



FROM ACTIVISM TO GOVERNANCE

League of California Cities Annual Conference
September 13 - 15, 2017

Presented By: J. Christine Dietrick, City Attorney, City of San Luis Obispo
Heidi Harmon, Mayor, City of San Luis Obispo



CITY OF SAN LUIS OBISPO

San Luis Obispo City Council



Current Council comprised of individuals, including a new majority, elected on platforms advocating climate action and environmental preservation, green building, affordable housing production, multimodal transportation, business and economic development, fiscal responsibility, and community engagement and civil discourse.





Practivists (noun; made up)

- Those who advocate for aspirational global betterment and improvement of processes and institutions through the local implementation of practical solutions within or in conjunction with established structures.



Alignment of Values & Resources



MAJOR CITY GOALS represent the most important, highest priority goals for the City to accomplish over the next two years, and the road map to direct resources to accomplish them.

- **Housing** - Facilitate increased production of all housing types designed to be economically accessible to the area workforce and low and very low-income residents, through increased density and proximity to transportation corridors in alignment with the Climate Action Plan.
- **Multi-Modal Transportation** - Prioritize implementation of the Bicycle Master Plan, pedestrian safety, and the Short-Range Transit Plan.
- **Climate Action** - Implement Climate Action Plan, assess requirements to achieve a “net-zero carbon City” target, and implement cost-effective measures, including implementation of a Sustainability Coordinator and formation of a Green Team.
- **Fiscal Sustainability and Responsibility** - Continue to implement the City’s Fiscal Responsibility Philosophy with a focus on economic development and responsiveness, unfunded liabilities, and infrastructure financing.



Getting to Know You: Communication & Trust

- Begin with choice to be open and non-defensive
- Encourage regular questioning
- Early and ongoing discussion of objectives, practical constraints, mutual perceptions and concerns
- Clear communication of roles (legal advisor versus policy maker) and mutual expectations
- No assumptions or attributions of motive without asking questions first
- Support clear understanding and public communication of official's individual positions versus official/representative positions





The Ties That Bind...And Gag: Structural Governmental Realities

- Brown Act
- Political Reform Act
- Government Code Section 1090
- Public Records Act
- Basic Due process



Where the Wild Things Are: Social Media

- Activists like to engage! And, they often have multiple social media accounts not maintained or formally monitored by the City.
- Beware, Brown Act, *City of San Jose public records issues, due process concerns* and emerging First Amendment case law around the country.



Where the Wild Things Are: Social Media



Example: *Davison v. Loudon County Board of Supervisors, et al.*
U.S. District Court, Eastern District of Virginia
July 25, 2017

Court found that the Chair of the County Board of Supervisors violated a resident's free speech rights by banning him from her facebook page after he made a comment that she deemed offensive. The ban only lasted approx. 12 hours, during which time the resident admittedly had the ability to continue posting in other locations. No matter how short the time, the court found that there was a violation because, among other things:

- The Chair's facebook page was set up by her and a member of her County staff after she was elected
- Used mostly to communicate government related information to her constituents and receive their feedback
- Linked to official government information though it was not controlled by the County nor did it follow the social media policies adopted by the County

Court noted a right to moderate, stating that a lack of moderation could create free speech violations for others who were blocked from participation by the uncontrolled speech of others. The key to the court was having a "neutral policy or practice...applied in an evenhanded manner."





Assemblies, Protests & Marches, Oh My!

- Discuss balance between practical resources and legal obligations around First Amendment expression; diversion of staff and financial resources from established priorities to emerging issues
- Participation by elected officials implicating role conflicts between advocacy and community representation
- Staff perception versus public perception conflicts (e.g., advocating law enforcement reform versus supporting local public safety)





Conflict Consternation

- Regularly remind your elected officials to be on the lookout for financial interests: real estate, business and investments, sources of income, etc.
- Especially if your elected officials are professionals or contractors, be on alert for 1090 conflicts
- Encourage early review of agendas and regular check ins in advance of meetings
- Help officials be prepared to explain recusals and the “why” behind conflict laws to manage public expectations





Fun With Fundraising

- Make sure officials understand what's a gift and where the limit is (e.g., crowdfunding of activist activities)
- Beware honoraria with activists who are in demand to speak at events of interest
- Be aware of behested payments requirements (no limit, but reporting required and perceptions can define reality)





Ask An Activist

- Mayor Harmon has agreed to answer any questions you've always wanted to ask your own activist, but were afraid to!

