the years, but its passage and original form was described by Ken Bueche, then the League's legal counsel and later its executive director, in the September 1971 issue of *Colorado Municipalities*. Bueche describes the League's work to prepare for the inevitable restriction of immunity and the urgent need for the law when the Colorado Supreme Court abrogated the doctrine entirely while the bill was pending in 1971.

The Colorado Governmental Immunity Act of 1971

BY KENNETH G. BUECHE

Condensed from Colorado Municipalities, Volume 47, Number 9 (September, 1971)

The Colorado Governmental Immunity Act of 1971 culminated a lengthy struggle in resolving the policy issue of the relative rights of the injured individual and the need to protect the public-at-large. The act will set in motion some of the most far reaching consequences and ramifications in the history of Colorado government.

The policy of protecting the public-at-large — governmental entities — has been denoted as and embodied in the doctrine of sovereign or governmental

immunity. Although there is some disagreement as to the origin of sovereign immunity, it is generally attributed to the English common law and the proposition that the King or public entity could do no wrong, or at least that an injured party could not recover damages therefrom. This being the case, regardless of the acts of the government or its employees, party that was wronged were injured could not recover damages from a public entity.

However, the doctrine in Colorado has been limited considerably over

the years both by action of the Supreme Court and the General Assembly. For example, the Colorado supreme court a number of years ago held that the doctrine did not apply with respect to contract actions. Another major limitation occurred when the courts in Colorado and elsewhere applied the concept that activities of government should be classified as either proprietary or governmental for liability purposes. The best example of statutory limitations was the 1949 statute to sue the state or political

subdivision for a tort committed by a public employee while driving a motor vehicle.

In contrast to modest limitations placed on the doctrine in Colorado and elsewhere, some states have abrogated the doctrine by a court action or statute. Supreme courts in a number of states issued decisions abolishing the common law doctrine of sovereign immunity. In addition, a number of states have abolished or substantially limited the doctrine through legislative act.

Realizing the trend and the law and the policy considerations in favor of partially abolishing the doctrine, the Colorado municipal league in 1965 made a major policy change by voting to support partial abolition of the doctrine by legislative action. Shortly thereafter, CML was able to persuade the General Assembly to create a special legislative committee to study the problem. The committee met in 1967 and 1968 and recommended a comprehensive bill subsequently introduced in 1969. The bill died, however, in the Senate and met a similar fate in the house in 1970.

According to the prime sponsor, Representative Floyd Sack, 1971 was the year to try again. House Bill 1047 was introduced early, a few amendments were added as it zipped through the House, and it was referred to the Senate committee where it began to gather dust. After reviewing the bill as it passed the House — CML's Executive Board Instructed the staff to support the bill. A luncheon meeting with a key senator was arranged and effort was made to convince him that

the Senate should pass such an act before the Supreme Court completely abrogated the doctrine. Scarcely a week later the Colorado Supreme Court did just that!

The Supreme Court Abrogated the doctrine in the case of *Evans v. the Board of County Commissioners of El Paso County* and two companion cases. The Court reasoned that sovereign immunity as a judge-made or common law doctrine was bad law and ought to be overturned. The Court held, however, that its decision would be effective July 1, 1972, and made it clear that the General Assembly was free to reinstitute the doctrine in part or full.

The Court's decision, though it was earth shaking and required reversal of numerous cases spanning nearly a century, was responsible in that it delayed the effective date to afford state and local governments time to respond to new requirements and the General Assembly the time and opportunity to enact remedial legislation.

Needless to say, the Senate took sudden interest in House Bill 1047. A number of amendments were added to reflect the Supreme Court's decision and to cure apparent ambiguities and loophole problems. By passing House Bill 1047 in 1971, it was hoped that any necessary changes could be caught for correction during the 1972 legislative session, prior to the effective date of the act. The Senate ultimately passed house bill 1047 and it was promptly signed into law.

Passage of House Bill 1047 with an effective date of July 1, 1972, affords municipal officials and others the

opportunity to scrutinize the new law carefully, to budget for and secure insurance, and to ascertain insurance aspects and other medications in time to offer any necessary corrective amendments in 1972. Prompt study will give public officials an opportunity to correct, before it's too late, aspects of a new law which is complex and far reaching, to say the least

Colorado cannot, however, afford the luxury of postponing study and preparation until then. We feel strongly that it's important for municipal officials to check out the insurance and legal aspects now. Undoubtedly there will be practical problems and legal loopholes or ambiguities not fully foreseen during the legislative process, as rarely does a bill of such complex nature and far-reaching effect fully take account of all contingencies. If there are serious problems, let us know before January so corrective legislation may be considered.

The Governmental Immunity Act and its accompanying history illustrate the advantage of an organization like CML, where it sees change in the wind or otherwise needed, exercising leadership in conjunction with the General Assembly to guide change in a constructive manner. One shudders to think of what would have happened had House Bill 1047 not been introduced had it not passed the House prior to the time when the Supreme Court abrogated the doctrine. The leadership of legal officials several years ago helped pave the way for a workable law.

By **Robert Sheesley** | CML General Counsel

Instead of relying on traditional insurance, many municipalities in Colorado are members of the Colorado Intergovernmental Risk Sharing Agency, or CIRSA. In this article from 1982, Alex Brown, a former League staffer, explained the impetus for developing the pool and the League's involvement in the collaborative process that led to CIRSA's formation. From its 19 initial members, CIRSA's membership now includes almost 300 public entities. CIRSA is a valuable partner of the League, particularly in delivering training and education programs for elected officials.

Self-insurance pooling arrives in Colorado

BY ALEX BROWN

Condensed from Colorado Municipalities, Volume 58, Number 2 (March-April 1982)

ON January 1, 1982, the Colorado and intergovernmental risk sharing agency (CIRSA) became a reality and commenced operations. CIRSA is the first municipal self-insurance pool in Colorado.

While self-insurance has been practiced by some individual communities in the state, CIRSA represents the first collective effort and offers a self-insurance plan to communities lacking the size to sponsor their own plan. This article traces the program's development and ex-

plains its benefits over the conventional insurance market.

COMMON INSURANCE PROBLEMS

The development of CIRSA was not prompted so much by the experience of any one community, but rather by collective problems with liability insurance experienced by a number of communities. The impetus for the plan had its origin in the mid-1970s, when a national recession had an adverse impact on the insurance indus-

try. When insurance companies experienced significant underwriting losses, many communities either had their policies cancelled or were advised that renewal would require an increase in their premium, often in excess of 100 percent.

Many communities felt the price increases were unjustified in light of their claims history. A search for replacement coverage, however, revealed that many insurance companies previously offering insurance in critical liability areas — e.g., police,

The development of CIRSA was not prompted so much by the experience of any one community, but rather by collective problems with liability insurance experienced by a number of communities.

professional, and errors and omission — no longer offered such coverage to municipalities. Consequently the needed insurance was no longer commonly available at a reasonable cost.

Many municipalities stated that insurance companies did not supply them with information concerning claims that have been filed or paid against their policies. Communities could not identify the loss history of various operations and departments period since many communities attempt to allocate insurance costs by department, the absence of a loss history frustrated this budgeting practice. Also, without data, cities could not improve safety programs and loss prevention activities to reduce their insurance losses.

The settlement of claims by insurance companies raised additional concerns for Colorado municipalities. In many instances, claims against communities were settled on the basis of the lowest cost rather than on the merit or principle involved. Many communities felt that frivolous claims were settled with a short term out-

look on immediate costs that ignored the long-range costs associated with the principle of paying that type of claim.

Many municipalities were also concerned about their inability to purchase complete insurance coverage. Often, when communities purchased insurance policies, they assumed that all public officials were covered for all aspects of liability. Unfortunately, this was not true. The deficiencies in coverage were often not detected until claims were filed and the insurance company refused to pay the claim. One area typically refused coverage involved alleged violations of civil rights. Federal and state court decisions and statute changes continually broadened municipal liability, but insurance policies did not always reflect these increased exposures.

Problems such as these were common for municipalities not only in Colorado but across the nation. California's experience demonstrated that there was an alternative approach to purchasing insurance on the conventional market and proved

that self-insurance pools can provide cost savings. The Colorado municipal league executive board, recognizing the problems being experienced by Colorado municipalities, felt there was merit in investigating alternative approaches to conventional insurance. The Board authorized basic research in this area at its November 1979 meeting.

PHASE I – INVESTIGATION

The initial research examined two basic questions. First, are the basic economics such that an insurance pool would be a feasible alternative? Second, what would the basic costs and structure of an insurance pool be for Colorado municipalities? The second question involved the identification of specific budget items and the amounts to be spent on each item.

The League's consultant's research and analysis report was published in August 1980. The data demonstrated that pooling was economically feasible, and the consultant recommended that the League proceed with the formation of a liability insurance pool. In September and November, inter-

ested communities met to review the findings and decided to pursue formation of a pool. By January 1981, 26 municipalities had decided to participate in Phase II.

PHASE II - DECISION MAKING

A steering committee was created to provide general guidance to both the consultant and League staff during the second phase. Committees created by the steering group included a by-laws committee, a service selection committee, and a bank selection committee. The study group's next task was to finalize specific aspects of the program and to coordinate the activities of each firm selected to provide insurance brokerage, loss prevention, and claims administration services. The broker proposed a pool structure and coverage to the study group. While the pool was originally conceived to provide liability coverage to the study group decided to expand the coverages to include property.

STRUCTURE OF THE PROGRAM

Pure self-insurance is the practice of assuming all liability without transfer to a second party. Self-insurance does not result simply from a conscious decision to stay out of the conventional marketplace, but from establishing a structured and funded program. It requires that a sum of money be appropriated annually for the purpose of paying claims. As claims are filed, they are then either paid, or reserves are set aside in anticipation of a final settlement.

The CIRSA Plan involves these three basic elements. First, a primary loss fund in the amount of \$525,000 was established. Secondly, CIRSA purchased excess policies to cover catastrophic and annual aggregate losses. The catastrophic policy provides that a loss in excess of \$150,000 will be paid from that policy. The annual aggregate policy provides that if all funds deposited in the self-insurance pool (\$525,000) are spent in a single year, the annual aggregate policy will pay costs in excess of that amount. Lastly, an administrative budget was adopted to cover claims adjusting, program management, data processing, and loss prevention. CIRSA includes a \$1,000 deductible for every loss. This requirement shifts small dollar losses back to the municipality and reduces the cost of excess policies.

SUCCESSFUL COOPERATION

By working together cooperatively, Colorado municipalities have cut costs and improved their insurance services. CIRSA will result in improved information available for making management decisions. The pool also represents a use of private sector resources that increases municipalities' ability to manage the services they pay for.

Instead of complaining about a problem while continuing to conduct "business as usual," the members of CIRSA have shown their willingness to be innovative. They have established and will no doubt improve upon a program to maximize the use and effectiveness of a precious commodity — public tax dollars.

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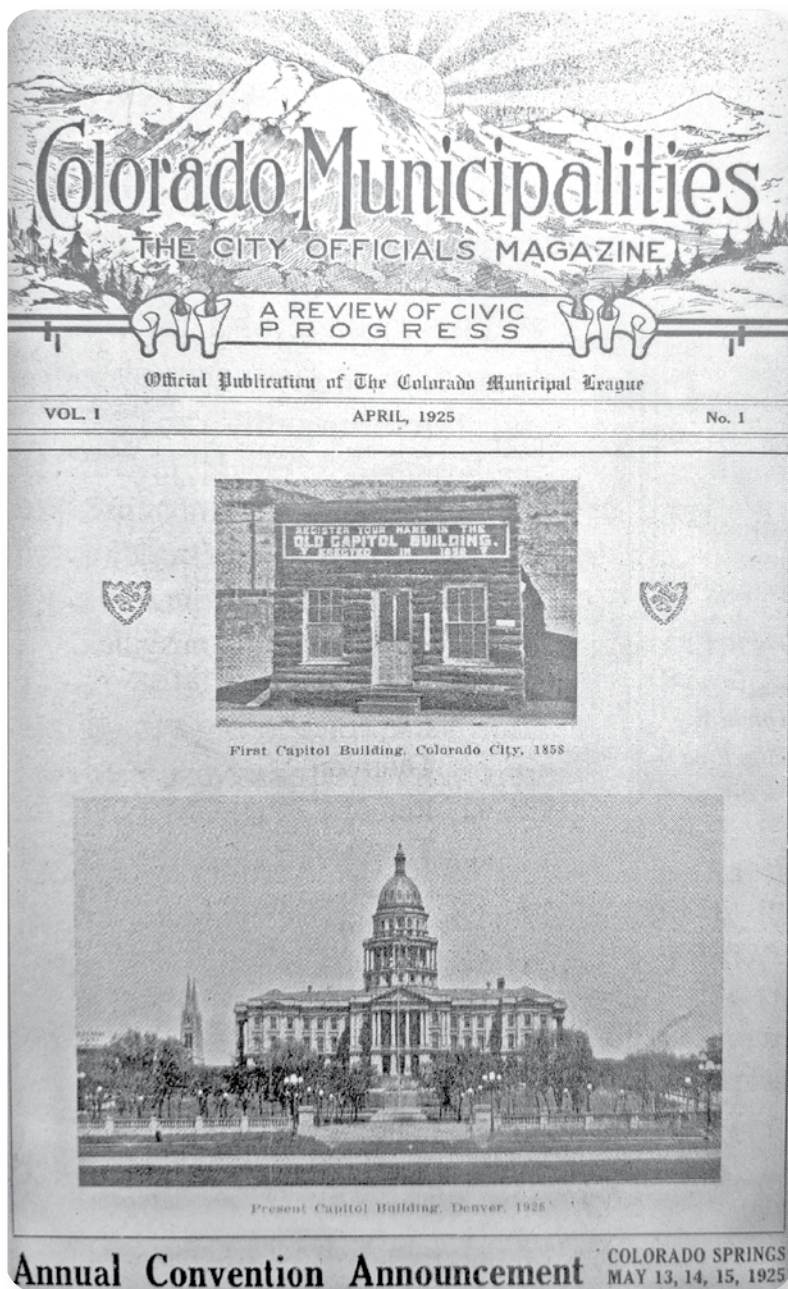
By **Alex Miller** | CML Publication & Design Specialist

TO the left is the cover of the first issue of Colorado Municipalities, published in 1925, two years after the Colorado Municipal League was founded. The publication, subtitled “The City Officials Magazine” and “A Review of Civic Progress,” was devoted to the improvement of municipal government in Colorado.

The cover features a pair of black and white images — an 1858 photo of Colorado’s first capitol building and a 1925 photo of the Colorado State Capitol, which was built in the 1890s and remains in use to this day. From its very beginning, Colorado Municipalities had its eye on progress.

As Colorado cities and towns have changed over the past century, so has the face of Colorado Municipalities magazine. Black and white photos gave way to color, and the magazine’s typography kept pace with changing trends and technological advances. The cover stories document the ways history has touched Colorado. A World War II-era cover features Franklin Roosevelt. A 1990 cover highlighted the drug war, and as the millennium approached, Colorado Municipalities asked municipal leaders if they were prepared for Y2K.

This sampling of magazine covers provides an opportunity to reflect on the ways our communities have changed over the past century, and where they will go from here.

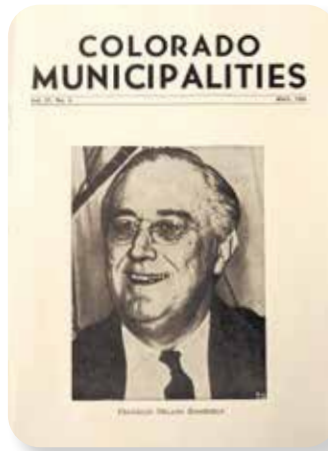




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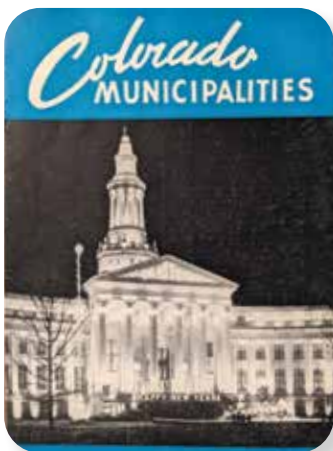
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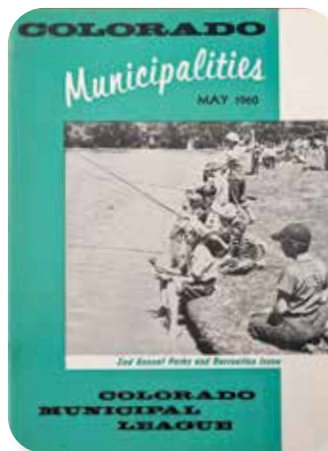
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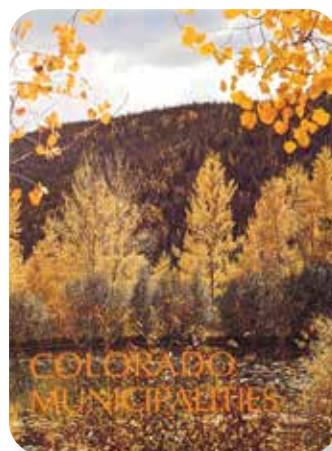
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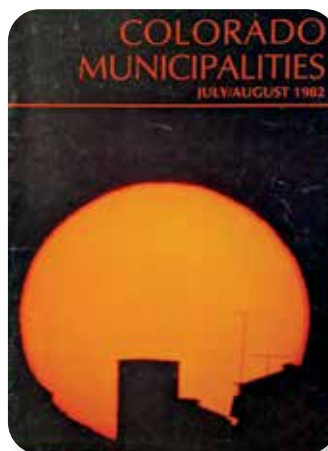
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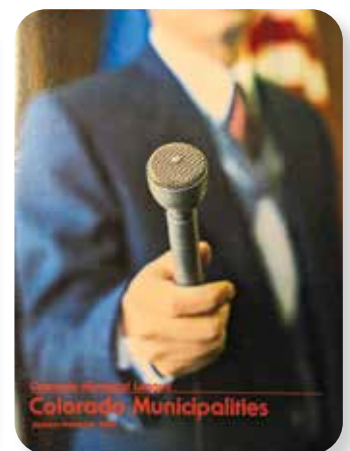
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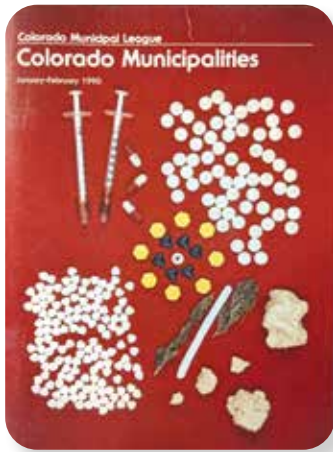
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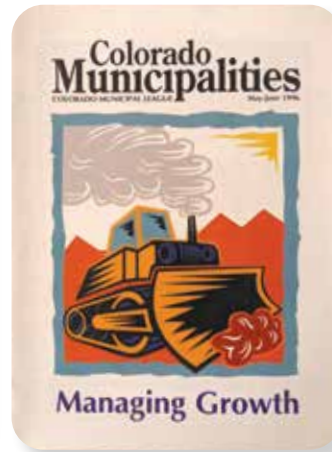
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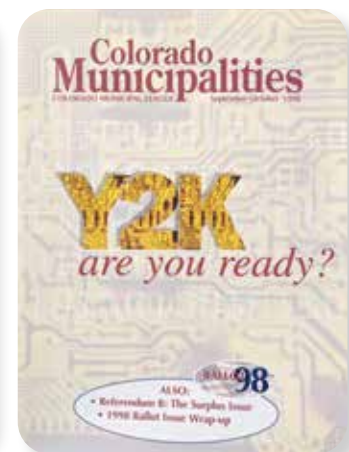
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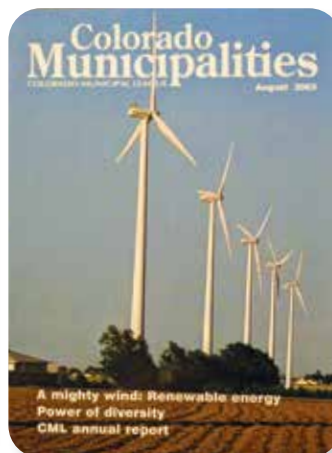
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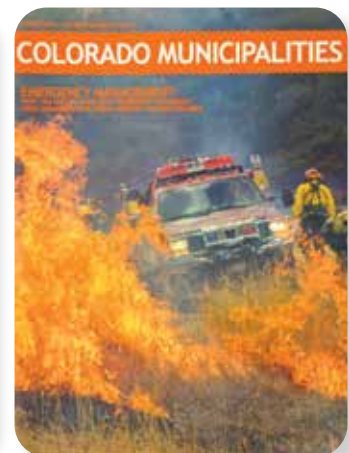
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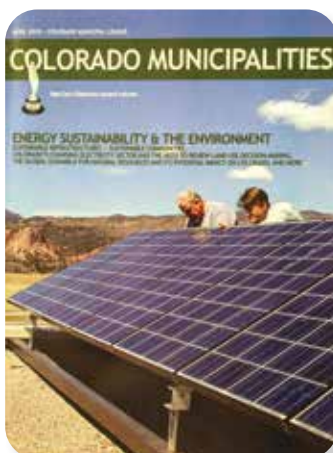
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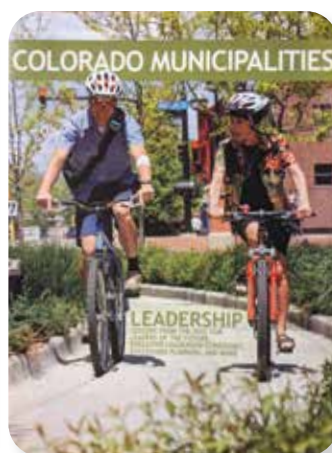
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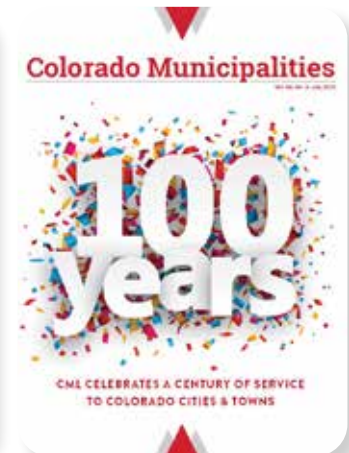
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