



# MEMORANDUM

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**DATE:** March 22, 2017

**TO:** Michael J. Ortega, P.E.  
City Manager

**FROM:** Mike Rankin   
City Attorney  
x4221

**SUBJECT:** City of Tucson's Boards, Committees, and Commissions

The City's boards, committees, and commissions (BCCs) exist at the will of the Mayor and Council, which may establish, regulate, and abolish them as it deems necessary or advisable. See Tucson Charter, Chapter XXIV, § 1. Fundamentally, they advise or assist the Mayor and Council. They have no independent legal existence. Given their situation, the City Attorney's Office recommends against allowing BCCs to create and operate their own websites, because it will potentially create several kinds of legal problems for the City:

1. BCC websites will give an impression of freestanding existence and autonomy for the particular BCC, and BCCs in general, that is not justified by the actual limited status of BCCs under the Tucson Charter specifically and Arizona law generally.
2. Where content posted or links created by the particular BCC at its website become controversial, as inevitably will happen, the City may be perceived as approving of them, and also of allowing or endorsing content or links that violate the City's Administrative Directive 1.08-5 (most recent version issued October 1, 2015), which governs City websites, when in fact City employees had no prior knowledge of or control over the BCCs posting of the particular content or links.
3. Conversely, authorizing or requiring City "approval" or "monitoring" of all website content and links for what will inevitably become multiple BCC websites will simply put an additional and extensive administrative burden on the City Clerk's Office, as well as require that office to mediate or referee disputes about what the CCO should and should not be allowing, with the Mayor and Council or its staff potentially drawn into the fray.
4. BCC websites may result in unauthorized use of the City's official, trademarked logo at either the website homepage itself, or via postings or uploaded documents.
5. If the BCC is used for any level of direct interchange with City residents and voters regarding a particular issue (e.g. information dissemination and a request to "tell us what

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you think”), the City itself may be perceived as, charged with, or even legally determined to be:

(a) creating some level of “public forum” for that issue that the City did not intend to create and cannot adequately supervise; or

(b) violating the Open Meeting Law by having the particular BCC interact with the public as a body regarding that issue outside of meetings for which the required public notice of time, place, and agenda has been posted.

6. To the extent certain groups, content, or viewpoints are presented or represented at the BCC websites, the City may be accused of violating First Amendment rights by not allowing other groups, content, or viewpoints to also be represented.
7. BCC websites may post content that is inconsistent with official City positions or information, or with each other, creating confusion for the public.
8. Monitoring the legal compliance of BCC websites, and the many issues they will inevitably raise, will become yet another administrative burden for the City Attorney's Office, in conjunction with the City Clerk and the Information Technology Department. This will be true independent of whether such monitoring is direct and constant or complaint-driven and sporadic.

MR/dg