

Utility Management Best Legal Practices & Ask the Lawyer

Effective Utility Management Workshop
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Flaherty & Hood, P.A.



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F&H Background

- Provides legal, analytical, public affairs, and media relations services to primarily greater Minnesota units of government
- Specializes in local government law, public labor and employment, environmental law and legislative advocacy

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Establishment and Authority

- Municipal utilities
 - Governing statute and charter/code/resolution establishing
 - Regulation largely through local council or commission
- Cooperatives
 - Articles of incorporation and by-laws
- Investor-owned utilities

Minn. Stat. §§ 412.321; 412.331

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Governing Body

- Local utility commission or by a city council
 - Commissioners generally appointed by the city council or Mayor
 - Municipal utilities subject to all state laws regarding public bodies, including:
 - Minnesota Government Data Practices Act
 - Minnesota Open Meeting Law
 - Public bidding laws
 - Public labor and employment laws
- Provide orientation and training on role and authority

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Organization

- Mission and vision of utility and each department/division/section
- Organizational chart
- Services needed and provided
- Functions performed to provide services
- Staffing levels and positions

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Job Classification and Compensation

- Job Description
 - Evaluate to ensure
 - Current
 - Accurate
 - Complete
 - Analyze to ensure compliance with federal and state laws
- Establish job evaluation system to “point” jobs
- Pay equity law compliance
 - Compensation reasonable relationship to points
 - Establish uniform pay structure
- Consider “total rewards”
- Timekeeping that includes actual hours worked

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Personnel Management and Labor Relations

- Governing documents and authority
- Personnel policies
 - Comprehensive
 - Adherence
- Performance management
 - Establish expectations
 - Regular department/division/section meetings
 - Ongoing feedback
 - Reward
 - Develop and succession
 - Personnel actions
 - Coaching and counseling
 - Discipline
 - Performance evaluations
 - Consider tying to pay

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Personnel Management and Labor Relations, continued

- Standard operating procedures and administrative guidance
- Review labor contracts and potential past practices
 - Make unilateral or negotiated changes as warranted

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Insurance, Loss Control & Safety

- Insurance
 - Workers' compensation, liability, property
- Practical steps to avoid losses and reduce cost of any losses that might occur
- Safety policies, work group, and training
 - Implementing sound practices to reduce or avoid repetitive work injuries
 - Preventative maintenance to reduce injuries

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Finances

- Budget
 - Community and organizational needs, goals, and objectives
 - Use to communicate the value of services
 - Tie budgeting to goals in budget documents
- Expenditures
 - Valid authority and furthers a public purpose
- Accounting
 - Written policies and procedures
 - Internal control system

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Records Management

- State laws govern the creation, maintenance, and destruction of records as well as public's right to access government data
- Official records act
- Records retention law and schedule
- Minnesota Government Data Practices Act (MGDPA)
 - Policy
 - Training

Minn. Stat. §§ 15.17; 138.17; 13.01, et seq.

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Meetings

- Open Meeting Law
 - Requires that meetings of public bodies must generally be open to the public
 - Public notice requirements
 - Limited exceptions for closed meetings
- Meeting minutes
 - Must keep a full and accurate record of actions

Minn. Stat. §§ 13D.01; 13D.04; 13D.05; 15.17

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Environmental/Regulatory

- Regular environmental audit review
 - Status of permits/compliance
 - Evaluation of potential issues/changes
- Proactive monitoring of and engagement in regulatory changes and legislative activity
- Proactive engagement and due diligence in permitting process

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Questions?