



City Council Social Media Policy

Study Session Meeting - March 26, 2024

City Staff Representatives: Michael Davis, Assistant City Attorney
Kristen Chernosky, Communications & Engagement Director



Social Media

- Many Different Social Media Sites (Facebook, LinkedIn, X, Instagram, etc.)
- Great tool for get communicating with the public
- Official Accounts
- Personal Accounts v. Official Accounts
- Public forum & Restrictions



Prohibition on Campaigning in Official Accounts

- The Fair Campaign Practices Act prohibits City resources from being used for political purposes.
- Members shall not use Official Accounts as a tool for reelection or for any other election or campaign purpose.
- Members who wish to use Social Media for campaigning must establish separate Personal Accounts for that purpose and may not use City resources to create and work on Personal Accounts.



Personal Accounts vs. Official Accounts

- Personal Accounts and Official Accounts should be distinct and maintained separately.
- Personal Accounts must not be created using a City-provided email.
(Cannot use City Resources)
- Personal Accounts can be deemed Official Accounts by a Court of competent jurisdiction, regardless of when such Personal Accounts were established and for what purpose.

(Official Accounts = State Action = Public Forums = Open Meetings Laws)



Communicating on Personal Accounts

- Posts on Personal Accounts that violate the law or City policy, including, but not limited to, discriminatory remarks, sexual-harassment, or threats of violence, are prohibited.
- While public officials can act on behalf of the City, they are also private citizens with their own constitutional rights.
- If a Member has authority to speak on the City's behalf and purports to use that authority on a Personal Account, that Personal Account will likely be deemed an Official Account by a Court with jurisdiction.



Communicating on Personal Accounts: Banning Members of the Public

- The Supreme Court ruled that speech is attributable to the Government only if the official (1) possessed actual authority to speak on the Government's behalf, and (2) purported to exercise that authority when the official spoke on social media.
- Turns on substance – not labels = fact-intensive inquiry
- Status as a City employee is not alone enough. A public official who fails to keep personal posts in a clearly designated personal account therefore exposes himself or herself to greater potential liability



Monitoring Speech and Access to Accounts

- Access to all Official Accounts must be set to "public."
- Because Official Accounts are public for 1st Amendment purposes (through the 14th Amendment), no member of the public may be banned or blocked from accessing any Official Account.
- Comments for a post may be turned on or off.
- If comments are turned on, no member of the public may be prohibited from submitting a comment unless the member of the public does not comply with the rules of engagement.



Unlawful Meetings

- Under the Open Meetings Law, all public business must be conducted in public.
- The dynamic nature of Social Media and the sheer volume of posts may make it difficult to track who is involved in the discussion and detect when the line has been crossed.
- Members should not communicate about public business with other Members by Social Media (including commenting or messaging) whether or not such communication is public or private.



Confidentiality, Preservation of Public Records, & Security

- No Member may disclose on Social Media confidential or proprietary information.
- Content published on social media is not a record of the City and are not subject to retention by the City.
- Members should use necessary care to maintain the security and integrity of Official Accounts to prevent the unauthorized access or posting of content.



Discussion & Questions?