



TOWN OF LINCOLN

MIDDLESEX COUNTY MASSACHUSETTS

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TO: Board
FR: Tim
DT: April 29, 2024
RE: Open Meeting Law Discussion
Social Media/List Serve Legal Issues & Best Practices

Recent discussions regarding board and committee use of Lincoln Talk prompted me to ask Town Counsel to clarify the Open Meeting Law's restrictions on the use of social media, including listservs. The points below highlight the key legal considerations and suggested best practices. The one-sentence summary is that Town officials may participate and post on social media, but they must avoid any discussions or "deliberations" with fellow board members and should limit their posts to simple factual points.

Legal considerations:

- Board and committee members are permitted to be members of a listserv.
- Board and committee members' use of listservs should be limited, however.
- It is permissible for board and committee members to post information about meeting schedules and other basic administrative matters.
- It is also permissible for board or committee members to post basic factual information, including offering corrections to misstatements.
- It is impermissible, however, for a member of a board or committee to post a response to the posting of another member as doing so risks becoming a deliberation outside the confines of a properly convened public meeting.
- It is also impermissible for a board or committee member to use the listserv to engage in debate with fellow board members or the public.

Best practices:

- Lincoln Talk has a limited place among the Town's communication and outreach strategies. It is not the primary vehicle through which the Town communicates with its residents.
- Residents who post questions or concerns to Lincoln Talk should not expect that a town official will be responding.
- Instead, residents who have questions or concerns are encouraged to contact the relevant board or department directly. Contact information for boards and departments is available on the town's website. Residents who are not sure where to start are welcome to contact the Town Administrator's Office.

- There are multiple reasons why town officials should not respond to questions or concerns raised on Lincoln Talk including, as discussed above, board and committee members risk violating the Open Meeting Law; individual opinions may not reflect the opinion of the full board/committee; and, neither board members nor staff are assigned to monitor Lincoln Talk, and none should be responding unless authorized to do so.
- The Town's website is the most reliable source for official information. Oftentimes, the best response from a board or committee to a question raised on Lincoln Talk, if a response is warranted at all, would be to provide a link to the relevant page on the Town's website.
- Boards and committees should formally discuss their protocols for using Lincoln Talk and, if having decided to use Lincoln Talk, authorize a member and/or staff member to do so on behalf of the body.

Sources:

- The Attorney General's guidance on the subject ([Frequently asked questions about the Open Meeting Law | Mass.gov](#)) urges caution on the use of social media and list serv platforms.
- From the AG's FAQ:
 - May a member of a public body participate in a listserv?
 - It depends. A listserv is an electronic mailing list. A member of a public body may subscribe to a listserv. However, where a quorum of the members of a public body subscribe to a listerv, the public body risks unlawful deliberation. *Where a quorum of the members of a public body belong to a listserv, public body members cannot participate in discussions which involve subject matter within the jurisdiction of the public body without engaging in unlawful deliberation.* Therefore, we recommend that public body members use caution when joining or participating in listservs in which subject matters within the jurisdiction of their public body may be discussed.
- KP-Law Client Memo (The Open Meeting Law and Social Media -Potential Pitfalls by Attorney Brian Riley)