



CITY OF BELLE ISLE, FLORIDA CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: August 21, 2018

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Social Media Policy

Background: The Council directed that a Social Media Policy be developed to establish guidelines for the establishment and use by the City of Belle Isle ("City") of social media sites as a means of conveying information to members of the public.

The intended purpose of City social media sites is to disseminate information from the City about the City's mission, meetings, activities, and current issues to members of the public. This Policy is intended to clearly identify prohibited activities, expectations, and requirements regarding the use of social media sites.

The City has an overriding interest and expectation in protecting the integrity of the information posted on its social media sites and the content that is attributed to the City and its officials. This Policy ensures use of appropriate discretion so as not to discredit the City or violate policies and procedures related to standards of conduct, computer usage, ethics, or any other applicable City policies or procedures. All City employees and elected officials must be aware of the negative impact that inappropriate postings can have upon the City and the City's relationship with the residents and others in the community.

It is also very important for elected officials to review this policy so they do not violate the Florida Sunshine Laws, be called into question on their postings on "restricted group" websites, or that the public perceives that the elected official is speaking in an official capacity for the City Council. Although elected officials want to embrace social media to better communicate with constituents, some posts may be "not the best" social media judgment.

The City Attorney made changes to the Social Media Policy; therefore, the Council must adopt the new policy.

Staff Recommendation: Review the policy and if no changes are necessary, adopt the policy

Suggested Motion: I move we adopt the Social Media Policy

Alternatives: Do not adopt the policy but provide further direction to the staff.

Fiscal Impact: If followed, there should be no fiscal impact to the City.

Attachments: Revised Social Media Policy



CITY OF BELLE ISLE SOCIAL MEDIA POLICY AND PROCEDURES

1. Purpose

The City of Belle Isle (“City”) Social Media Policy and Procedures (“Policy”) functions to notify all City employees, elected and appointed officials, and third parties perpetuating business with the City or otherwise utilizing City social media sites and applications of the inherent risks—personally and for the City—of utilizing social media and other technologies for announcements and other tasks that relate to or perpetuate City business. This policy is narrowly tailored in recognition of the City’s compelling and significant interests, including but not limited to, ensuring compliance with federal, state, and local laws and regulations, Florida’s public records law and the Florida Sunshine Law, to promote and maintain an efficient workplace and work environment for the conducting of City business, utilization of the appropriate delegated discretion so as not to discredit or unreasonably expose the City to potential liability, and the City’s interests of providing information and services that benefit the public health, safety, and welfare. Adequate and ample alternative channels to convey various City-related, commercial, or personal messages exists that are not limited or affected by this Policy, including but not limited to, speaking during public comment portions of City meetings, posting or creating content on websites and applications that are not City social media sites as defined herein, or using alternative means of communication that do not involve City social media sites. Such alternative methods are reasonable for the affected speaker to communicate his or her intended audience.

This Policy is also intended to function as a clear and efficient communication to all City users as defined herein and elected and appointed City officials of the operational realities and best lawful practices in using City social media sites when used for purposes relating to or perpetuating City business as well as the risks associated with same. The City’s utilization of City social media sites shall not be construed as nor shall it be intended in any way to create an open, designated, or traditional public forum for expressive activities. Instead, utilization of City social media sites is intended to operate to the maximum extent permitted as the speech and communications of the City consistent with the government speech doctrine and will be utilized to: 1) inform and educate the public; 2) disseminate information from the City about the City’s mission, activities, meetings, and current City-related issues; 3) and to efficiently and timely perform City-related tasks; and 4) to otherwise provide an alternative avenue for the City itself to directly communicate to the public.

2. Definitions

“Authorized City Users” means employees, agents, and volunteers of the City.

“Social media sites” means content created by individuals or entities, using accessible, expandable, and upgradable publishing technologies, through and on the internet. Examples of social media sites and applications includes but is not limited to Facebook, MySpace, Google and Yahoo Groups, Wikipedia, YouTube, Flickr, Twitter, LinkedIn, and news media comment-sharing/blogging.

“City social media sites” means social media sites and applications which the City establishes and maintains, and over which it has control over postings to the maximum extent practical and permissible under the relevant user guidelines, terms and conditions, or policies and procedures of such sites and applications as may be amended. City social media sites may be utilized as a supplement to, but shall not replace, the City’s required notices and standard methods of communication.

“Posts” or “postings” mean information, articles, pictures, videos or any other form of communication posted on a City social media site by Authorized City Users. In recognition that some social media sites and applications do not or cannot allow posts, comments, “likes,” or similar communications from other members of the public to be disabled or removed, any and all posts or postings on City social media sites made by Authorized City Users are intended to and shall remain the governmental speech of the City entitled to all protections and privileges afforded under the government speech doctrine despite the placement or occurrence of “likes,” comments, posts, or other communications of any kind made by any person or entity other than Authorized City Users.

3. General Policy

3.1. The City’s official website at www.cityofbelleislefl.org (or any domain owned by the City) will remain the City’s primary means of internet communication.

3.2. The establishment of City social media sites is subject to approval by the City Manager or his/her designee. Upon approval, City social media sites shall bear the name and/or official logo of the City. Additionally, to the extent practical, City social media sites shall contain the following statement, in the same or substantially similar form, predominantly displayed, tacked, pinned, linked, or otherwise made available on City social media sites:

Any post, communication, or submission to this webpage, website, account, or posting that violates local, state, or federal law may be removed by the City of Belle Isle (“City”), and the City reserves the right to revoke participation or content posting rights hereon at any time and without notice. The City operates

same as the governmental speech of the City, and does not intend that anyone other than an Authorized City User as defined in the City of Belle Isle Social Media Policy and Procedures may speak for the City. A copy of the City's Social Media Policy and Procedures is available for inspection at City Hall. Additionally, pursuant to Florida law, any post, submission, or communication may constitute a public record under chapter 119, Florida Statutes, which may require the City to archive and otherwise make such post, submission, or communication available for public inspection. This webpage, website, account, and any postings or communications thereon are not monitored for public records requests, questions, notices, or any other requests from the public, and all participants should not expect any response from the City regarding same. Should you have any questions regarding this notice, you are asked to contact the City Manager. Should you desire to make a public records request, please direct such request to the City Clerk.

3.3. All content on City social media sites shall be reviewed, approved, and administered by the City Manager or his/her designee.

3.4. City social media sites shall clearly state that such sites are maintained by the City and that the sites comply with the City's Social Media Policy.

3.5. City social media sites shall, to the maximum extent possible or practical, link back to the City's official website for forms, documents, online services and other information necessary to conduct business with the City.

3.6. The City Manager or his/her designee shall monitor content on City social media sites to ensure adherence to both the City's Social Media Policy and the interest and goals of the City. The City Manager or his/her designee shall be responsible for authorizing, establishing, and maintaining content posted on behalf of the City and shall develop and implement measures to prevent inappropriate, confidential, offensive, or damaging information from being shared or disseminated. Such information shall additionally include any communications constituting unprotected speech under the federal or Florida constitutions.

3.7. City social media sites shall be managed consistent with the Open Meetings Act. Members of the City Council, Commissions and/or Boards shall not comment on any published postings, or use City owned sites or City social media sites to respond to, blog or engage in serial meetings, or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the body or that may foreseeably come before the relevant body. Additionally, elected and appointed officials should be aware that posting to a private social media site when discussing any City business or topic regarding the City is a public record according to the Public Records Act and could also violate the Florida Sunshine Laws (See Section 5.1 of this policy).

3.8. The City reserves the right to terminate or modify any City social media site at any time without notice.

3.9. City social media sites shall comply with usage rules and regulations required by the site provider, including privacy policies.

3.10. The City's Social Media Policy shall be displayed to users or made available by hyperlink if possible and practical. Hard copies of the City's Social Media Policy shall be kept and maintained at City Hall.

3.11. All City social media sites shall adhere to applicable federal, state and local laws, regulations and policies.

3.12. City social media sites are subject to the Florida Public Records Act. Any content maintained on a City social media site that is related to City business, including a list of subscribers, posted communication, and communication submitted for posting, may be considered a public record and subject to public disclosure. All postings on City social media sites shall be sent to an official City email account and maintained consistent with the Public Records Act and relevant retention schedules.

3.13. City employees and Authorized City Users shall conduct themselves at all times as professional representatives of the City in every manner relating to City social media sites and in accordance with all City policies. Additionally, City employees and Authorized City Users may only post content or communications on City social media sites that represents the government speech of the City as approved by the City Manager or his/her designee.

3.14. All City social media sites shall utilize authorized City contact information for account set-up, monitoring and access. The use of personal email accounts or phone numbers by any City employee is not allowed for the purpose of setting-up, monitoring, or accessing a City social media site.

3.15. Due to the inherent nature of social media sites and applications, including specific terms and conditions, user guidelines, user policies, and similar, City social media sites may contain content, including but not limited to, advertisements or hyperlinks that the City may not turn off, remove, disable, or otherwise exert editorial control.. The City does not endorse any hyperlink or advertisement placed on City social media sites by the social media site's owners, vendors, or partners. Additionally, consistent with the government speech doctrine, the presence of additional content unaffiliated with the City or with the speech of the City shall not cause or be considered as a waiver of any protections or privileges afforded under the government speech doctrine given the operational realities of social media, web applications, and the internet generally.

3.16. The City Manager or his/her designee shall regularly monitor City social media sites used by the City and take corrective action if an issue arises that places, or has the potential to place, the City at risk.

3.17. The City expressly reserves the right to change, modify, or amend all or part of this policy at any time.

4. Content Guidelines

4.1. The content of City social media sites shall only pertain to City-sponsored or City-endorsed programs, services, and events. Content includes, but is not limited to, information, photographs, videos, and hyperlinks.

4.2. Content posted to the City's social media sites must contain hyperlinks directing users back to the City's official website for in-depth information, forms, documents or online services necessary to conduct business with the City of Belle Isle, whenever possible.

4.3. The City shall have full permission or rights to any content posted by the City, including photographs and videos, to the maximum extent permissible under law.

4.4. Postings shall be made during normal business hours. After-hours or weekend postings shall only be made with approval of the City Manager or his/her designee.

4.5. Any employee authorized to post items on any of the City's social media sites shall review, be familiar with, and comply with this policy and the social media site's use policies and terms and conditions.

4.6. Any employee authorized to post items on any of the City's social media sites shall not express his or her own personal views or concerns through such postings. Instead, postings on any of the City's social media sites by an authorized City employee shall only reflect the views and speech of the City.

4.7. Postings must contain information that is freely available to the public and not be confidential as defined by any City policy or state or federal law.

4.8. Postings may NOT contain any personal information, except for the names of employees whose job duties include being available for contact by the public.

4.9. Postings to City social media sites shall NOT contain any of the following:

4.9.1. Comments that are not topically related to the particular posting being commented upon;

4.9.2. Comments in support of, or opposition to, political campaigns, candidates or ballot measures;

4.9.3. Profane or offensive language or content;

4.9.4. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, or status with regard to public assistance, national origin, physical or mental disability or sexual orientation, as well as any other category protected by federal, state, or local laws;

4.9.5. Sexual content or links to sexual content, obscenity, or pornography;

4.9.6. Solicitations of commerce except as may be authorized by the City Manager or his/her designee;

4.9.7. Conduct or encouragement of illegal activity;

4.9.8. Information that may tend to compromise the safety or security of the public or public systems;

4.9.9. Speech that is unprotected under the federal or Florida constitutions; or

4.9.10. Content that violates a legal ownership interest of any other party.

4.10. These guidelines shall be made available by hyperlink on all City social media sites or at City Hall. Any content removed based on these guidelines, to the fullest extent possible, must be retained, including the time, date and identity of the poster.

4.11. The City reserves the right to implement or remove any functionality of its social media site, when deemed appropriate by the City Manager or his/her designee. This includes, but is not limited to, information, articles, pictures, videos or any other form of communication that is posted on a City social media site or in recognition of hosting, application, or site amendments or modifications to their permissions, guidelines, options, features, or policies and procedures.

4.12. Except as expressly provided in this Policy, any person accessing any social media site shall comply with all applicable City policies pertaining to communications and the use of the internet by employees, including email content.

4.13. All of the content on City social media sites must be provided to the City Manager or his/her designee for review, approval and subsequent posting to the social media site. Such editorial review and discretion shall remain at all times with the City Manager or his/her designee and shall function to ensure the full protections of the government speech doctrine, compliance with this Policy, and that all communications are and remain the speech and message of the City.

4.14. Employees found in violation of this policy, in compliance with fundamental fairness and due process as guaranteed by law, may be subject to disciplinary action, up to and including termination of employment in compliance with the City's personnel policy.

5. Elected or Appointed Officials

5.1. Elected or appointed officials who are members of City Council, boards or committees that individually wish to utilize City social media sites or to create or utilize their own or others websites, applications, or social networking internet websites, which pertain to or allow for communications relating to City matters, should be aware of the risks and requirements as set forth in Florida law, including but not limited to Florida Attorney General Opinions, the Sunshine Law, and the Public Records Law, prior to the establishment of such a site or activities thereon. Extreme caution and care should be exercised by such officials and anyone acting on their behalf in posting or uploading any content to a website, application, or social networking internet website in order to: avoid the appearance of impropriety; unnecessarily expose themselves or the City to liabilities; prevent complaints or allegations of bias or favoritism; avoid violations of the Sunshine Law or the Public Records law, including retention or spoliation issues; violations of Florida's ethics rules; and/or violations of Florida's Election Code. Elected or appointed officials are encouraged to contact the City Attorney regarding questions relating to this Policy.

6. Severability; Conflicts

6.1. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Policy is declared unconstitutional or unenforceable by a valid final judgment or decree of any court of competent jurisdiction, then the declaration of same shall not affect any other part of this Policy. Should this Policy conflict with the City Charter or City ordinances or parts thereof, then the City Charter or City ordinance provisions shall apply but only to the extent of such direct conflict.

7. Disclaimer; Non-Waiver

7.1. The City disclaims all liability and shall not be responsible for any effect, injury, damage, claim, action, or demand to the fullest extent permissible under law relating to or arising from a post, submission, or communication to a social media site, application, or other external web service by any member of the public, the City's removal of or failure to remove a post or submission, the City's failure or election not to follow or enforce this policy in every circumstance, or any other matter relating in any way to this Policy. The City further disclaims all liability and shall not be responsible for content or expression posted by City employees or any other persons or entities not acting within the course and scope of their City duties and with authorization as outlined in this Policy. Failure to comply with this Policy or any portion

thereof by the City shall not create any expectation, right, or interest in an private, public, or other right of action against the City, its elected or appointed officials, officers, employees, personnel, or agents.

By posting information, content, or any expressions of any kind to any City social media sites, the City does not waive any legal right, protection, privilege, or immunity, including but not limited to, copyright, trademark, and/or sovereign immunity, including but not limited to the protections afforded pursuant to section 768.28, Florida Statutes, and the City shall at all times retain all rights to such information, content, or any expressions to the fullest extent permissible under federal and Florida law.

8. Effective Date.

Effective August 21, 2018, the City shall implement this Policy, violation of which may result in disciplinary actions or sanctions as provided herein or as set forth in the City Charter, Code of Ordinances, or otherwise available under law.

Addendum A: Acknowledgement/Understanding of City Social Media Policy and Procedures

By signing this Policy, I hereby affirm and acknowledge, that I understand this Policy and have been provided a reasonable time to secure counsel or clarification regarding this Policy, and I agree that should I have any other or further questions regarding this Policy, I shall provide such questions in writing to the City Manager or his/her designee within fifteen (15) days of receiving this Policy for review. Additionally, I understand and have been provided notice of the risks associated with conduct or expressions which relate to this Policy as detailed herein.

Signature

(Printed Name)

(Title or Position)

Date: _____