

Social Media

Tips for Elected Officials and Employers

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Exponential Growth in Use

- ▶ Facebook
 - ▶ 750 million active users
 - ▶ 50% log in daily
 - ▶ Average user has 130 friends
- ▶ Twitter
 - ▶ 100 million active users
 - ▶ 35 heads of state use Twitter
 - ▶ 84% of US state governors
 - ▶ Every major candidate for US Pres.



Pros of Social Media Use

- ▶ Allows officials and employers to communicate quickly with constituents
- ▶ Bypasses traditional media and allows direct communication
- ▶ More personal than press releases
- ▶ Allows for interactive communication and dialogue

Cons of Social Media Use

- ▶ Sooner or later, you will say something stupid.







Risks

- ▶ Defamation
 - ▶ Significant risk in municipal politics
- ▶ Privacy concerns
 - ▶ Social media use during in camera meetings
- ▶ Mixed or inconsistent messaging
 - ▶ Who is responsible for social media content? Is there a social media policy in place?

Defamation Primer

- ▶ A reputation can be destroyed in the click of a mouse, a post to a website or an ill-timed tweet
- ▶ The internet is a game-changer for the torts of defamation and breach of privacy



Defamation Primer

- ▶ The law of libel is fundamentally concerned with the protection of reputation
- ▶ Many of the guiding principles of defamation law originate at the intersection of local gov't and the public interest

What is defamation?

- ▶ Law of defamation based on a form of no-fault liability
- ▶ “Would the words tend to lower the plaintiff in the estimation of right-thinking members of society generally?”
– Lord Aitken

Reference to the Plaintiff

- ▶ Can be direct reference or can be implied by the context of the communication



What Constitutes Publication?

- ▶ Who is the publisher?
- ▶ Defamatory comments posted on a municipal website would almost invariably constitute publication
- ▶ A tweet is a published statement

Defences to Defamation

- A. Truth
- B. Fair comment
- C. Absolute privilege
- D. Qualified privilege
- E. Responsible communication

Defamation Hypothetical:

A councilor responds to a negative comment on a municipal blog about a new social housing development in his ward. He knows the person who made the comment, and accuses the citizen of lying and sabotage...



Defamation

- ▶ “VANCOUVER -- West Vancouver Liberal candidate Dan Veniez has filed a libel lawsuit against Conservative MP John Weston over campaign tactics, alleging Weston and his campaign workers have been distributing lies about Veniez....”

- published in the Vancouver Sun, Apr. 26, 2011

Defamation:

- ▶ "...The lawsuit... alleges that a screen grab was taken from Weston's campaign page on Facebook, in which Weston made comments about the allegedly libelous YouTube video and provided an Internet link to it.

- published in the Vancouver Sun, Apr. 26, 2011

Privacy Legislation

- ▶ Governments must follow legislated restrictions on collection and disclosure through *The Freedom of Information and Protection of Privacy Act (FOIPPA)*



Privacy Legislation

- ▶ Social media by its nature relies on the willingness of individuals to disclose some personal information
- ▶ There is a distinct difference between what an individual discloses and what a municipality discloses about that same person

Privacy concerns:

- ▶ A City HR manager conducts a background check on a new hire. She comes across some disparaging remarks on that person's Facebook page and reneges the offer, but not until after the new hire finds out why....



Privacy concerns:

Cisco just offered me a job! Now I have to weigh the utility of a fatty paycheck against the daily commute to San Jose and hating the work.

3:17 AM Mar 18th from web

Privacy concerns:



Mixed messaging:

- ▶ A municipal employee broadcasts a link to ilovecannabis.com using her workplace computer and her employee Twitter account instead of her work account.....





Ryan found two more 4 bottle packs of Dogfish Head's Midas Touch beer.... when we drink we do it right #gettnslizzerd

HootSuite • 2/15/11 11:24 PM

We've deleted the rogue tweet but rest assured the Red Cross is sober and we've confiscated the keys.

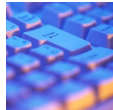
4 minutes ago via UberTwitter

Social Media

- ▶ Now used by almost every major municipality
- ▶ Social media policies and guidelines recommended for municipalities and elected officials
- ▶ Know the related laws – defamation, libel, privacy

The Municipality as an Employer

- ▶ Help employees use social media to the municipality's advantage
- ▶ The policy will touch on others already in existence – IT usage, media, privacy and confidentiality



The Municipality as Government

- ▶ Will increasingly use social media to engage stakeholders on issues
- ▶ Must abide by FOIPPA
- ▶ Must consider how elected officials will be represented on municipal social media profiles
 - ▶ Is there a social media policy in place?
 - ▶ Is tweeting allowed during meetings?
- ▶ What does municipal insurance cover?

Social Media in an Election Campaign

- ▶ “Report of the Local Government Elections Task Force” – published by the Union of BC Municipalities and the Gov’t of BC in 2009
- ▶ Includes recommendations regarding campaign advertising

Social Media in an Election Campaign

- ▶ Most municipalities will offer campaign training to anyone interested in running for public office
- ▶ Take note of your online reputation
- ▶ Be careful of third party endorsements



Social Media in an Election Campaign

- ▶ What you say online may be used against you in a future vote
- ▶ Who will be responsible for your Tweets and Facebook posts?
- ▶ Once made, online comments are easier to find

Elected Officials

- ▶ “Rules of Engagement” – training will be provided by the municipality for newly elected officials
- ▶ Elected officials must abide by all privacy rules
- ▶ Generally advisable to follow the same rules as during the campaign

Questions?

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