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Municipal Newsletter

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Issues Related to Electronic Postings

Websites. Web logs. E-mail. These are the tools that have been the mainstays of communication municipalities and governments have employed in the technological age. Now, with the fairly recent arrivals of Facebook, MySpace, Twitter and YouTube, there are now more products for civic entities and authorities to utilize to promote, notify, inform and communicate with not only their citizens but also anyone with access to these applications. Although there are many benefits to using these communication mediums, there are issues requiring consideration relative to how they are used and the purposes for such use. Despite this media being in the electronic arena (i.e. computers, iPads, Smartphones, Blackberries, etc.), legal matters exist as if these issues were part of the print media, such as newspapers, magazines and books, or the broadcast media, like television and radio.

Many issues must be considered when it comes to postings on social media websites, such as postings made by a particular person of the municipal government or authority? If so, is it policy that any item produced by a member, employee, agent, etc. is the property of the posting entity? Is the item to be posted copyrighted? If the item is protected by copyright, has permission been obtained to reproduce the item? Copyright infringement poses a large issue, because there are publishing companies and other organizations, for example, who have programs to track anything on the internet and alert them to the unsanctioned use of their copyrighted materials. These companies deal with each incident separately and demand penalties ranging between simply removing the article to monetary damages for the infringement.

Also related to this issue is the use of a person's likeness, whether a celebrity or private individual. Again, the same questions need to be posed. If the person to be displayed is a part of the organization, is there a rule that allows for the photographs of such people to be included in any publications? If not, and a release is not signed, the individual may have a claim against the organization for invasion of privacy. The same holds true for the use of the picture of anyone not affiliated with the group.

It should be noted, even though the organization may own the rights to the information before it is posted on the particular website, the content could become a part of the social media network itself. As such, it is important to review the Terms of Use of these sites in order to protect not only yourself, but also your materials. Be sure to review the Terms of Use as to what happens to material posted after you remove it; it is important to determine if removing the post completely removes the material from the site, and it does not get assumed by the particular carrier.

Once these matters are resolved, another question to consider is the effect the posting will have on the reader. Granted, while some postings will be content neutral, such as information relative to procedures of the municipality, however other postings may put the organization at risk for liability, mainly defamation. Especially for a municipality defamatory material can be problematic. Some other tortious liabilities a poster may have are claims for intentional infliction of emotional dis-

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trespass, inappropriate messages and interference with the economic relationship of parties, either business or contractual. It is important for organizations to ensure that any postings made on these types of sites may not be confused as offensive to a person or group.

Even though the Internet and its various offerings present municipalities an ideal, low-cost instrument for communicating with people, proper care must be taken relative to certain issues concerning the content posted. Policies should be in place relative to what is and is not appropriate in order to safeguard against the possibility of a posting being something protected by copyright or being interpreted as offensive or defamatory. Review of the postings is also necessary to ensure accuracy, avoid possible copyright infringements and any potential tort liability. Finally, in the instances where copyrighted materials are going to be used, releases from the entity or individual holding the copyright

to avoid liability should be obtained. With these safeguards in place, the use of social media can be an extremely productive communication device rather than a legal hazard.
