

Using Broadband Technology:

Legal Implications and Issues to Consider When Implementing a Social Networking Plan



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Social Networking Sites are...

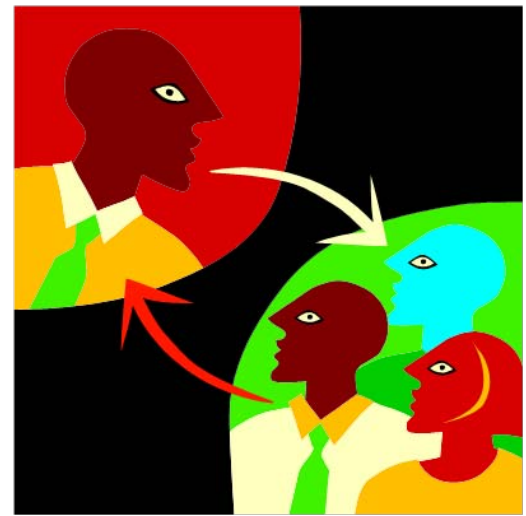
- The community centers
- The handshakes exchanged on the evening constitutionals
- The bulletin boards
- The community meetings
- The letters to and telephone calls with administrators and elected officials
- The public protests
- The Town criers

...of the 21st Century

Two Roles:

Community and Employer

- Legal issues as a Community/PEG Channel dealing with citizens and the public at large
- Legal issues as an employer of public employees and manager of volunteers



The Issues:

As a Community/PEG Channel

- First Amendment
 - What forum is this?
 - Traditional/Designated (street corner, city park)
 - Limited (college classroom)
 - Closed (jail, military base)
 - May come up with: Posts, Friend Requests, Rejections
- Content Control
 - Misstatements, mistakes, and false rumors
 - Montgomery Township, NJ

Montgomery Township, NJ

Montgomery Township (InMontgomeryNJ) on Twitter - Windows Internet Explorer

http://twitter.com/InMontgomeryNJ

File Edit View Favorites Tools Help

Montgomery Township (InMontgomeryNJ) on Twitter

InMontgomeryNJ

Location Montgomery, NJ, USA
Web <http://www.twp.nj.us>
Bio Montgomery government account to relay timely info to public: road closings, emergencies, police notice

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Cty Rt. 605 Kingston-Rocky Hill River Rd. Totally Closed Downed Tree & Power Lines for few hrs
<http://tinyurl.com/ybr53wkh>
6:18 PM Sep 26th from web

@DanielleFishers thank you for trying to set record right. Still 8:1 wrong to right. Who spreading <http://tinyurl.com/Mifzl>
5:06 PM Sep 23rd from web in reply to DanielleFishers

@kristenoyler We (NJ) NOT closing our animal shelter! False rumor spreading virus. Pls let others know. <http://tinyurl.com/Mifzl> Thx
1:45 PM Sep 23rd from web in reply to kristenoyler

@juliecute We (NJ) NOT closing our animal shelter! False rumor spreading virus. Pls let others know. <http://tinyurl.com/Mifzl> Thx
1:41 PM Sep 23rd from web in reply to juliecute

@TylerRTV We (NJ) NOT closing our animal shelter! False rumor spreading virus. Pls let others know. <http://tinyurl.com/Mifzl> Thx
1:36 PM Sep 23rd from web in reply to TylerRTV

@husterthehuston We (NJ) NOT closing our animal shelter! False

@TylerRTV We (NJ) NOT closing our animal shelter! False rumor spreading virus. Pls let others know. <http://tinyurl.com/lvlfzl> Thx 1:36 PM Sep 23rd from web in reply to TylerRTV

Start | no16sept3009 (Read-On... | Social Media Presentatio... | Microsoft PowerPoint - [... | Inbox - Microsoft Outlook | Montgomery Townshi... | Internet | 100% | 6:48 AM



The Issues:

As a Community/PEG Channel

- Open meetings laws
 - Posts between multiple elected officials
 - Discussion of items coming up on the agenda
- Open records laws
 - (Colorado) "Public records": all writings made, maintained, or kept governmental entity for use in the exercise of functions required or authorized by law or involving the receipt or expenditure of public funds.
 - Florida's Attorney General's Opinion

FL Attorney General Advisory Legal Opinion # AGO 2009-19

April 23, 2009

Florida Attorney General Advisory Legal Opinion

Number: AGO 2009-19
Date: April 23, 2009
Subject: Records, municipal facebook page

Mr. Samuel S. C
Coral Springs
9551 West Sam
Coral Springs

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“...members of a city board or commission must not engage on the city’s Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action.”

“It is the nature of the record created

is created public

’s page would municipal, not connection with the ss and thus subject to public Records Laws].

obligated to follow a pub
in the State of Florida G
Local Government Agencies?



The Issues:

As a Community/PEG Channel

- Privacy Issues
 - Will the site keep private the information you provide?
- ADA
 - All services and benefits must be available equally to all citizens
- Terms of Service Agreements
 - Indemnification clauses

The Issues:

As Employers/Managers

- First Amendment
 - Garcetti analysis
 - Whistleblower Protection
- Confidentiality
 - Employees divulging confidential information, decisions, pre-empting public notices
- Harassment/Objectionable Content
 - Anything that can occur at the workplace, can also occur on the Community's social networking site.
 - Harassment from/to personal sites

The Issues: as Employers/Managers

- Employee productivity
 - Do you allow the use during work hours? If you restrict, will this stop the community's social networking efforts
- Scope of employment issues
 - At what point does an employee's social networking site use fall into his/her scope of employment?
 - Off –duty legal conduct

How to address these issues:

- Assessment
 - How are you using social networking now?
 - How are your employees, elected officials, and citizens using social networking now?
 - How do you want to use it?
- Evaluation
 - What is already in place, policy wise, that you can rely on when implementing a social networking plan
 - What persons/departments are already in place that could take on this task?

How to address these issues:

- Creation
 - Create a department or appoint one (or two) people to be the point person for social networking or for each site.
 - Create new policies, practices and procedures in the areas that are definition.
- Implementation
 - Training
 - On-going assessment and revision as technology and use changes.

