

The 6th Council Member: Social Media

#LOCCAC



October 16, 2019

Your Panel



Ryder Todd Smith
President
Tripepi Smith



Meghan Sahli-Wells
Mayor
City of Culver City



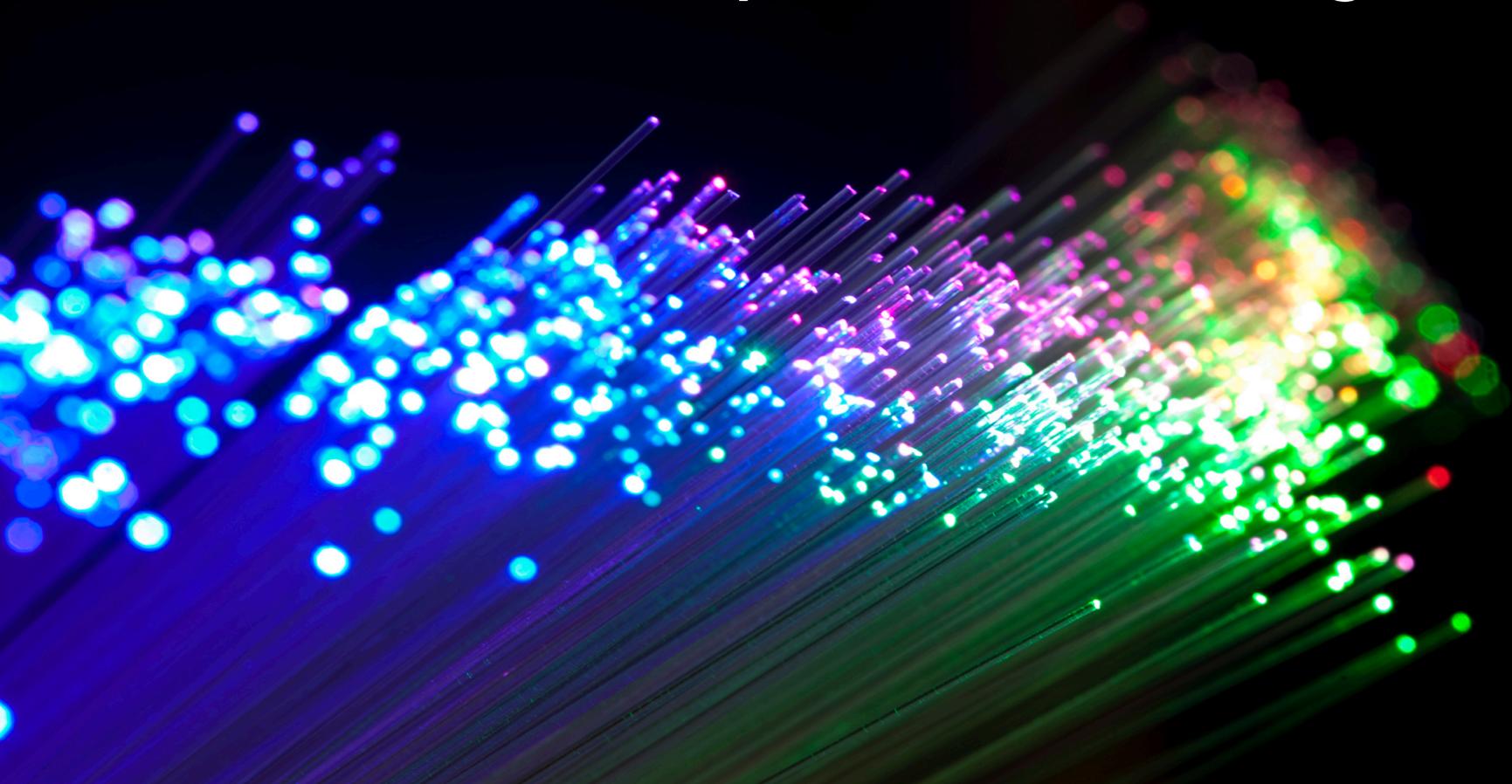
Teresa Stricker
Partner
Renne Public Law Group



Eric Figueroa
City Manager
City of Martinez



The medium equates the messenger



Official City Page

← City of Coronado - About

01:01

City of Coronado
Government Organization

Like

Message

Ryder, Janine and 4,825 others like this

Community Group

← Coronado Happenings

Coronado Happenings
Closed group

If it's happening in Coronado, it's on Coronado Happenings!

- Add Members >
- 19,976 Members >
- 45,846 Photos >
- 10 Upcoming Events >
- 71 Files >

Local Newspaper

← Coronado Eagle & Journal - Home

Coronado Eagle & Journal
Newspaper

Like

Contact Us

Janine and 4,050 others like this

What You Will Learn

- Unique insights from 3 different viewpoints: legal counsel, City administration, and Council Member
- More appreciation for what SM can do
- Ideas about positive ways to leverage SM for your city
- Common pitfalls to avoid for personal/professional use
- Better understanding of how to distinguish “vocal minority” rants from more widespread community concerns
- Write down your questions and we’ll answer as many as we can at the end!



What We Mean by "Social Media"



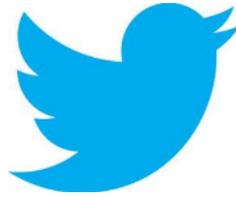
PROFILE
personal

PAGE
professional

GROUP
personal



PROFILE
personal



PROFILE
personal



PROFILE
personal

PAGE
professional

GROUP
personal



PROFILE
personal

**AGENCY
PAGE**
professional

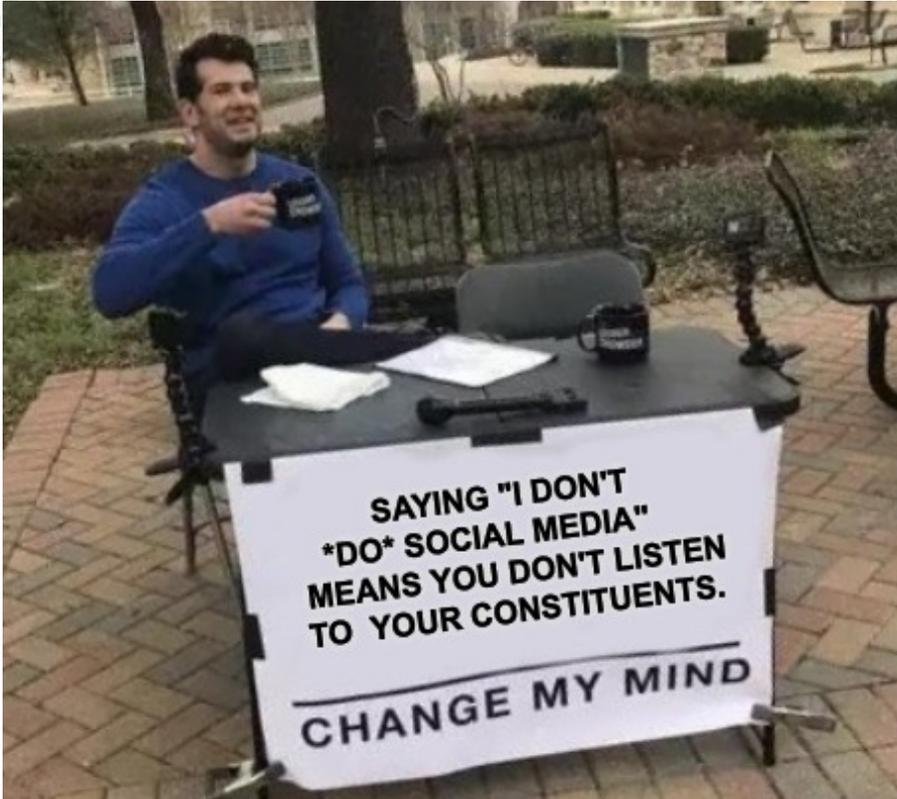


CHANNEL
personal
or
professional



TRIPEPI SMITH

Social Media is the New Normal

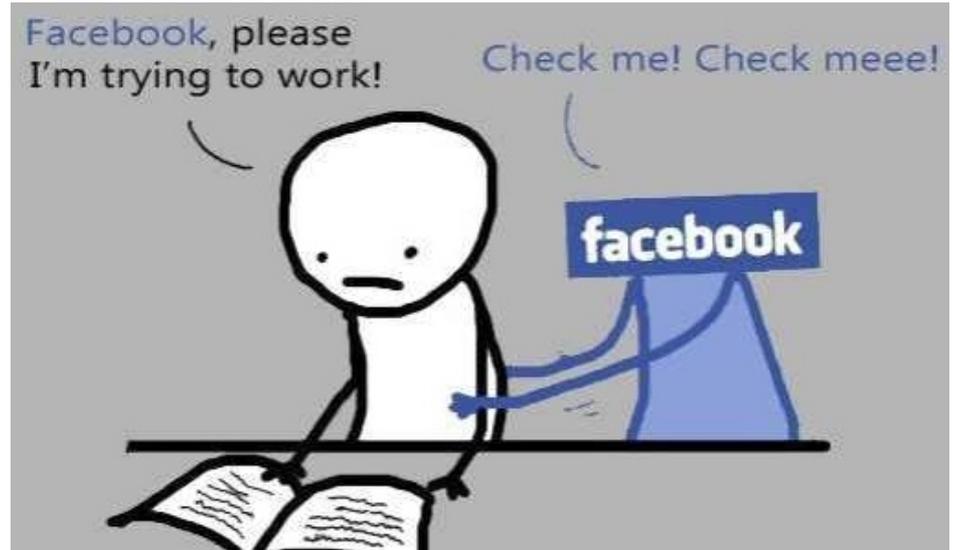


- Given potential negatives, opting out is tempting.
- **BUT** if you want to serve your community, you need to be able to listen to them.
- And social media **can** be powerfully good.

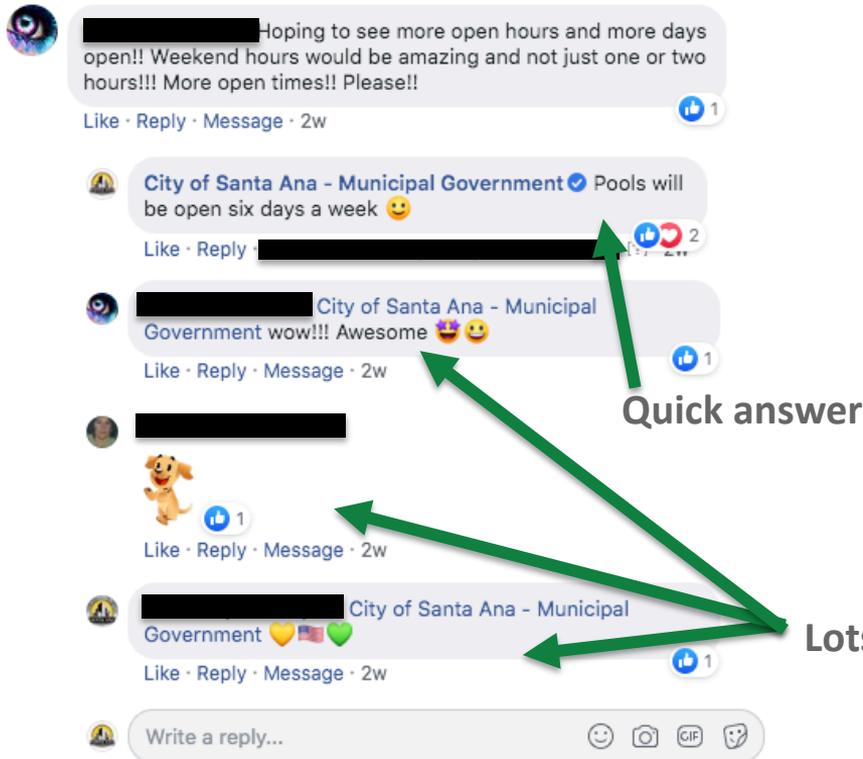


Your Residents Are on Facebook

- #3 website in world
- 69% of Americans
 - Only 51% of teens ↓
 - 46% of seniors ↑
- 58 minutes per day, 10-12 min. at a time
- 7-10 ad clicks/month
- Instagram tie-in



Local Gov is Embracing Social Media



- Customer service
- Being your own media outlet
- 2-way vs. 1-way communication

Social Media Can Tell Your Best Stories!

- Show off your services, programs and the beautiful parts of your community
- Ask others to show their love for where they live, work and play

This post about lifeguards and feel-good Council action got 133 reactions, vs. 10-15 for other posts around the same time.

City of Laguna Beach - Government
June 4 at 2:02 PM · 🌐

At tonight's City Council meeting, there will be a proclamation honoring the 90th anniversary of the Laguna Beach Lifeguard Department. On behalf of everyone who loves the beach: thank you!

2 Comments 11 Shares

Like Comment Share

Most Relevant ▾

Write a comment...

██████████ Thank you for your service to the community!!
Congratulations!!!
Like · Reply · 1d

██████████ Thank you for all
The hard work !!
Like · Reply · 1d



TRIEPI SMITH



Liked Following Share ...

Learn More

Send Message

Culver City - Local Government
21 hrs · 🌐

#CulverCity strives to provide our community with opportunities to learn about City business and policies, and provide input in a timely manner. If you have questions about any of this week's meetings, please contact City Hall at (310) 253-5851.
<http://culvercity.org/agendas>

Government Organization

Suggest Edits

Page Transparency [See More](#)

Facebook is showing information to help you better understand the purpose of a Page. See actions taken by the people who manage and post content.

Page created - April 13, 2010

Pages Liked by This Page >

Culver City Municip... Like

Culver City Police ... Like

Culver City Parks, ... Like

Related Pages

Culver CityBus Jim Shanman likes this Bus Line Like

Culver City Managem... Kelly Kent likes this Government Organization Like

Culver City - Local Government

@CityOfCulverCity

Home

About

Posts

Photos

Events

Videos

Community

Create a Page

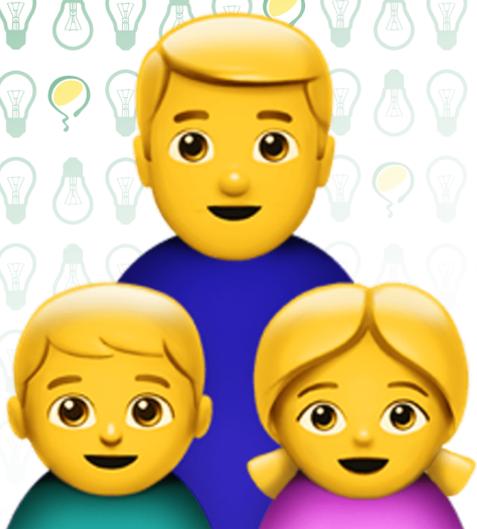
CITY OF CULVER CITY
UPCOMING MEETINGS

To transmit your comments to the City Council about Agenda Items, please email the City Clerk at city.clerk@culvercity.org.

<p>CITY COUNCIL MEETING Regular Meeting Mike Balkman Council Chambers Monday, September 23 7:00 PM</p>	<p>COMMITTEE ON PERMITS AND LICENSES Mike Balkman Council Chambers Wednesday, September 25 11:00 AM</p>
<p>CITY COUNCIL SPECIAL MEETING Special Meeting Senior Center Tuesday, September 24 6:00 PM</p>	<p>PLANNING COMMISSION Regular Meeting Mike Balkman Council Chambers Wednesday, September 25 7:00 PM</p>

CULVERCITY.ORG/AGENDAS







 **culvercityfirefighters** • Follow
Agoura Hills, California

 **culvercityfirefighters** 🔥 UPDATE - Culver City Firefighters continue to fight the #WoolseyFire. Crews are exhausted, but doing well. For #HillFire Updates Visit: <https://www.vcemergency.com>

For #WoolseyFire Updates Visit: <https://www.lacounty.gov/woolseyfire/>

45w



 **sonsofatrophy** Thank you!!!!

45w 1 like Reply

 **ccc_cchs** Thank you for all your hard

369 likes

NOVEMBER 10, 2018

Log in to like or comment.

 YouTube

Search

Home Trending Subscriptions Library History Watch later Liked videos

 **City of Culver City**
100 subscribers



HOME VIDEOS PLAYLISTS CHANNELS ABOUT

 **Interim Rent Control Measures**
What You Need to Know

On August 12, interim rent control measures went into effect for a 12-month period. See the back of this flyer for what you need to know, whether you're a landlord or a tenant.

culvercity.org/rent

[See Back](#)

Key provisions of the Ordinance include:

- For all rental units in Culver City built on or before February 1, 1995 (except as noted), there is now a rent cap 3% above the rent that was in place on June 11, 2019.
- The rent cap does not apply to rental units first occupied after February 1, 1995.
- The rent cap does not apply to detached single-family homes, separately owned condos & townhouses, owner-occupied mobile homes, or Section 8 housing.
- There is a petition process for landlords to request relief from the rent cap (in certain situations).
- "For cause" and "no-fault" grounds are required for evictions. Relocation assistance (three times monthly rent, plus \$1,000) may be available for no-fault evictions.
- All landlords must register each rental property with the City by February 2020. The City will notify landlords of when registration is open.
- From now until August 2020, the City Council will study whether these and/or other rent control measures should become permanent.

Call the Housing Division at (310) 253-5782 if you need information in Spanish.
Lláme a la División de Vivienda al (310) 253-5782 si necesita información en Español.

For more details about interim rent control measures in Culver City and how you may be affected:

www.culvercity.org/rent | rent.control@culvercity.org | [Housing Division \(310\) 253-5799](tel:310-253-5799)



Online Commentator



You





Edit profile

Meghan Sahli-Wells

@M_Sahli_Wells

Mayor & Mom.
I made #CulverCity 100% renewable, ~~no~~ 2 work & fight 4 environmental justice.
[@localprogress](#) [@cleanpowerinfo](#) Boardmember.
Tweets personal ≠ official

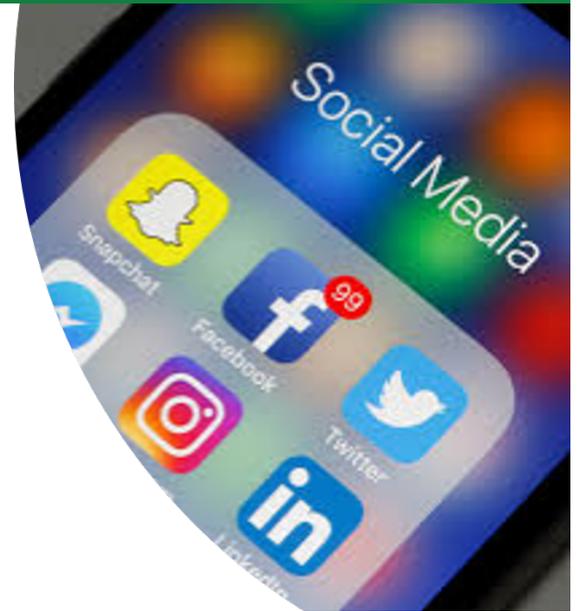
Culver City meghansahliwells.com Joined October 2009

1,303 Following 1,587 Followers



Social Media: Legal Constraints on Public Officials

- The First Amendment
- The Brown Act
- Fair Process Rules in Quasi-Judicial Proceedings



The First Amendment



Public officials who use social media may be subject to the requirements of the First Amendment



Are you communicating about matters within the subject matter jurisdiction of your agency?



Is there two-way communication?



Social Media As A Public Forum Subject to the First Amendment



- Speech occurring in a public forum is protected by the First Amendment and the ability of the government to regulate the speech is limited
- The degree of First Amendment protection depends on the type of forum in which the speech occurs



Traditional Public Forum



- Areas where speech has traditionally occurred: Parks, sidewalks, plazas
- Restrictions on speech are valid only if narrowly tailored to achieve a compelling government interest
- Content-neutral time, place and manner restrictions are OKAY



Designated Public Forum

A forum designated by the government
for use by the public where
speech may occur.

Can be limited to a particular
issue/subject or unlimited.

Designated Public Forum (Cont'd)

An unlimited designated public forum is governed by the same strict scrutiny standard as a traditional public forum

Designated Public Forum (Cont'd)

In a limited designated public forum, reasonable content-based restrictions intended to limit the forum for its designated purpose are valid

Example: Cities may delete comments from their interactive website designed to discuss City playgrounds irrelevant comments about the federal government's foreign policy.

Viewpoint Discrimination Is Never Allowed!



Regardless of the type of public forum, the government may *never* limit access based on the speaker's viewpoint or identity



Knight First Amendment Institute at Columbia University v. Trump

- President Trump has been using the @realDonaldTrump twitter account since 2009
- After his election, the President has used this account to communicate with the public about his presidency and administration, among other matters
- Individuals who were “blocked” from viewing or replying to tweets on the President’s account based on the critical nature of their earlier tweets sued the President under the First Amendment



The *Trump* Decision



The Court of Appeals concluded:



The President's Twitter account was a public forum



Regardless of the type of public forum, blocking the tweets constituted viewpoint discrimination, and therefore violated the First Amendment



Although the public has no right to be heard by the government, blocking users interfered with their First Amendment right to communicate with other users who visited the Twitter page

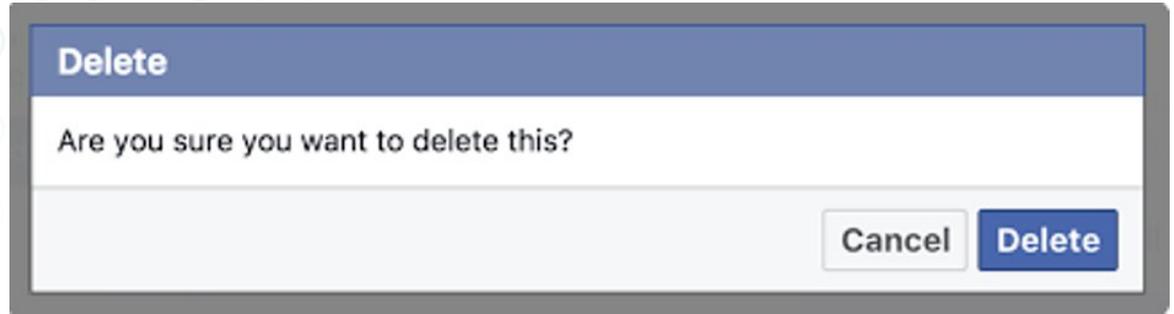


Blocking or Deleting Comments on Social Media Sites May Lead to Litigation

- *Davison v. Randall*
- County Supervisor Chair blocked a member of the public from the “Chair Phyllis J. Randall” Facebook Page based on critical comments about the Chair and school board members
- The court concluded that the Chair’s Facebook Page was a public forum, without deciding which category of public forum it fell under.
- Why? Because limiting an individual’s speech based on viewpoint will always violate the First Amendment



A Public Agency May Not Ban or Delete Comments Based on Content



- Based the viewpoint or identity of the speaker
- Because comments are critical

Can a “Personal” Webpage Become a Public Forum?

- The *Trump* case shows that courts may conclude that an official has created a public forum on his or her “personal” webpage.



Can a "Personal" Webpage Become a Public Forum?



President Obama

1 hr · 🌐

Hello, Facebook! I finally got my very own page. I hope you'll think of this as a place where we can have real conversations about the most important issues facing our country – a place where you can hear directly from me, and share your own thoughts and stories. (You can expect some just-for-fun stuff, too.)

I'm kicking it off by inviting you to take a walk with me in my backyard – something I try to do at the end of the day before I head in for dinner. I say this often, but... [See More](#)

- **Factors:**
 - A public official controls the content of the page
 - The site invites or allows comments by the public
 - The official posts about matters within the subject matter jurisdiction of her agency



Can a "Personal" Webpage Become a Public Forum? (Cont.)



President Obama

1 hr · 🌐

Hello, Facebook! I finally got my very own page. I hope you'll think of this as a place where we can have real conversations about the most important issues facing our country – a place where you can hear directly from me, and share your own thoughts and stories. (You can expect some just-for-fun stuff, too.)

I'm kicking it off by inviting you to take a walk with me in my backyard – something I try to do at the end of the day before I head in for dinner. I say this often, but... [See More](#)

- **Factors (continued):**
 - The site used to promote the views of the official on agency-related matters
 - The official uses an agency computer, tablet, phone or other agency resources to manager or communicate through the webpage



Can Simply “Liking” a Post Raise First Amendment Issues? Yes!

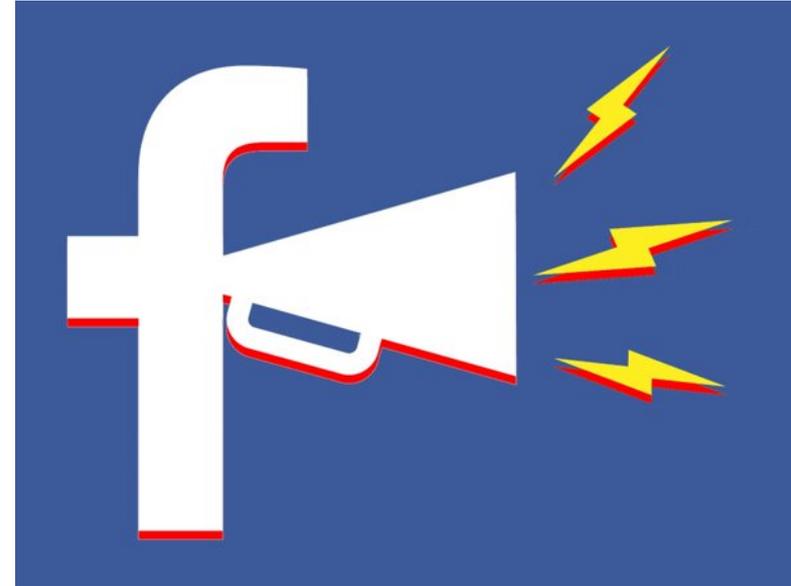


- **Trump decision:** “A blocked account is prevented from viewing any of the President’s tweets, replying to those tweets, retweeting them, or liking them Liking a tweet conveys approval or acknowledgment of a tweet and is therefore a symbolic message with expressive content. Replying, retweeting, and liking are all expressive conduct that blocking inhibits.”

Can Simply “Liking” a Post Raise First Amendment Issues? Yes!

Bland v. Roberts

- Sheriff fired employees who supported his opponent in an election, purportedly based on performance concerns
- During the campaign, some of the employees had “liked” his opponent’s Facebook page
- The Court held that “liking” a page was protected speech, and that the employees’ right to engage in this speech outweighed the Sheriff’s asserted interests in preserving effective services for the public



Brown Act Limits on the Use of Social Media



- The Brown Act's requirement that meetings occur in public following notice is violated if a quorum of the members of a legislative body engage in "seriatim" meetings
- Like the use of telephone and email, public officials can conduct illegal seriatim meetings through social media



Example of an Illegal Seriatim Meeting Through Social Media

Councilmember Garcia posts on Facebook her views about an item on the next Council agenda

Councilmember Johnson replies to the post, criticizing the views Councilmember Garcia expressed



Example of an Illegal Seriatim Meeting Through Social Media (Cont.)

Councilmember Yee then responds to Councilmember Johnson's reply, expressing her own view about the agenda item.

Because a quorum of the five-member Council has engaged in a seriatim discussion of the agenda item outside of a noticed public meeting, they have violated the Brown Act.



Permissible Types of Social Media Use Under the Brown Act

- Matters outside of the legislative body's subject matter jurisdiction:
- For example, posts about baseball, wine, vacations or 17th century composers



Donald J. Trump 
@realDonaldTrump

Watching the Dodgers/Red Sox final innings. It is amazing how a manager takes out a pitcher who is loose & dominating through almost 7 innings, Rich Hill of Dodgers, and brings in nervous reliever(s) who get shellacked. 4 run lead gone. Managers do it all the time, big mistake!

10/27/18, 11:46 PM



Permissible Types of Social Media Use Under the Brown Act (Cont.)

- A single social media comment by about a City issue is likely not itself a Brown Act problem – but this a gray area.
- TIP: A clear problem exists when a quorum uses social media to discuss a City issue outside of noticed public meetings.



Failed Brown Act Amendment Addressing Permissible Social Media Use

- AB 992 Introduced in Early 2019:
 - Would have expressly allowed a majority of the members of a legislative body to post information about agency business on social media so long as a majority does not “directly” discuss agency business among themselves.
 - *Example*: Four of the five city councilmembers would have been able to “like” ideas posted by *others* who are not councilmembers.



Failed Brown Act Amendment Addressing Permissible Social Media Use (Cont'd)

- The Bill's Early Death in Committee
 - Concerns that loosening Brown Act restrictions would disenfranchise seniors and others without social media access.



Fair Process Limitations on the Use of Social Media



- Special fair process rules apply when a City Council or Planning Commission sits in a quasi-judicial capacity.
 - For example, during an appeal from a land-use entitlement application
- **Councilmembers and Commissioners Must:**
 - Not prejudge the matter
 - Be Fair and Impartial
 - Make decisions based only on evidence presented during the hearing.

Fair Process Limitations on the Use of Social Media (Cont.)



- A Councilmember's posts may lead to questions about whether the Councilmember has prejudged the matter or considered facts outside of the hearing.
- At minimum, disclose all "ex parte" communications.
- Contact the City Attorney!

Be Aware of, and Closely Follow, Your City's Social Media Policies

**YOU
CAN'T
PLAY
THE
GAME
IF YOU
DON'T
KNOW
THE
RULES**

- Make sure you understand your agency's policies on the use of social media
- Strictly follow those policies
- If you believe the policies are unclear or problematic, notify the appropriate agency staff



Golden Rule:

Never Post What You Don't Want in the Newspaper



Be transparent and open.



Think carefully about the tenor and consequences BEFORE you post



Never post angry, tired or after that extra glass of wine



Resist posting about matters coming before the Council



Do not block others based on their viewpoint or identity



TRIPEPI SMITH

Nextdoor



Nextdoor™
is GROWING!



TRIPEPI SMITH

Why You Should Embrace Nextdoor

- Cities are about PLACE. So is Nextdoor.
- Neighborhood Leads = your Neighborhood Watch
- “Urgent Alerts” feature!
- GIS map integration for targeted messaging
- Every member sees every Agency post!



Loudoun Co. Sheriff 
@LoudounSheriff

Follow

Are you on @Nextdoor? Yesterday, the LCSO utilized the neighborhood social networking app to help locate a missing woman. After sending an urgent alert through Nextdoor, we received vital information to help locate her safe. #Loudoun now has over 55,600 residents on Nextdoor.

The Nextdoor logo, featuring a white house icon to the left of the word "Nextdoor" in a white, sans-serif font, all set against a dark green background.

Nextdoor™



City of Glendale Rumor Page

[Home Page](#)

[Safe Browsing](#)

About

The City of Glendale's Rumor Page is dedicated to eliminating misconceptions, and bringing residents the facts about varying issues and concerns within our community.

Measure S Revenue Appropriations

✘ Council cannot tell the public how it will spend...

Americana at Brand Economic Impact

? The City of Glendale received numerous inquiries

City of Glendale Rent Freeze

✘ Council imposed a six-month rent freeze on Nov. 13



Leverage Your City's Website

- If you need to respond to misinformation, facts should be available on your City website.
- Cuts down on back-and-forths in social media comments.

Responding as a Council Member

- When a comment is negative:
 - Be clear and factual
 - Address the problem and the city's response to it
 - Do **not** engage in a back-and-forth debate
 - Refer to external data sources in your comments
- When a comment is positive:
 - Thank them and be personable
 - Link to other positive and relevant stories



Have Process in Place Before Emergency

- Does your PIO or CM loop you in on emergencies ASAP?
- Does your Media Inquiry Policy encourage you to speak directly to media/news/blogs?



How to Increase Constituent Engagement

1. Give people the content they want

2. Ask questions, then respond

3. Pay for it
(Boosted Posts & ads)



Individual Rants vs. Widespread Concerns

- “I saw on Facebook...” or “I saw on Nextdoor...” can be dangerous for Councils.
- Without scientific survey data, hard to tell a complaint from a vocal minority from concerns of the majority (who just aren’t speaking up).
- How do you tell the difference?



Questions?



Thank you, League of CA Cities!

Full presentation is available on
cacities.org