

THE IMPACT OF SOCIAL NETWORKING ON CITIES

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Social Media Expert?



http://www.youtube.com/watch?v=d_AA1b9CpZc

What is Social Media?

- Facebook
- MySpace
- Twitter
- LinkedIn

- Video - YouTube
- Podcasts
- Blogs
- slideshare.net
- Flickr



Definition

- Web-based technologies to transform and broadcast media monologues into social media dialogues.*
- User-generated content
- “Commercial social networking site” means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users.**

*http://en.wikipedia.org/wiki/social_media

**Texas Penal Code section 33.07

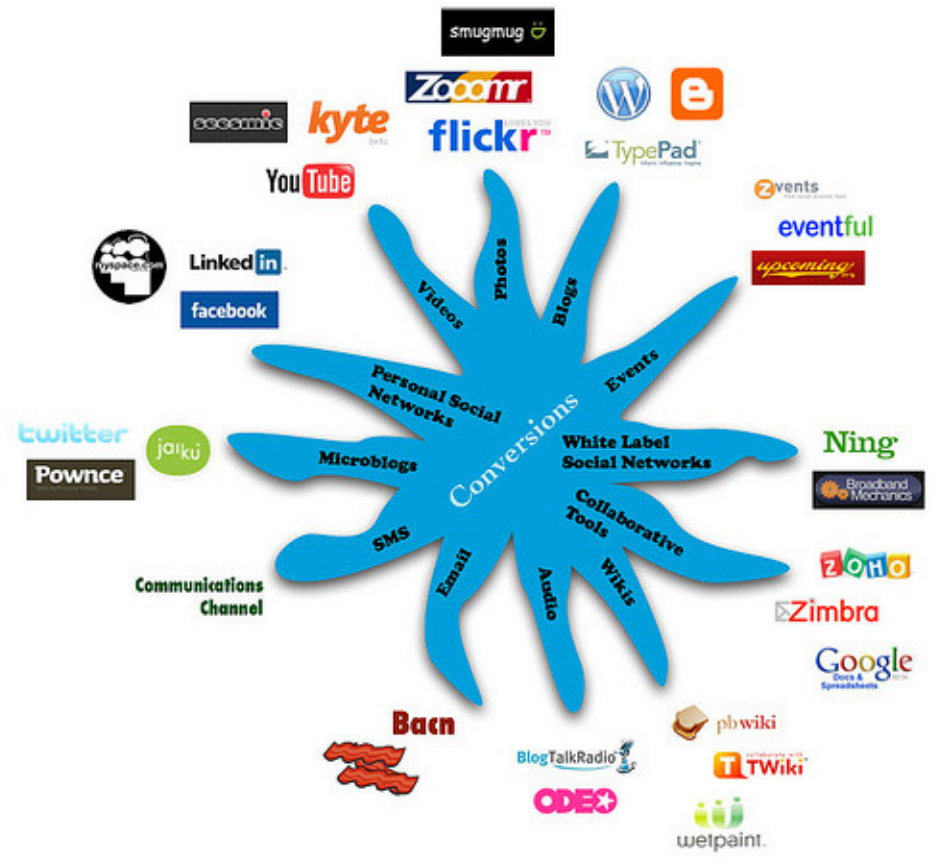
Skinbook.ning.com

- is a U.K.-based website that proudly touts itself as the Net's only genuine nudist social network

<http://www.time.com/time/business/article/0,8599,1992300,00.html#ixzz0qAzcsQ00>

Why is social media important?

- It is EVERYWHERE!



Social Media Numbers

- 400 million active users on Facebook*
- Estimated social media US audience = 127 million**
- 73% use social media at least once a week**
- Majority of adult users are over the age of 35

- *<http://www.facebook.com/press/info/php?statistics>

- **Chris Kingsley, Fels Institute of Government Penn Arts and Sciences, *Making the Most of Social Media: 7 Lessons from Successful Cities*, 2010, <https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/pp3-socialmedia.pdf>

Social Media use by cities

- 50% of city governments are on Facebook
- 56% of city governments are on Twitter



http://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=125472

Huh?!



http://www.youtube.com/watch?v=l9R-cQ_A_6w

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Open Government

- Public Information Act: TX Gov't Code chpt 552
- Open Meetings Act: TX Gov't Code chpt 551
 - Texas Senate State Affairs Committee is currently studying the effect of social media on both Acts

See TML's Legislative Update at:

http://tml.org/leg_updates/legis_update051410h_socialmedia.asp (last visited May 20, 2010).

Open Meetings

- Purpose of the Act - transparency
- With some exceptions, decisions made in open, not behind closed doors
- Broad definitions of meeting and deliberation



WALKING QUORUM

A quorum of the governing body does *NOT* have to be physically present in one location in order to violate the Open Meetings Act

- Knowingly conspire to
- gather in numbers that do not physically constitute a quorum
- at any one time
- but through successive gatherings
- secretly discuss a public matter with a quorum of that body
- Violate section 551.143

(Tex. Att'y Gen. Op. GA-0326 (2005).)

WALKING QUORUM

- *Esperanza Peace and Justice Center v. City of San Antonio*, 316 F. Supp. 2d 433 (W.D. Tex. 2001).
- Succession of phone calls talking to each member with less than a quorum present
- Having a staff member call or talk to less than a quorum
- E-mails
- Other electronic communication?

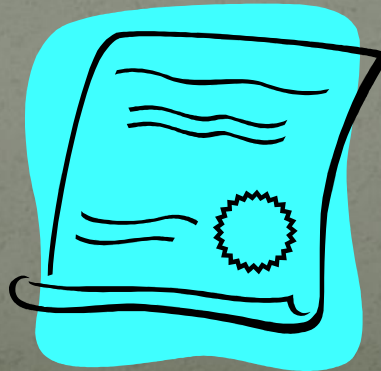




<http://www.ktsm.com/news/socorro-council-memberscity-manager-react-to-investigation>

Open Records

- Broad definition of a public record
- Public records come in all forms of media - paper, electronic et cetera



Exceptions to Public Information Act

- Not applicable here!



- Tex. Gov't Code section 552.203 requires public information officer to maintain and protect public records or be subject to penalties



State of Washington

- Public Records Requests May be Answered by Posting to the Internet
- Allows agencies to refer requesters to documents available on its website by providing a link to the specific records requested
- If the requester notifies the agency that he or she cannot access the records via the internet, then the agency must provide copies to the requester or allow the requester to view copies using an agency computer.
- Effective June 10, SB 6367
- <http://www.localopengovernment.com/2010/04/articles/public-records/public-records-requests-may-be-answered-by-posting-to-the-internet/> (Posted on April 8, 2010 by Sven Peterson)

Chicago - In the name of “transparency”

- Mayor Daley has revamped the city’s new website to include a log of all Freedom of Information Act requests.
- The list includes the name and organization of each applicant, documents demanded and dates the information was requested and is due to be released.
- A new state law merely requires city departments to maintain such a log – not to post it on the Internet
- <http://www.suntimes.com/news/cityhall/2270170,daley-chicago-foia-051310.article> (posted May 13, 2010, by Fran Spielman)

Records Retention

- Definition of a public record
- Have to follow a records retention schedule - based on content, not how record is held



Records Retention

- Various Texas Government and Local Government Code provide for requirements for the:
 - Preservation
 - Retention
 - Destruction of local government records

Records Retention

- Other reasons to retain records:
 - Litigation - use in discovery, impeachment
 - Press / publicity

Florida

- City's warning to the public:
 - “Under Florida law, all content on the City’s Facebook page is subject to the public records law, Chapter 119, Florida Statutes. By becoming a fan of the City of Coral Springs and/or posting on the City’s wall, your information will be a matter of public record. The City is required to retain this information in accordance with the State of Florida retention schedule. This may include information on your own Facebook page. All comments will be maintained for a minimum of 30 days after a forum has ended.”

http://weblogs.sun-sentinel.com/news/politics/broward/blog/2009/06/coral_springs

Back up your postings

- Consult your webmaster
- Review the social media site's content policy
- Commercial service - The Internet Archive, Twitter ZML, TweetTake, TwitterBackup
- Library of Congress - archiving Tweets
- Snapshot picture taken everyday



Employment Issues

- Pre-Employment - Use of social media as a background check
 - In 2009, Bozeman, Montana required applicants to submit usernames & passwords for their social network sites
- Post-Employment - legal issues & policies

State & Federal Laws

- Texas Penal Code section 16.02 (Unlawful Interception, Use, or Disclosure of Wire, Oral, or Electronic Communications)
- Electronic Communications Privacy Act of 1986
- Wiretap Act
- Stored Communication Act
- National Labor Relations Act
- Texas Penal Code section 33.07 (Online Harassment)

Invasion of Privacy

- Did the employee have a reasonable expectation of privacy?
 - *Quon* case

Quon case

- Use of a city-issued pager for personal, sexually explicit texts
- Quon signed a statement acknowledging no expectation of privacy or confidentiality
- But argued informal policy allowed personal private use as long as they paid the extra charges
- Appeals court ruled for Quon - the search was “excessively intrusive in light of the non-investigatory object of the search”

NJ Supreme Court

- Upheld privacy of emails accessed at work between former employer & her attorney
- Court held the policy was vague; and,
- “The policy does not warn employees that the contents of such e-mails are stored on a hard drive and can be forensically retrieved.”

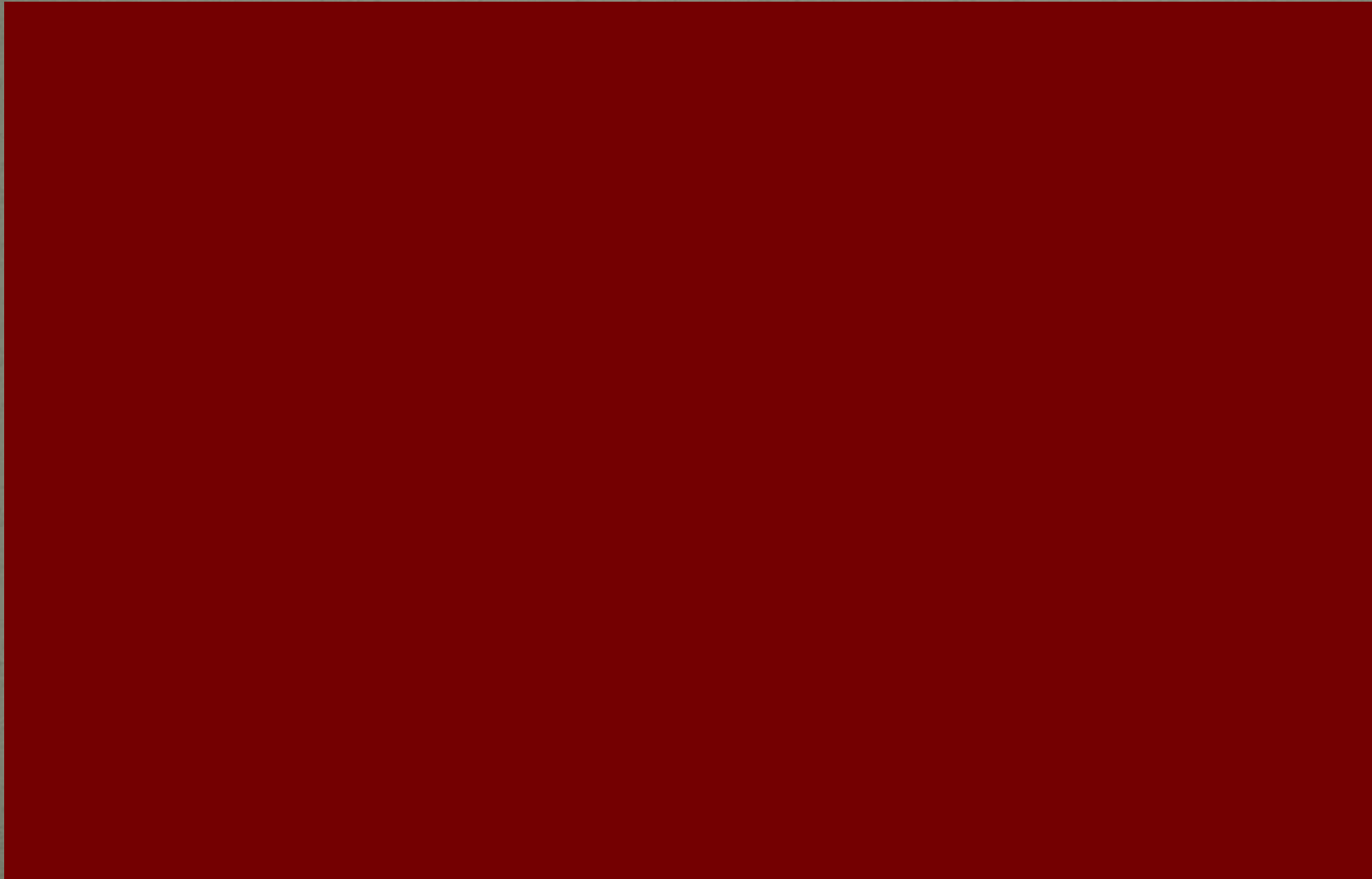
http://www.nj.com/news/index.ssf/2010/03/nj_supreme_court_sets_new_ruli.html

Virtual Harassment & Workplace Violence

- Can take place in or outside the office through social network sites



<http://socorronews.blogspot.com/>



<http://www.ksm.com/news/socorro-city-council-incident-caught-tape>

Fourth Amendment Claims

- Protection from unreasonable searches and seizures
 - Reasonable expectation of privacy
- What would a court likely look at?
 - The employee's interest in and control of the area searched
 - Employee's subjective expectation of privacy
 - Society's willingness to recognize that expectation as reasonable

First Amendment Claims

The First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Copyright Infringement

- Federal Copyright Act
 - Allows some exception for “fair use” purposes such as:
 - Criticism
 - Comment
 - News reporting
 - Teaching
 - Scholarship
 - Research

Spying on employees

- Social Sentry
- Google alerts
- Yahoo! Pipes
- Personalized app to scan Facebook



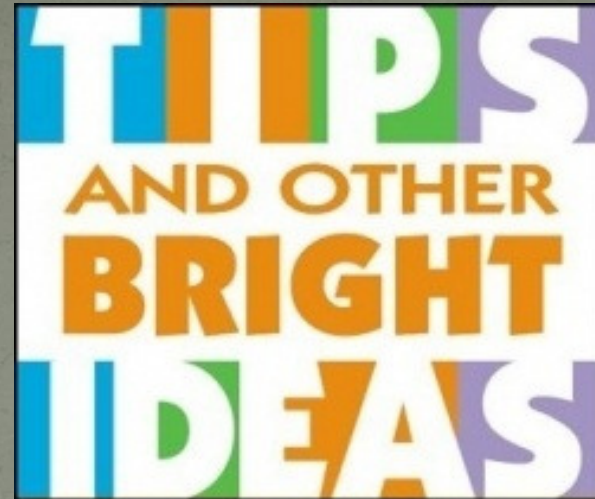
<http://www.switched.com/2010/03/31/sayonara-social-sentry-bosses-can-spy-for-free-with-web-tools/> (March 31, 2010)

Additional Issues

- Colorado AG advises state and its agencies not to use Facebook due to requirement that user must indemnify Facebook
- http://www.dailycamera.com/news/ci_14875994?source=email

Practical Tips

- Develop a policy
 - Employment policy
 - Social media policy
- Coordinate with staff (IT, records retention officer, communications/media staff)



Employment Policy

Things you may want to consider:



- Don't assume your computer usage policy covers all issues
- Limit or prohibit personal use of social media at work



Employment Policy

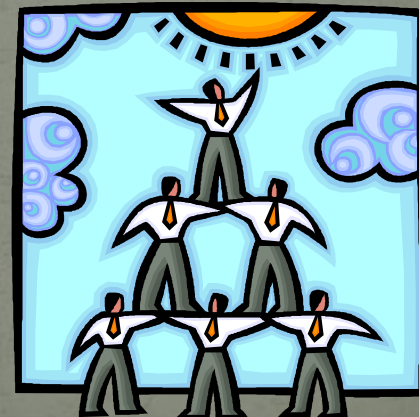
- Prohibit use for illegal purposes
- Limit social media posts that reflect an official city position, unless authorized to do so
- Prohibit release of confidential information
- Caution employee they may be subject to discipline and discharge for violation of the policy
- Prohibit harassment of any kind

Employment Policy

- Advise there should be no expectation of privacy for personal or business communications and whether or not it is password protected
- Training - of employees and supervisors
- CONSENT - advise use is monitored and audited, and get signed acknowledgment and consent from employee
- Consistent enforcement of the policy

Social Media Policy

- What are the city's goals?
- Who is primarily responsible for postings?
- Which websites will the city use and participate in?
- Participation needed by key staff.



How aggressive should you be?

- Ban social media use or other technology outright?
- Allow use, but require disclosure?
 - San Jose, California - Requires councilmembers to disclose e-mails & text messages during council meetings from lobbyists, special interests or individuals with a financial stake in the topic being discussed.

Resources

- Policy Database:
<http://socialmediagovernance.com/policies.php>
- Sample policies: <http://munigov.org> or
<http://WebContent.gov>
- Government news and social media, communications and public affairs: <http://ohmygov.com/>
- Social Media & Your City:
http://www.slideshare.net/JasonFalls/social-media-your-city?from=share_email

Resources continued

- Chris Kingsley, Fels Institute of Government Penn Arts and Sciences, *Making the Most of Social Media: 7 Lessons from Successful Cities*,
<https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/pp3-socialmedia.pdf>
- Social Media Directory:
<http://gov2social.cloudapp.net>



<http://www.youtube.com/watch?v=6OXONkzmlfE>

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