



MMUA Summer Conference

WORKING TOGETHER: OPTIMIZING ROLES/RESPONSIBILITIES OF COMMISSIONERS AND COUNCIL MEMBERS

August 19, 2026



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Agenda

1. Overview of Minnesota Law
2. Panel Discussion

Source of Powers/Authority

1. City Charter
2. Minnesota Statutes, Sections 412.321 - .391

“Any water, light, power and building commission now in existence in any statutory city shall hereafter operate as a public utilities commission” under these statutes.” Minn. Stat. § 412.331.

City Charter

- Charter must be consistent with state law; if conflict, state law prevails.
- If charter is silent on a topic that Chapter 412 or another law addresses, charter cities may typically apply the statute.

Council Power of Appointment

- Council appoints three, five, or seven Commissioners.
- Only one from Council membership (if three-member Commission).

Minn. Stat. § 412.341, subd. 1.

Other Council Powers

- Establish franchise
- Require franchise fees
- Regulate right-of-way
- Permits, zoning

E.g. Minn. Stat. § 216B.36

Express Commission Powers

1. Extend/modify/rebuild any public utility
 - “anything it deems necessary for its proper and efficient operation”
2. Hire “all necessary help for the management and operation of the public utility” and establish job duties and compensation.
3. Buy “all fuel and supplies” and purchase wholesale utilities
4. Fix and adopt rates; adopt reasonable rules and regulations for utility service
5. Enter agreement with the council

Minn. Stat. § 412.361.

Other Commission Powers

1. Construct and install facilities
2. Lease or purchase properties
3. Purchase wholesale and resell to customers
4. Serve outside city limits

Minn. Stat. § 412.321

Commission – Council Agreements

1. For payments by the city for utility service
2. Compensation for the use by either party of buildings, equipment, and personnel under the control of the other
3. Payments to the city in lieu of taxes
4. Transfers of surplus utility funds to the general fund
5. Other subjects of relationships between them.

Minn. Stat. § 412.361, subd. 5

Carve Out Language

“the council, except as its powers have been limited through establishment of a public utilities commission in the city, shall make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products.”

Minn. Stat. § 412.321, subd. 1

Judicial Interpretation

The purpose was to create a . . . commission . . . and to clothe it with exclusive authority, acting by itself, and independently of the city council, or mayor, to operate, control and manage a city water and light plant. This authority is expressed in clear and unambiguous language and effectually creates a department of village or city government responsible only to the people. No revisory control is vested in the council or mayor. . .

State ex rel Briggs v McIlraith, 129 N.W. 377, 378 (Minn. 1911) (emphasis added).

State ex rel Chisholm v Borgeran, 194 N.W. 624 (Minn. 1923) (emphasis added).

The duties and powers of the commission emphasizes the legislative intent to create a body free from any coercion or control by the village council. . . The commission shall have full, absolute and exclusive control. . . .

Ordinarily officers or persons appointed by a village council serve in capacities under the supervision or control of the council, or where the council is in a measure responsible for their good conduct. Such appointees are in a sense the servants or agents of the council acting in behalf of the municipality. Here the commission is clearly meant to be an independent department of the village government. . . . **We think the manifest object of the Legislature was to place the conduct of municipally owned public business enterprises in the hands of a stable and independent body, free from the baneful influences which so often result from the frequent changes of the political complexion of an elective village council.**

Thank you!

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