



2018 CGMC Fall Conference

Effective Performance Management of
City Administrators and Managers

Panelists

- Rick Miller, Waite Park Mayor
- Shaunna Johnson, Waite Park City Administrator
- Moderator: Brandon Fitzsimmons, Flaherty & Hood, P.A. Shareholder Attorney



Topics

- Expectations
- Guidance
- Evaluation
- Job development and reward
- Problems



Expectations

- Definition
 - Performance, conduct and behavior desired
 - Tied to City goals and objectives
- General for City Admin./Mgr.
 - Day-to-day responsibilities of city administration
- Implement through
 - Meetings
 - Verbal discussions
 - Documents



Expectations

- Types of documents
 - Job duties and responsibilities
 - Job description
 - Job posting
 - Offer letter
 - Employment agreement
 - Workplace standards
 - Orientation materials
 - Personnel policies
 - Administrative policies/procedures
 - Labor contracts
 - Periodic written and verbal guidance
 - Laws, rules and regulations



Expectations

- Types of documents
 - Goals and objectives for City, department and individual
 - Budget
 - Annual cheat sheet or report
 - Performance evaluations



Guidance

- Generally, only City Council, collectively, during meeting can give direction and guidance to City Admin./Mgr. for administration of city affairs



Guidance

- But, Council can establish or delegate general or limited authority for elected official(s) to provide general guidance through
 - City charter and/or code (e.g., Mayor)
 - Rules of conduct or procedure (e.g., Agenda)
 - Meeting motion
 - Establishment of liaison(s) or committee(s)
 - Practice and acceptance of City Admin./ Mgr. and designated elected official (e.g., Mayor)



Guidance

- Ensure appropriate continuous communication with Mayor or other designee
 - Establish
 - Regular meeting
 - Scope of issues that should be discussed in-between meetings



Guidance

- Establish in Council rules of conduct or procedure communication of concerns with City Admin./Mgr. to Mayor or other designee
 - To avoid Minnesota Open Meeting Law issues, Mayor or designee should not communicate what other elected officials have stated to other elected officials
 - To comply with Minn. Gov't Data Practices Act and Records Retention Schedule, any written communications or notes should be provided to designee to include in Misc. file retained with, but not in, personnel file



Evaluation

- Definition
 - Rating and discussing performance throughout extended time frame
 - Based on all expectations
 - Used as tool for
 - Development
 - Reward
 - Improvement
 - Goals
 - Record of performance
 - E.g., Annual Performance Evaluation



Evaluation

- Establish policy and procedure
- Provide form or survey before time period covered in evaluation
 - Areas
 - Primary duties and responsibilities
 - Competencies
 - Goals
 - Define ratings and factors
 - Include goals and comments portions
 - Provide concrete examples
- Council or designated representatives meet with City Admin./Mgr. to determine precise process
 - Consider retaining third party consultant



Evaluation

- Compile information
 - Collect and document verbal and written indications of performance from (a.k.a., 360-Degree Feedback)
 - Each City Council member
 - City Admin./Mgr. themself
 - Administration and co-workers (difficult in public sector)
 - Contractors
 - Public
 - Personnel file
 - Utilize electronic survey tools
 - E.g., survey monkey



Evaluation

- Prepare and provide compilation of information to Council and City Admin./Mgr.
 - Designate liaison, human resources, third party consultant, or city attorney to do this



Evaluation

- City Council meeting
 - Closed under Minnesota Open Meeting Law
 - Unless City Admin./Mgr. request that it be open
 - State grounds in open meeting for closing
 - Approve motion to close
 - Electronically record
 - Council deliberate with city representative, if any
 - City Admin./Mgr. not in attendance
 - Call in City Admin./Mgr. to discuss each component of evaluation



Evaluation

- City Council meeting
 - Council discuss conclusions
 - With or without City Admin./Mgr.
 - Read conclusions at next open meeting
- Allow City Admin./Mgr. to submit written response



Development and Reward

- “Total Rewards”
- Compensation
 - Base salary
 - Performance pay
 - Establish criteria, measurements, and amount
 - Amount
 - Increase base wage; or
 - Lump sum payment
 - Pay equity problem if total pay exceeds maximum of salary range
- Benefits
- Work-Life Effectiveness
- Recognition
- Talent Development
 - Learning Opportunities
 - Coaching/Mentoring



Problems

- Discuss with
 - City attorney
 - Mayor or elected official liaison
 - To avoid Minnesota Open Meeting Law issues, Mayor or designee should not communicate what other elected officials have stated to other elected officials
 - To comply with Minn. Gov't Data Practices Act and Records Retention Schedule, any written communications or notes should be provided to designee to include in Misc. file retained with, but not in, personnel file
- Review governing documents, policies, procedures



Problems

- Communicate with City Council
 - In writing through
 - Human Resources
 - City Attorney (privileged)
 - During meeting
 - Closed for preliminary consideration of allegations or charges under Minn. Open Meeting Law
- Council action
 - Motion
 - Retain investigator
 - Personnel action
 - Pursue alternatives



Problems

- Personnel action
 - Coaching or counseling
 - Discipline
 - Performance improvement plan



Alternatives and Supplements

- Referrals to
 - Employee Assistance Program or counseling
 - Safety, technical or behavior training or class
- Workplace assessment
 - Identify workplace concerns and issues
 - Recommend actions to address



Alternatives and Supplements

- Reasonable accommodations
 - If performance or conduct problems may be caused by disability
 - May discipline for problems occurring before knew of disability and accommodation requested
 - Should start “interactive reasonable accommodation process”



Alternatives and Supplements

- Last chance agreements and warnings
 - Employer does not terminate employee
 - Employee waives any grievance or lawsuit against employer
 - Employer imposes lesser discipline
 - Conditions established for employment tied to PIP
 - If employee does not meet agreement conditions, then employer may terminate



Alternatives and Supplements

- Resignation
 - Employee resigns as condition for employer not terminating for cause
 - Advantages
 - Permits employee to receive compensation that he or she might not otherwise receive if terminated
 - Reduce likelihood of legal action
 - Avoid the cost and expense of multiple hearings
 - Keeps more data private on employee



Alternatives and Supplements

- Resignation
 - Steps
 - Notify employee before final decision to discharge to possibly incent
 - Employee resign in writing



Alternatives and Supplements

- Settlements and Releases
 - Employee resigns and agrees to waive all claims asserted or that could be asserted
 - Special legal requirements for discrimination claims
 - Watch out for time requirements for employee to consider and/or rescind agreement



Performance Management Summary

- Establish reasonable expectations
- Continual communications and address issues immediately
- Conduct formal evaluations
- Develop and reward good performance
- Formalize personnel actions to address problems
- Document, document, document
- Consider alternatives and supplements



Conclusion

