

August 4<sup>th</sup>, 2022

I will always be a strong supporter of a Code of Ethics and Conduct for the city council here in Rochester. Every time this topic came up previously, I was emphatic about my unwavering support and was thrilled to find this coming down the pipeline.

That is the reason I hope this policy has some significant edits and subtractions before it makes its way to the full council. In its present state I struggle to agree with the overly restrictive and authoritative language, that, in my opinion will see an abundance of frivolous allegations levied against every single councilor.

I do not want to take up too much time, so let me briefly touch on two specific sections that absolutely must be removed and/or edited significantly.

#### **Section A:7(a) – Social Media**

*(a) Social media presence by those officials covered under this code is to be informative in nature and positively reflect on the community and City staff and promote local activities. All officials shall avoid expressing opinions or bias regarding City business or issues that may come before the Council/Commission/Board/Committee when it may be construed that they are acting on behalf of the City.*

*In the use of social media, all officials are to abide by the following:*

- *Refrain from making belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments.*
- *Ensure that they do not participate in discrimination or harassment, even if the identified behavior is not targeting a protected class, consisting of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching.*
- *Shall never demean or personally attack an employee regarding the employee's job performance in public; and*
- *Are to demonstrate their honesty and integrity, and to be an example of appropriate and ethical Conduct*

I read this section and can't help but question the legality of censoring individuals. It's a simple point - but a large one. I could be wrong, but this strikes me as a blatant violation of the first amendment – to censor what a councilor can and cannot post online – that is something I would never be in favor of, and is a very slippery slope.

I would also like to bring up the point that this section does not specify between personal social media pages and political social media pages – so it could safely be assumed someone will be sitting, watching our pages and jump at the first sight of anything questionable.

Censoring of an outlet for a councilor to get information or opinion(s) to the general public easily (regardless of personal or political) is an absolute overreach of authority on the side of the Rochester government.

The last section that I would like to bring your attention to is

**Section B:2(c) - Practice active listening**

*Practice active listening*

*a. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions and avoid those that could be interpreted as "smirking," disbelief, anger, or boredom.*

I am astonished that a section like this would be included. The audacity, to try and control how an individual person listens to someone speak is imperious. One individual might listen and retain the words better by looking at the TV. Someone else might listen and retain the information better with their eyes closed. A third person might listen and retain the information better with their legs crossed and their hands in the air. My point here is that trying to impose specific ways an individual can listen to the public speak is again, an overreach. You cannot demand a councilor sit a certain way during public comment, with the threat of discipline that could be levied by anyone in the room (or watching on TV) just because they 'think' you aren't paying attention.

Please – before this is sent to the full council, make the correct edits and changes.

Dana Berlin