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MEMO

To: John Weidl, City Manager
Becky Magestro, Chief of Staff
From: Timothy Brovold, Russell Law Offices, S.C.
Date: April 1, 2025

Re: City of Whitewater | General Matters: Comments on City-Related Social Media Posts

The City of Whitewater is reviewing the legal obligations and law as it currently relates to the City's ability to disable public comments on all city-related posts across all social media platforms. The primary issue is citizen's first amendments rights and their ability for public discourse. The City must proceed with caution if it allows some or limited comments on social media. But, if the City "turns off" public comment on all social media posts, the analysis is less complicated.

Based upon our current research, including state and federal (appellate and Supreme Court) case law, a government official, or entity, is under no obligation to take public comments and may turn off, or disable, all comments on social media posts. But, if the City turns off public comments, the City cannot then allow some comments and not others. The City cannot filter which views get to be expressed in the comments section and which comments are barred, blocked, or restricted in any way.

If the City does want to allow some public comment, please let me know and we can prepare a memo related to the City's rights and abilities.

This memo is only addressing the City's obligations as it relates to social media posts. There is recent case law that addresses public officials and employees' use of their own social media pages and their ability, or inability, to censor posts. This can be addressed if so requested.