

AGENDA

COMMITTEE OF THE WHOLE

July 28, 2025 - 6:00 PM  
Village Hall - Board Room  
300 Plaza Circle, Mundelein, IL 60060

I. CALL TO ORDER

II. MINUTES APPROVAL

- A. Approval of the Committee of the Whole Minutes from February 24, 2025.

**Motion** to approve the Committee of the Whole Minutes from February 24, 2025.

III. PUBLIC COMMENTARY

IV. SOCIAL MEDIA

- A. Social Media Board Policy

V. ADJOURNMENT

- A. Adjourn the Committee of the Whole Meeting

**Motion** to adjourn the Committee of the Whole Meeting.

The Village of Mundelein, in compliance with the Americans with Disabilities Act, requests that persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting, or who have questions about the accessibility of the meeting or facilities, to contact the ADA Coordinator at 847-949-3200 to allow the Village to arrange accommodations for those persons.

**CALL TO ORDER**

The Committee of the Whole Meeting was held on February 24, 2025 at 300 Plaza Circle, Mundelein. Mayor Lentz called the meeting to order at 6:00 PM.

Clerk Walsh took the roll call. It indicated as follows:

**Board Attendance**

PRESENT: Trustees Juarez, Lambert, Meier, Ross, Schwenk, Wilson, and Mayor Lentz  
ABSENT: None

**Village Attendance**

PRESENT: Attorney Walters, Village Administrator Guenther, Assistant Village Administrator Monroe, Finance Director Miller, Fire Chief Lark, Police Chief Seeley, Building Department Director Sellas, Community Development Director Orenchuk  
ABSENT: Public Works and Engineering Director Boeche

**MINUTES APPROVAL**

**MINUTES APPROVAL**

<b>RESULT:</b>	<b>Passed [Yes 6, No 0, Abstained 0]</b>
<b>MOVER:</b>	Trustee Juarez
<b>SECONDER:</b>	Trustee Wilson
<b>AYES:</b>	Trustee Juarez, Trustee Lambert, Trustee Meier, Trustee Berman Ross, Trustee Schwenk, Trustee Wilson
<b>NAYS:</b>	None
<b>ABSTAIN:</b>	None

**PUBLIC COMMENTARY**

None.

**ANNUAL COMMISSION / COMMITTEE REPORTS**

**ANNUAL COMMISSION / COMMITTEE REPORTS**

Mike Flynn presented the Mundelein Historical Commission Annual Report for 2024. The "Diamond Lake Lost and Found" exhibit continues to draw visitors and will be held over in 2025. Mr. Flynn highlighted some of the special events/programs held in 2024:

Pop-up Museum: In July an off-site "pop-up" museum was done at Tighthead Brewery.

This was a “show-and-tell” type event. 20 very unusual and peculiar items; antique tools, household items, farm equipment etc., that are not on current display at the museum, were on display for people to identify. Prizes were awarded to the winners. Fifty (50) people took part.

An Ivanhoe Cemetery walk was held in August, with actors portraying some of the Mundelein residents now buried there, all of whom were instrumental in the growth and development of Fremont Township and our community.

Old-Time Radio Shows held on the 4th Saturday of every month.

### **ANNUAL COMMISSION / COMMITTEE REPORTS**

Mike Flynn presented for MCC. Their Mission has always been promoting economic development; preserving historic character; and fostering a strong community spirit in Mundelein’s downtown central business district. Provide an atmosphere where new and established businesses can grow and where families find the hometown they have always wanted. We believe a vibrant, diverse downtown is essential to a community's sense of place. We do this by sponsoring family-friendly, community events in the downtown.

Overall, their revenues were down due to bad weather for the Beer Festival (an inherent risk with outdoor events). Park on Park continues to be popular with a big change coming for 2025--cars from pre-2021 will now be included to be in line with other car shows. Changes to the Farmer's Market are coming, participation in other community events like Spring into Summer, Mundelein Grand Prix, Boo Bash, Cottontail Trail, Old #1 Committee, D75 Brat Fest, Mundelein Days, Tool Library, and others demonstrate our commitment to outreach and support of the whole community.

### **ANNUAL COMMISSION / COMMITTEE REPORTS**

Amanda Orenchuk, Director of Community Development, gave the report.

The Planning and Zoning Commission held 8 meetings and heard 12 cases in 2024 that proceeded to the Board of Trustees. The major hearings this year were:

- Flaherty & Collins - Multi-Family Residential variations for Plaza Circle Development
- Advantage Material Handling - Forklift sales and rental relocation to Townline Road
- Springs at Mundelein - Preliminary and Final Plat of Subdivision - Butterfield Road Apartments
- Fenton Brewing - Plat of Vacation at former Water Division building
- Flaherty & Collins - Townhouses (Special Use Permit) for Plaza Circle development

In the upcoming year, the Planning and Zoning Commission will be reviewing a substantial

amount of text amendments with Village staff to update the zoning code.

### **ANNUAL COMMISSION / COMMITTEE REPORTS**

Colleen Malec presented the MAC report.

A major art piece was commissioned in 2024 to be installed in 2025. It is a large stone hand that is suitable for children to climb on and others to sit on. It will be installed in the pollinator garden. This was the third year for the Lure of the Local event, which was held at the Village's ABC building; it was very well attended. Shakespeare Shorts was performed by a youth cast this year and was well-received; a new location was the small Village park on Park Street. MAC continues to award scholarships to high school students (3 in 2024) and is currently holding interviews with the 2025 candidates. A fundraiser was held at Tonality raising \$1,035.00 for the Kracklauer Fund for Public Art. Small murals (S'Murals) are being discussed to be spread around the Village, businesses are inquiring about have small murals on their buildings. Text amendments to the zoning ordinance to streamline the process will be worked on.

### **ANNUAL COMMISSION / COMMITTEE REPORTS**

Mike Decker presented for the EDC. The Economic Development Commission (EDC) serves as an advisory body to the Village Board on matters related to the business community.

While the efforts of the Village and recommendations to support the Downtown are ongoing, this report reflects conditions of the entire Village. The EDC found that additional areas and activities of the Village merit recognition and further investigation.

Highlights:

Public Sector Improvements:

1. Park Street Improvements – Completed
2. Alley behind 425-469 N Lake St and public parking lot – Completed
3. Courtland Commons - Completed
4. Pollinator Garden - Complete
5. Alley behind 440 E Hawley St - Complete

Private Sector Improvements

1. STAR Grants Approved:  
Stankovic Music Learning Center
2. BIG Grants Approved:  
Tropical Smoothie Café – 518 Townline Rd  
Revel Taste – 1355 Armour Blvd
3. Private Developments:

Sheldon Woods Subdivision - Under Construction  
250 Plaza Circle - Station 250 - Completed  
Cardinal Square Buildings D1 and D2 - Completed  
Morris Station - Completed  
Mundelein Senior Apartments - Under Construction, near completion  
The Townes at Oak Creek - Under Construction  
The Philly Special Expansion - Under Construction  
Thornton's - Completed  
Scooters Coffee - Completed  
The Crossings of Mundelein - Complete

EDC is again awarding GOLD STARS businesses, now in 4 categories.

Their report noted the commercial vacancies in the Village and the hard work needed to maintain these vacancy lists.

Despite the hardships being faced by many businesses within the Village, the local business environment is generally favorable when compared to other regions and even several peer communities within Lake County. Mundelein has a diverse economy, a large workforce population, and is seeing continued development in commercial sectors, industrial sectors, and residential sectors. For these reasons, the EDC is optimistic about the immediate future for businesses in Mundelein.

## **ANNUAL COMMISSION / COMMITTEE REPORTS**

Bob Stadlman presented the report for Old #1 Fire Truck.

Old Number One participated in 22 events in and around Lake County for the enjoyment of all. That would represent well over 15,000 impressions.

These events include:

1. Park on Park Car Shows – 3 times last year.
2. Gurnee Fire Safety Show.
3. Washington School Fun Fair.
4. Memorial Day Parade.
5. Libertyville Parade.
6. Mundelein's Farmers Market – again, 3 times last year.
7. Drive the Village Program – these are on 3 Saturday mornings in June where we try to drive all the streets in the Village. We will bring the parade to your neighborhood.
8. Community Days Car Show.
9. Mundelein's Independence Day Parade.
10. Mundelein Bike Race, an all-day event.
11. The Lake County Fair.
12. Old Number One Annual Golf Outing.
13. National Night Out.

- 14. Grand Dominion Car Show.
- 15. Carl Sandburg Brat Fest.
- 16. Fire Department’s Open House.
- 17. Cars and Cigars Car Show – a Special Olympics Car Show in Long Grove

The Fire Truck turns 100 this year and a party will be held at Tighthead Brewery on August 9, 2025.

**ANNUAL COMMISSION / COMMITTEE REPORTS**

Colleen Tancredi presented the report for the Beautification Committee. The ordinance establishing the Mundelein Beautification Committee was adopted in November 2021.

A substantial portion of the Committee’s work focuses on beautification through landscape improvements and bringing awareness to the community on small efforts that have a big impact on landscape improvements. The Beautification Committee has placed an emphasis on enhancing and promoting monarch and pollinator conservation and encouraging marigold plantings throughout Mundelein.

Every action that the Beautification Committee takes to beautify the community helps to support Mundelein’s Brand Promise to be welcoming to everyone who lives here, owns a business, visits, or contemplates Mundelein as a place to live or launch their dreams.

**ADJOURNMENT**

**ADJOURNMENT**

<b>RESULT:</b>	<b>Passed [Yes 6, No 0, Abstained 0]</b>
<b>MOVER:</b>	Trustee Lambert
<b>SECONDER:</b>	Trustee Berman Ross
<b>AYES:</b>	Trustee Juarez, Trustee Lambert, Trustee Meier, Trustee Berman Ross, Trustee Schwenk, Trustee Wilson
<b>NAYS:</b>	None
<b>ABSTAIN:</b>	None

Committee of the Whole adjourned at 7:00 PM.

To: Mayor and Board of Trustees  
From: Lynne Monroe, Assistant Village Administrator  
For: Committee of the Whole of July 28, 2025  
Subject: Social Media Board Policy

**Financial Impact:**

{Replace with Department Name} Department

Committee Report

**Attachments:**

1. Social Media Guidelines presentation.draft

**Background:**

**Guidelines for Elected Officials on How to Keep Your Personal Social Media Pages Personal (instead of “Official” Mundelein pages)**

When the government speaks – including through its social media account – it must consider the guidelines of the First Amendment before hiding or deleting comments by outside parties. But as a private party, you may act without similar restrictions on your own social media pages. For elected officials, it may be tempting to block certain posts or individuals who frequently comment or criticize posts on your personal social media accounts. But first, you need to be sure your personal accounts will not be subject to First Amendment limitations because it constitutes government speech.

So, how do you know when your speech looks like government speech? This has been an evolving question in the past, but more recently the Supreme Court has issued guidelines which are beginning to be interpreted by lower courts. ***If you need a rule of thumb, ask yourself the following:***

***(1) do you possess actual authority to speak on Village’s behalf?; and***

***(2) do you purport to be exercising that authority when you communicate on your social media page?***

A quote from a recent 9<sup>th</sup> Circuit opinion on this issue is helpful:

*“We emphasize that public officials assuredly do have the right to speak on public affairs, including issues related to their official duties, in their personal capacity. As the Supreme Court advised in Lindke, public officials can limit the risk of liability for personal speech on social media by, for instance, “keep[ing] personal posts in a clearly designated personal account,” including a disclaimer, or refraining from labelling their personal pages as official means of communication...” Garnier v. O’Connor-Ratcliff, 21-55157, p. 22 (9<sup>th</sup> Circuit, May 14, 2025)*

As suggested by the above court opinion, *it is important to make clear on your social media pages that you are NOT communicating on behalf of the Village and that you have no authority to do so.* You can post a disclaimer about this on your account indicating that yours is a personal account and that you do not speak for the Board or the Village in any of your posts on that personal account. Your goal should be to make clear that you are only communicating in your individual capacity and that any of your content reflects only your personal views.

In addition to this disclaimer, you will also want to avoid promoting Village matters in a way that makes it look like you’re the official government communication channel. Also, do not represent that you speak on behalf of the Village (rather than just on your own behalf). Other items to look for in your posts to determine if they could look like official action include whether you explicitly cite to your authority as a Trustee, whether your post might have any sort of legal effect, whether you used Village staff to make your post (don’t!), or if you are sharing information that might not otherwise be publicly available. Also, refrain from using your official “trustee” title when naming or creating your account, and do not use your Village email account or the address of Village Hall as part of the information you provide about yourself on your social media profile. Any of these listed items might cause a blocked party who sought to comment on your social media account to argue that your account reflects government action and is not purely personal. Again, making clear on your page that you are speaking in your individual capacity and do not represent the Village will help reduce that appearance.

If, for any reason, you do have actual authority to speak on the Village’s behalf (for instance, as the Mayor or Mayor Pro Tem), then you need to proceed with even greater care and clarity to make clear that in your personal accounts you are NOT representing the Village, and you should be particularly careful not to communicate in any way that might be or look like official action. In all cases, if you have any doubts about the propriety of blocking certain individuals or posts, it is best to check with the Village Administrator or Village Attorney prior to doing so.

## **Mundelein Social Media Policy to be Posted on All Village Social Media Platforms:**

This account is maintained by the Village of Mundelein for Village business, and any party posting on this site in any manner agrees to accept and comply with the Village’s policies contained below. **Please DO NOT use the Village's social media accounts to report a crime or emergency situation.**

**Crime reports and requests for police, fire, or emergency medical assistance should be made by dialing 9-1-1.**

[Per recommendations of the State of Illinois \(Illinois Secretary of State Alexi Giannoulias\)](#) the Village of Mundelein elects not to use social media platforms as a two-way communication forum. Instead, social media platforms will serve primarily as communication and public engagement tools for existing records and information already published via our website [www.mundelein.org](http://www.mundelein.org)[1]. As one-way communication by the Village, the Village's social media platforms are not public forums.

If the Village of Mundelein chooses to use social media platforms as a two-way communication forum in the future, the Village will first need to ensure that social media content, commenting, and messaging archiving systems is in place to ensure compliance with the Illinois Local Records Act and the Illinois Freedom of Information Act.[2]

If you are having difficulty accessing material on any Village platform or have a suggestion about how to improve accessibility, please let us know so that we can try to help. To enable us to respond in a manner most helpful to you, please indicate the nature of your accessibility problem, the preferred format in which to receive the material, the web address or other location of the requested material, and your contact information. The Village seal and any other departmental logos, designs, or symbols are the property of the Village of Mundelein. Such symbols, logos, or designs may not be used without the Village's explicit permission.

**FOR ANY SOCIAL MEDIA FORUM IN WHICH IT IS POSSIBLE TO POST COMMENTS, PLEASE BE ADVISED OF THE FOLLOWING:**

Content that conforms with the Village's Social Media policy and the content restrictions set forth herein will not be removed solely on the basis of the viewpoint expressed by the poster. However, the Village reserves the right to leave comments off and/or remove any content that does not relate to or that in any way disrupts the Village business, or that fails to comply with this Social Media Policy, and/or otherwise constitutes prohibited content as described in this Social Media Policy. Users who repeatedly violate this Social Media Policy may be blocked from the Village's social media channels and their violative posts will be removed.

If comments are possible for any Village social media post, then the following is prohibited content that may be removed by the Village:

1. Comments unrelated to the specific Village post purportedly being commented upon.
2. Photographs, videos, links or any other content unrelated to the specific Village post purportedly being commented upon.
3. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, family status, status with regard to public assistance, national origin, physical or mental disability, sexual orientation, or that otherwise contains hate speech or that discriminates against any other protected class.

4. Comments containing profane, vulgar, obscene, violent, threatening, or harassing language, defamatory, slanderous, or libelous content, and unsupported allegations or allegations unrelated to the specific post that is being commented upon.
5. Language that promotes or provokes violence.
6. Content that violates any cyber-crime or other criminal law or that are prohibited or otherwise regulated by law or court order.
7. Information that may compromise the safety or security of the public or public systems.
8. Comments from children under the age of thirteen (13) (to comply with the Children's Online Privacy Protection ACT). By posting on the Village's site, users acknowledge that they are at least thirteen (13) years old.
9. Personal information of any person such as social security numbers, driver's license numbers, bank accounts, address or telephone numbers and any private information as defined by any applicable State or Federal statute, regulations or written Village policies adopted in conformance with the law.
10. Repetitive content such as posting the same content more than two times in the same location.
11. Spam and any links or content to non-Village sites. Such links cannot be consistently verified and shall be treated as spam to avoid exposure of the Village or users to viruses or malware and to prevent links to content that would be prohibited under this policy. Links contained in comments do not reflect the position of the Village or endorsement of its content. If the social media platform the Village is using contains Website links and advertising from the social media platform, this does not constitute endorsement by the Village.
12. Sexual content or links to sexual content or nudity.
13. Solicitations of commercial sales or commercial links and/or advertising for any commercial or unrelated product or service.
14. Conduct or encouragement of illegal activity.
15. Content that violates the legal ownership interest of any other party including intellectual property and trade secrets.
16. Content promoting the use of illegal or banned substances and narcotics.
17. Comments in support or opposition to political campaigns, ballot measures or referendums.

The Village understands that social media is a 24/7 medium; however, our moderation capabilities are not. We may not see every inappropriate comment right away. Please let us know if you see content that you believe violates the above rules at [info@mundelein.org](mailto:info@mundelein.org).

The Village's social media sites are subject to State of Illinois Public Records Laws; therefore, content shall be managed, stored, retrieved, and deleted to comply with these laws.

Please remember that social media use by both the Village and any party communicating on any Village account is also subject to the policies of the relevant social media company itself.

Comments published on Village social media platforms are public. If you want to communicate with the Village in private or have a question you need the Village to answer, do not post to our social media sites. Instead, visit our website (<https://www.mundelein.org/>) where you can find specific contact information. Communications made through social media posts will in no way constitute a legal or official notice or comment to the Village of Mundelein.

## **Social Media Policy for Mundelein Village Staff and Officials**

### **APPLICABILITY**

This policy shall apply to all Village departments, employees, and Village officials, as well as any affiliated government or non-government agency or official permitted by the Village to post on the Village's social media sites.

### **POLICY**

- The Village's social media program involves establishing an online presence that offers the public various ways to receive Village updates and information.
- Under the direction of the Village Administrator and/or Assistant Village Administrator, the Village's Communications & Community Engagement Manager or designated backup is responsible for the creation, administration, updating and monitoring of official Village of Mundelein social media channels, for selecting which social media resource to use. No Village department shall create a separate social media account without the written approval of the Village Administrator or designee.
- Official postings on Village social media sites shall be made only by Village employees who have been authorized to post on behalf of the Village and may only be made on official Village accounts, clearly identified as such.
- Unless specifically approved by the Village Administrator or Assistant Village Administrator, all postings must relate to official Village matters.

- Elected Village officials are strongly urged to avoid commenting or responding to comments made in Village social media posts. They are encouraged to communicate with the Village Administrator directly if they have specific concerns about a post or any comments on that post.
  
- All social media platforms, accounts, and pages established on behalf of the Village shall include a copy of the Village's Social Media Policy in a manner that is easily seen by visitors to the site. That policy requires that the user agrees to accept and comply with the Village's Social Media Policy.
  
- Authorized personnel shall not intentionally hide or delete comments left on the Village's social media accounts unless such comments constitute Prohibited Content as described in the Village's Social Media Policy (that must have been posted on the relevant social media channel at the time of any such comment). If authorized personnel have any questions as to whether content is prohibited or may qualify for First Amendment protections, they should contact the Village Attorney prior to acting on any such content.
  
- All social media channels should include contact information where community members can reach out with questions or concerns.
  
- Wherever possible, Village social media sites shall link back to the proper page of [www.mundelein.org](http://www.mundelein.org) or domain thereof for additional information.
  
- Employees representing the Village of Mundelein via social media outlets are required to always conduct themselves as professional representatives of the Village and in accordance with all Human Resources Policies, Administrative Directives, and other relevant policies, including the following:
  1. Write and post content that the employee is able to verify;
  2. Keep postings factual and accurate;
  3. Post meaningful and respectful content that is on topic;
  4. Ensure the content does not violate any privacy or confidentiality rules or policies and comply with legal guidelines for external communication. Employees must not disclose confidential information about the Village, its residents, clients, or contractors on social media.

5. Employees must respect copyright, trademark, and intellectual property laws when posting content. Always seek permission before sharing someone else's intellectual property.
  - The Village's social media platforms use is limited to sharing information about the programs and events that are Village-sponsored, a program of a Village board/commission, or that of our government partners. We are unable to share information on the Village's website or through the Village's communications channels for local organizations or businesses unless agreed upon in a sponsorship agreement for a Village-sponsored event. In those cases, such third-party information may be shared through social media only if authorized by the Village Administrator or Assistant Village Administrator.
  - The Village's social media sites are subject to the State of Illinois Local Records Act and the Freedom of Information Act; therefore, content (including any comments that have been removed or hidden) must be managed, stored, retrieved, and deleted to comply with these laws. No two-way communication shall be permitted on Village Social Media sites without appropriate permission from the Village Administrator or designee and only when the Village has determined that appropriate storage capacity and technology is in place to retain such communications in accordance with the Local Records Act.
  - All Employees are reminded of the following:
    - Village employees who are not clearly authorized to post for the Village shall not represent themselves as representing the Village if posting as a private citizen.
    - The Village's official seal and other departmental symbols and logos are for the exclusive use of the Village for Village business and may not be used by Village employees without the Village's written consent.
    - Personal Social Media use shall not be permitted to interfere with an employee's work performance.
    - Employees may not use their work email addresses to create or manage personal social media accounts.

- Employee should not disclose any proprietary, privileged, or confidential information of the Village or of citizens in any manner.
- Employees are entitled to use social media for what is known under federal law as concerted activity. This includes discussing work-related topics like wages, working conditions, and benefits, without fear of retaliation. However, employees engaging in such activities must avoid false claims, offensive statements, or individual complaints unrelated to group discussions. Please see: <https://www.nlr.gov/about-nlr/r-rights-we-protect/the-law/employees/social-media-0> for more information.
- Taking and posting photos or videos on personal accounts of the non-public parts of the workplace or of colleagues in such areas is prohibited without explicit permission. This protects privacy, safety, and confidentiality.
- Employees must clearly distinguish between personal opinions and official Village communications if communicating about the Village on their private social media account. If discussing work-related topics, include a disclaimer that the views expressed are personal and do not represent the Village.
- Employees shall abide by the Village's current Computer Use policy when accessing social media accounts using Village equipment and resources.

[\[1\] \*Managing Social Media & the State and Local Records Acts: A Quick Guide for Social Media Policy and Management\*](#) (page 6.)

[\[2\]](#) 50 ILCS 205/1 et. seq. and 5 ILCS 140/1 et. seq.

**Recommendation:**

**Social Media  
& Public  
Communication  
Guidelines for  
Elected Officials**

Village of  
Mundelein

Ruth Schlossberg, Zukowski, Rogers,  
Flood & McArdle

July 28, 2025

# Brief First Amendment Guidelines: VILLAGE'S SPEECH RIGHTS

---

- Village has free speech rights of its own and can choose what to post or not post
- BUT....GOVERNMENT MUST FOLLOW FIRST AMENDMENT GUIDELINES FOR OTHERS
  - If Village opens up comments, then it can become a public forum subject to rules about moderating and blocking certain comments
  - Some rules are permitted: “time, place and manner”
    - See proposed policy
  - BUT NO viewpoint discrimination
    - No blocking for that reason
    - No deletion of comments for that reason
- Violations subject to civil rights (Section 1983) claims against “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State” deprives someone of a federal constitutional or statutory right

# Brief First Amendment Guidelines: PRIVATE CITIZEN'S SPEECH RIGHT

---

As a private citizen – you can discuss what you like and can manage your social media and comments freely

- You have your own First Amendment Rights
  - You have the right to speak about what you learn in your elected capacity and your opinions, but:
- As a state actor – you need to follow the First Amendment

IS YOUR  
SOCIAL MEDIA  
THAT OF A  
PRIVATE  
PERSON OR A  
STATE/  
GOVERNMENT  
ACTOR?

How to tell? “Sometimes the line between private conduct and state action is difficult to draw.”

- Supreme Court Case: [Lindke v. Freed, 601 U.S. 187, 144 S. Ct. 756 \(2024\)](#)
  - (1) had actual authority to speak on behalf of the State on a particular matter, and
  - (2) purported to exercise that authority in the relevant posts.

# Managing the Village's Social Media

- Can you permit comments?
- Yes, but...
- Must adhere to First Amendment Guidelines
- The proposed Social Media Policy does that:
  - Limited forum
  - Clear Guidelines
    - Must be on topic, no spam, reasonable time, place and manner restrictions
  - BUT: no viewpoint discrimination
- If you permit comments, then must adhere to:
  - Local Records Act
  - OMA
  - FOIA

# Why Village Has Turned Off Comments: Policy & Staff Resources

- Limited capacity to moderate: takes considerable time and resources and budget implications
- Inability to Respond Effectively: Staff cannot monitor 24/7
  - Non-Response/Silence Misinterpreted: Seen as ignoring questions or concerns
- Diluted Messaging:
  - What are the goals of the social media post?
- Appearance of censorship or unfair deletion if moderated
- Cesspool if not moderated
- FOIA Implications: All posts including comments must be retained under Local Records Act and subject to FOIA
  - Village does not have the right technology for this
  - Would require new software to manage properly
- Personal Attacks and/or Policy Disagreements:
  - Officials or staff may feel targeted unfairly or inaccurately but cannot respond with facts
  - Policy or discussions may be misrepresented
  - Limited Capacity for Responding Effectively
  - No win in online debates/responses
  - Do people want the facts? Some do/some don't want to be or can't be persuaded

# What about Personal Pages?

---

- You still have your own First Amendment rights and right to privacy
- When does Private become Public?
  - Lindke v. Freed, US Supreme Court (2024)
    - 1) actual authority to speak on behalf of the State on a particular matter
      - (authority from: "statute, ordinance, regulation, custom, or usage.")
    - (2) purport to exercise that authority in the relevant posts.

# 1) ACTUAL AUTHORITY TO SPEAK ON BEHALF OF THE STATE ON A PARTICULAR MATTER

"statute, ordinance, regulation, custom, or usage."

---

- **Board Members**

- City of Champaign Case: Individual Trustee Has No Power to Act Alone
- But...what if given actual authority for some reason?

- **Mayor**

- Differently positioned than Board members
- Executive by statute and by custom

- **Staff**

## (2) PURPORT TO EXERCISE THAT AUTHORITY IN THE RELEVANT POSTS

---

- Do Not Use Official Title (Mayor, Trustee) on Personal Profiles
  - may imply endorsement or official position
  - Also avoid using Village email and Village Hall address in your personal profile
- Avoid Blurring Lines Between Personal Opinion and Village Policy
  - Make Clear you do not speak for the Village
  - Refer people to official Village contacts when they have Village business – maybe even put that in your profile
- Consider disclaimers or consistent naming conventions
  - “Here, if Freed’s account had carried a label—*e.g.*, “this is the personal page of James R. Freed”—he would be entitled to a heavy presumption that all of his posts were personal, but Freed’s page was not designated either “personal” or “official.”
  - 
  - “We emphasize that public officials assuredly do have the right to speak on public affairs, including issues related to their official duties, in their personal capacity. As the Supreme Court advised in *Lindke*, public officials can limit the risk of liability for personal speech on social media by, for instance, keep[ing] personal posts in a clearly designated personal account, including a disclaimer, or refraining from labelling their personal pages as official means of communication... *Garnier v. O Connor-Ratcliff*, 21-55157, p. 22 (9th Circuit, May 14, 2025)

## (2) PURPORT TO EXERCISE THAT AUTHORITY IN THE RELEVANT POSTS

(Example from Lindke)

---

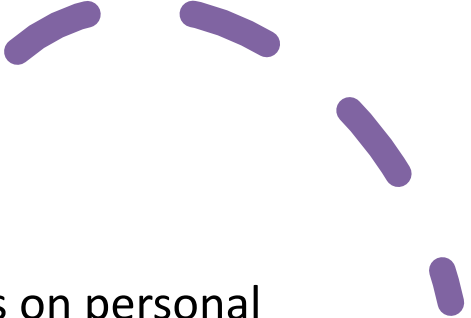
- Categorizing posts that appear on an ambiguous page like Freed’s is a fact-specific undertaking in which the post’s content and function are the most important considerations. In some circumstances, the post’s content and function might make the plaintiff’s argument a slam dunk. Take a mayor who makes the following announcement exclusively on his Facebook page: “Pursuant to Municipal Ordinance 22.1, I am temporarily suspending enforcement of alternate-side parking rules.” The post’s express invocation of state authority, its immediate legal effect, and the fact that the order is not available elsewhere make clear that the mayor is purporting to discharge an official duty. If, by contrast, the mayor merely repeats or shares otherwise available information—for example, by linking to the parking announcement on the city’s webpage—it is far less likely that he is purporting to exercise the power of his office. Instead, it is much more likely that he is engaging in private speech “relate[d] to his public employment” or “concern[ing] information learned during that employment.”

# Can You Post Board Agendas on Social Media

- **Yes**
  - Lindke case: a post that merely repeats or shares otherwise available information is more likely personal.
- **Best Practice is to Cite to the Village's Website**
  - Accuracy
  - Record keeping
  - Avoids incomplete or edited agenda
  - Avoids discussions that may misrepresent



# What About Unofficial Board Meeting Recaps

- 
- **Yes**
  - **BUT...**
    - Posting summaries on personal or group pages can seem official
    - Avoid OMA discussion violations
      - Avoid creating impression of deliberation outside public meetings
    - FOIA implications: City of Champaign Case
      - Potentially FOIA'able from meeting – so staff resource considerations

# Answering Questions in Community Facebook Groups

---

- Admittedly the challenge is how to get facts out there
- We get that you are elected officials in the community so may feel hard to resist, but:
  - **Best Practice: Don't**
- Other trustees might join the thread → possible OMA violation
- Perceived as official response
  - Instead: Link to Village Website for Factual Information
  - If you do respond, then clarify personal vs. official role
- May start discussion requiring a more official/thorough response

Can you  
express your  
opinions on  
Village  
business or  
solicit input  
from the  
public?

- No clear answer yet
  - Ruth says yes if you do not have actual authority
  - Others advise against it –
    - E.g. if you are soliciting input and block people, could be an issue...
  - No clear case on this though Supreme Court has said you do not check your First Amendment rights when you become an elected official

# FOIA, OMA and LRA Considerations

If it's a "government post", then it is FOIA-able

Avoid potential OMA violation with discussions between elected officials in comments

Local Records Act Retention policies apply to Village's communications

Not just posts but also comments need to be archived

# Trustees: What's OK to Post without Becoming Government Speech/Public Forum (Examples)

---

- Link to official Village resources
- Promote Village events or meeting times
- Personal opinions (with disclaimers)
- Always have clear disclaimer on your profile that this is personal not official
- Encourage the public to communicate about Village business through official Village channels not through your personal account
- Avoid conversations that start to involve other trustees on Village business: Avoid “contemporaneous interactive communication”
  - OMA Violation
  - Appearance of Official Public Business and First Amendment Considerations
- Do not use any Village resources for personal account

# Insurance & Liability Issues

Does Village have coverage for Civil Rights Violations Claims?

Would that coverage extend to your personal account if challenged?

Lynne is reaching out to IRMA

# When in Doubt...

If you have any doubts about blocking individuals or posts, check with the Village Administrator or Village Attorney first.

PS: Don't forget – this is all new and evolving...things change...don't be the test case!