

Social Media Use By New Jersey Municipalities: The Risks and Rewards

by Sean D. Dias on September 11, 2012

Municipalities across the country are increasingly using social media to keep in touch with their citizens. In fact, sites like Twitter and Facebook are credited with playing a valuable role in the wake of Hurricane Isaac by keeping residents of impacted communities informed of road closures, power restoration efforts, and other important storm-related information.

In New Jersey, many municipalities have set up Facebook and Twitter accounts to publicize events, programs, and services. For instance, communities are using social media to spread the word about street sweeping, upcoming local elections, and library programs. Public offices also list their hours of operation, location, and contact information on their social media home pages.

However, despite all of the benefits of social media, there are also several risks that must also be taken into consideration. Below are a few examples:

- **Content of Public Comments:** While social media can be a useful way to share information with the public and promote government services, it can also be a forum for public complaints and gripes. Because restricting the content of comments and posts can lead to allegations of censorship and First Amendment concerns, municipalities must consider how they want to police the content of their social media pages. Some elect to disable the ability to post comments, while others create clear guidelines that reserve the right to remove content that is off-topic or otherwise profane, discriminatory, illegal, etc.
- **Open Meeting Law:** In some cases, Facebook discussions or Tweets by public officials could be construed as a “meeting” under the New Jersey Open Public Meeting Act. Therefore, municipalities may want to restrict posting and tweeting by government officials, particularly with regard to the discussion of information related to the business of the municipality.
- **Recordkeeping:** Social media posts, home pages, and “friends” lists can also qualify as public records under New Jersey Open Public Records Act. Therefore, it is imperative that municipalities have policies and procedures in place to satisfy retention and disclosure requirements. To ensure that the records can be readily accessed, it is advisable to keep a backup copy of social media content offline.

Overall, the best way to avoid social media pitfalls is to draft a social media policy that clearly outlines how city or town officials will interact with the public via sites like Facebook and Twitter. Common issues addressed include the approval process for creating a new social media account, authorized users for social media accounts, content guidelines for posts and comments, and recordkeeping obligations.

For additional information about social media policies for public bodies, please contact a member of Scarinci Hollenbeck's Public Law Group.