

Whose Mess is This Anyway: Five Scenarios

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Introduction

- In our experience, a governing body can occasionally have a “mess” on its hands: Some difficult, high-risk issue arising at the “board level” for which there is uncertainty as to how it should be addressed, and by whom.
- Naturally, mayors can play a significant role and have significant influence (positive or negative) in the handling of such “board level” messes, and their outcome.
- In this session, we’ll present five board-level messes and offer our suggestions on clean-up efforts mayors can take.
- Your thoughts and questions are welcome.

Disclaimer: This presentation is a training resource only; is not intended to address or provide legal advice on any specific issues. Any resemblance strictly coincidental, etc.

One: The Outlier

As Mayor, it's becoming clear to you there is an "outlier" on the governing body: A "lone wolf" who has set himself/herself apart from the rest of the body, who is on the losing side of most votes but doesn't care, who has staked claim to being the only "ethical" member who "truly cares," and to whom the "norms" of the governing don't apply. You've generally taken the view that all governing body members are entitled to their own style and approach. But frustrations are mounting: You've heard complaints from other members that the outlier's approach is embarrassing the body, making meetings stressful, and causing members and staff to check out. The manager has shared with you that staff members no longer want to deal with the member. The outlier in contrast has requested you intercede as he/she is feeling marginalized and shut out for just "doing what I was elected to do." **Whose mess is this?**

Two: The Governing Body HR Problem

One of our Board members is very blunt. He doesn't hesitate to direct pointed comments at fellow Board members or staff, and there's a sense he "turns it up a notch" when directing comments at certain individuals. At a recent Board meeting he called the Finance Director incompetent and said "You must be having a senior moment" when the Director misstated some budget information. The Finance Director has sent the Mayor, Manager and HR Manager an email stating the Director is being bullied and subjected to a hostile work environment because of the Board member's actions. The email includes allegations that the Board member is violating Town tax rules in running his business and has arrived at Board and Finance Committee meetings visibly intoxicated with alcohol on his breath. **Whose mess is this?**

Three: Communication Chaos

We've been pursuing a land purchase for a new municipal building. After our last executive session on the topic, word leaked of what properties we are considering. Meanwhile, three members opposed to the idea signed a letter to the editor saying they will never approve the purchase or project. They also met with a citizen group to discuss opposition strategy. Once a purchase contract was drafted it was approved 4-3 without discussion immediately after an executive session. After that, one member gave the executive session memos and appraisal to a reporter. Two others asserted the land is contaminated, said they are working with citizens to put the purchase on the ballot, and have contacted the owner to convince her to back out. The owner has told the four in the majority that if things don't settle down, she will back out and sue for bad faith. And we just got a letter alleging open meetings violations by both the four and the three. **Whose mess is this?**

Four: Adventures in Administration

We have a Council-Manager structure and it works well! Well, mostly. Council recently adopted a short-term rental ordinance which assigns to the City Clerk all responsibility for issuing, revoking and suspending short-term rental licenses, with no role for Council in administering the rules. Nonetheless, Councilmember Sam is upset over several license denials and has been arguing with the Clerk that she is interpreting the rules incorrectly. He's taken to social media to explain how the rules should work, has helped a few owners with their applications, and has told frustrated applicants "Don't worry, you'll get your license." He's asked the Clerk for copies of license applications and says he'll file records requests if he does not get them. The Manager has talked with Sam, who insists he has every right to assist and advocate for his constituents. The Clerk and other Councilmembers are complaining to you about Sam's behavior. **Whose mess is this?**

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Five: The Quasi-Judicial Quagmire

We have a controversial development hearing before Council. As the Mayor and presiding officer, I've got my "script" and after opening the hearing and asking if there are any disclosures or preliminary matters, I get an earful: One Councilor who lives near the project announces he is recusing himself as a neighbor who will be directly impacted. Another Councilor who lives the same distance from project says nothing. A citizen opponent of the project then gets the floor and asserts another Councilor must recuse himself because he's been talking with the developer and whipping up support—and the citizen says he has the emails and social media posts to prove it. The developer's consultant stands up and asserts the same against another Councilor whose been talking with groups opposed to the project. With this all out in the open, it's suggested we vote on who needs to be recused from the hearing. **Whose mess is this?**

Concluding Thoughts

- As our scenarios indicate, Mayors will sometimes be in the middle of a “board-level” mess that requires mayoral guidance and leadership. Some key takeaways for your leadership role:
 - Develop and use your “Mayor’s risk radar.”
 - Know and use your entity’s resources effectively (e.g., Manager, Attorney).
 - Know when outside resources may be necessary/appropriate.
 - Seek to guide the body to the goal that “we do the right things, always”.
 - Have a strong understanding of procedural and ethics rules, and other “house rules” of the body.
 - Develop a keen sense of how “board-level” messes can impact the body, the entity, and the community.
 - Expect and support a considered and timely approach.

About the Colorado Intergovernmental Risk Sharing Agency (CIRSA)

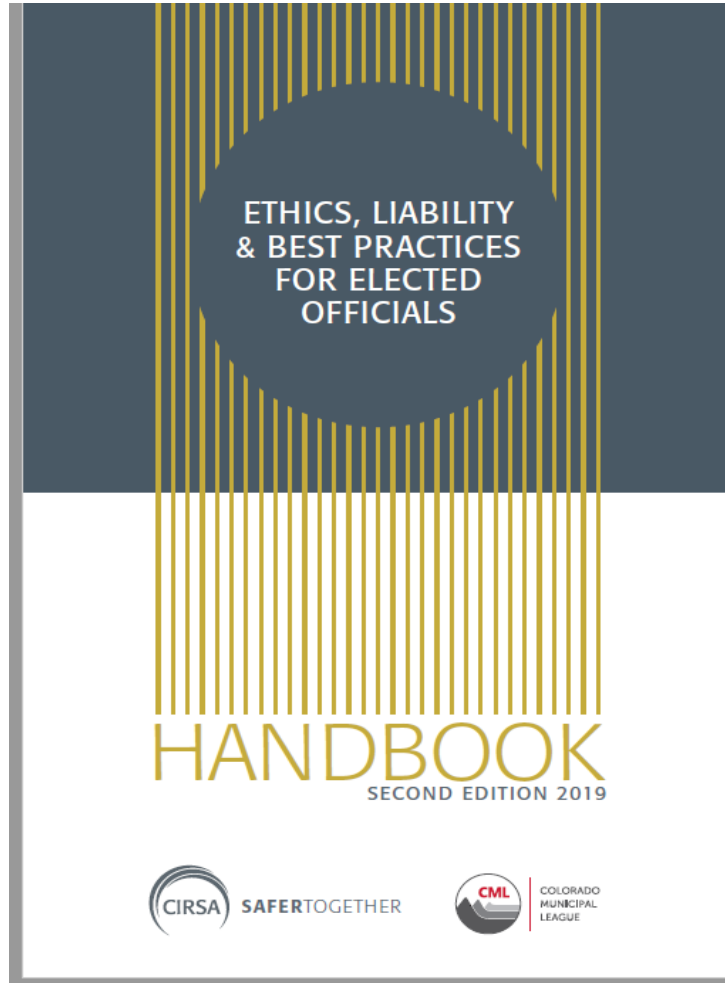
- Public entity self-insurance pool for property, liability, and workers' compensation coverages
- Formed by in 1982 by 18 municipalities pursuant to CML study committee recommendations
- Not an insurance company, but an entity created by intergovernmental agreement of our members
- Total membership today stands at 295 member municipalities and affiliated legal entities
- Member-owned, member-governed organization
- No profit motive – sole motive is to serve our members effectively and responsibly
- CIRSA Board made up entirely of municipal officials
- Seek to be continually responsive to the liability-related needs of our membership – coverages and associated risk management services, sample publications, training, and consultation services, as well as specialty services such as review of draft personnel and administrative policies
- We have the largest concentration of liability-related experience and knowledge directly applicable to Colorado municipalities and affiliated entities
- CIRSA's *Ethics, Liability & Best Practices Handbook for Elected Officials*: <https://www.cirsa.org/wp-content/uploads/2019/06/EthicsLiabilityBestPracticesHandbookForElectedOfficials.pdf>

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CIRSA Resources



CIRSA Elected Officials Handbook:

<https://www.cirsa.org/wp-content/uploads/2019/06/EthicsLiabilityBestPracticesHandbookForElectedOfficials.pdf>

CIRSA elected and appointed officials' resources:

<https://www.cirsa.org/safety-training/elected-officials/>.

CIRSA news & events page:

<https://www.cirsa.org/news-and-events/news/>

CIRSA Training & Events Calendar:

<https://www.cirsa.org/news-and-events/events-calendar/>

CIRSA Safety YouTube Channel:

https://www.youtube.com/@CIRSA_Safety/videos

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Thank you!

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For more information about CIRSA, visit: www.cirsa.org.



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