



"...meeting community needs...enhancing quality of life."

LEGAL SERVICES DEPARTMENT

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TO: Alderperson Kathleen Plank, Chair
Members of the Finance Committee

FROM: James P. Walsh, City Attorney 

DATE: July 6, 2017

RE: Resolution # 7-R-17/Baranowski

Alderperson Baranowski introduced Resolution #7-R-17 stating:

WHEREAS, social media plays an important role in the ability to communicate with the public, it can infringe on open meeting laws,

THEREFORE, the City Attorney review and draft a policy that governs the proper use of social media during posted City meetings.

As always, the starting point for compliance with the State Open Meetings Law is with the Wisconsin Statutes. Section 19.83(1) provides,

"Every meeting of a governmental body shall be preceded by public notice as provided in s.19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85."

While the Wisconsin Supreme Court has not ruled on this specific section, the Attorney General has opined on aspects of the Statute which does provide some guidance.

The Attorney General has indicted that, as provided by statute, every meeting of a governmental body shall be held in places reasonably accessible to the public and open to all citizens at all times. See Wisconsin Open Meetings Law Compliance Guide, 2015, issued by the Wisconsin Department of Justice.

An important aspect of the Open Meetings Law is the right of citizens to record, film or photograph the meeting. Wisconsin Statutes §19.90. The use of social media during a meeting would appear to be contrary to the provisions of §19.90. Indeed, while the term "social media" is not specifically defined by statute, it is generically understood to mean forms of electronic communication in which users create online communities to share information, ideas, and other content. A conversation on social media, with its almost instant exchange of information, is similar to conversation, and is generally accessible to only those participating in that "conversation." It prevents the public's ability to record, film or photograph the discussion.

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A second aspect of the use of social media is the concept of public participation. As the Council is aware, citizens have the ability to attend meetings of governmental bodies but do not have the right to speak. Additionally, the Appleton Common Council as adopted Council Rule 5 which states in part, "A non-member of the Common Council shall not be permitted to address the same, except by a majority consent of this Common Council."

In summary, while social media has become a widely used mechanism for communication, its use during committee meetings would be at best, problematic. This office would recommend the non-use of social media by alderpersons during meetings.

As always, if you have questions, feel free to contact me.

JPW;jlg