

Social Media & Municipalities: A Roundtable with Our Municipal Attorneys

Government Entities Alert
November 17, 2017

In our digital evolving age, social media platforms create a multitude of opportunities to engage the citizenry. They also create a minefield of dangers for municipalities to avoid.

Moderator, Julie Proscia, led a discussion with our panel of municipal law attorneys Mike McGrory, and Alan Farkas, to answer some questions to help you avoid the landmines and successfully avoid the pitfall traps.

Moderator: What is the biggest challenge that you see for governmental entities in a time of interconnectivity where everything is posted, tweeted, blogged etc.?

Mike McGrory: Municipalities have issues very similar to businesses when it comes to social media. Julie, you point out that anything can and will be posted on social sites. I agree with Carlos in that the formal posting from a municipality needs to be done by the right people, but I would also caution and say that municipalities need to be thinking of their internal communication strategy and working with experts to craft very specific messages to staff, especially in the case of a hot button issue. Your seemingly innocuous internal email about the mishandling of a situation can easily find its way online.

Moderator: What is your best advice to municipalities that are struggling with the heightened comments and exchanges of their constituents on their official social media platforms?

Alan Farkas: I'm adapting this advice from a bumper sticker: dance like nobody's watching, text like it will be Exhibit A at trial.

Moderator: Are social media posts public record?

Julie Proscia: Maybe. Posts that are made by the official governmental entity or by a private account being used to distribute information by that entity are public records **IF** the content is unique, i.e. a governmental entity only needs to save the first announcement regarding free electronic recycling – not all 50 unless the versions significantly differ.

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Moderator: How has social media changed the way that you litigate?

Alan Farkas: Social media is both an influencer and viewfinder into the public, including the jury. In some cases, the parties may have access to the information being consumed by the jurors, and the portal may be focused on the 12 individuals in that box. Of course, the jurors have their own portals, and despite admonishing them not to do so, the jurors are looking up the judges, the lawyers, the witnesses, the parties, and sometimes each other too. And the final tool is social media as a 24/7 private investigator on all witnesses and parties who come before the court. An unscrupulous lawyer can use these tools to manipulate any of the players in a trial. A skilled litigator is aware and weary of the need to play defense across the internet while also making ample use of its many gifts. This often requires counsel to use social media and public relations consultants in high profile cases. Of course this is all new within the past ten years.

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