Planning Ethics Introduction

• What’s the big deal?
  – Employers, colleagues, citizens, employees all have the right to expect professional planners to exhibit a high level of ethical behavior.
  – AICP requires certain ethical standards.
  – We should expect the same of ourselves
Planning Ethics Introduction

• Our primary responsibility is to serve the public interest through high standards of
  – Professional integrity
  – Proficiency
  – Knowledge
Overview of AICP Code

• The Code sets standards of behavior
  – Aspirational...the values and ideas we aim for. These are not enforceable by AICP, but shouldn’t be ignored.
  – They include:
    • Overall responsibility to public
    • Responsibility to clients and employers
    • Responsibility to profession and colleagues
Overview of AICP Code

• **Mandatory**...these are the “official” rules of conduct. They are enforceable by AICP.
  – They include (26 statements in all):
    • Conflicts of interest (financial and otherwise)
    • Job performance
    • Private communications in matters we’re responsible for
    • Discrimination
    • Cooperation with AICP
Overview of AICP Code

• The Code also sets procedures for charges and rulings
  – Obtaining formal and informal advice
  – How to file a charge of misconduct and how that’s investigated
  – Hearings and decisions
  – Suspension and reinstatement
AICP Code of Ethics

• All of this information is available on the APA website [www.planning.org/ethics/index.htm](http://www.planning.org/ethics/index.htm)
  – click on the “AICP Code of Ethics and Professional Conduct” link for the document.
Ethics CM Requirements

• AICP requires Ethics (and Law) CM Credits
  – A minimum of 1.5 credits out of 32 in each two-year reporting period must be planning ethics

• Indiana Chapter committed to providing that requirement for professional planners at conferences
Ethics CM Requirements

• AICP Code of Ethics does not apply to Citizen Planners!

• Consider **APA’s Ethical Principles in Planning**, adopted May 1992
  – Voluntary guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers
  – Could adopt as part of Rules of Procedure
Why Planning Ethics in Electronic Age?

Social Networking & Ethics Session

APA National Conference, Boston, April 12, 2011

- Patricia Salkin, Local Government Law Center, Albany (NY) Law School
- Julie Tappendorf, Ancel, Glink, Diamond, Bush, Chicago
Why Planning Ethics in Electronic Age?

• Social Media heavily used, but little guidance available...
  – Lack of training
  – Lack of employer guidelines
  – Lack of case law
At Ball U, K.K. had 1 Computer Class with Punch Cards...
there are 5 billion active **cell phones** on the planet (social media’s main conduit)

>85% of Indiana’s adults have **cell phones**

Based on personal experience, 150% of all teens and young adults have **cell phones**, but don’t realize that they have a talking function...
Social Media – Internet Access

• 75% of US has internet access at home (2004 Nielsen Survey)
  – Does not apply uniformly over geographic area (i.e., between DT and 56th Street in Indianapolis)
  – Minorities, elderly and those without HS Degree under-represented
  – Rural areas still underserved
• 1.9 Billion **e-mail** users worldwide in 2009, 2.5 Billion by 2014  
  Radicati Group, May 2009

• 25% of all **e-mail** accounts are business related  
  Radicati Group, May 2009

• 94% of US Internet users have gone online and sent or read **e-mail**  
  Pew Internet and American Life Project, May 2010

• 62% of those typically use **e-mail** daily
• 41% of Americans maintain a profile page on Facebook Edison Research, April 2010
• 50% of active users log on to Facebook in any given day Facebook, April 2011
• Average user has 130 friends Facebook, April 2011
• Average user connected to 80 community pages, groups & events
• Average user creates 90 pieces of content/month Facebook, April 2011
• > 250 million active users access Facebook through mobile devices
• People that use Facebook on mobile devices are twice as active as non-mobile users Facebook, April 2011
• 88% of Americans aware of Facebook Edison Research, April 29, 2010
Social Media -- Twitter

• 7% (17 Million) of Americans Tweet  
  Edison Research, April 29, 2010

• Majority of Twitter users are ‘lurkers’

• Majority of Twitter users are higher income and better educated

• 87% of Americans aware of Twitter
“People are social animals. We need these tools (to) help each other become smarter and do bigger and better things. I don’t think its going away anytime soon.”

-- Biz Stone, inventor of Twitter
Do we need Social Media in Planning?

Shakespeare
If He Were Alive Today

TO TWITTER OR NOT TO TWITTER...

...THAT IS THE QUESTION.
Using Social Media Tools

• Pros
  – Reach new groups of people (younger)
  – Process/project more transparent?
  – Involve more people (Envision San Jose had 5000 participants on internet and 600 at public meetings)
  – Greener? (less paper)
  – Cheaper than mail
Using Social Media Tools

• Cons
  – Only works in certain demographics
  – Don’t use them well and it backfires
Issues

• Just because you can do something, doesn’t mean you are doing it wisely, correctly, legally or ethically…

• Today we will (mostly) focus on the ethical issues that can result when using electronic communication
What is Happening in Indiana?

• STATE & COUNTY OFFICIALS LOSE JOBS OVER ELECTRONIC COMMENTS?
• COMMISSIONS AND BOARDS ENGAGE IN EX-PARTE CONTACT?
• COMMISSIONS AND BOARDS THWART OPEN DOOR LAW?
• EXPANDING NETWORK => MORE CONFLICTS?
• PUBLIC RECORD LAW THWARTED?
Instant Response = Stupid

• Expectation of Instant Response by both sender and receiver means we don’t take time to think things through...

• But our electronic actions can actually outlive us – no taking anything back
Jobs are Hard Enough to Find....

Unemployable due to stupid personal stuff I put on my facebook page.

Me too!

For me, it was an embarrassing Youtube video.

Signs of the social networking times.
Jeffrey Cox was a deputy attorney general working for the State of Indiana until Wednesday afternoon. He was fired over comments he made on twitter and blog posts. Cox was explaining how he feels Wisconsin law enforcement should handle pro-union demonstrations.

Cox tweeted "use live ammunition" to clear out protesters. He then went on to comment, "against thugs physically threatening legally-elected state legislators and Governor? You're damn right I advocate deadly force."

The Indiana Attorney General's Office released a statement Wednesday announced that Cox had been terminated...The Office conducted a thorough and expeditious review after "Mother Jones" magazine today published an article attributing private Twitter postings and private blog postings to Cox.

Civility and courtesy toward all members of the public are very important to the Indiana Attorney General's Office. We respect individuals' First Amendment right to express their personal views on private online forums, but as public servants we are held by the public to a higher standard, and we should strive for civility.
For the second time in a month, an Indiana prosecutor has lost his job because of volatile comments about unions. Johnson County Deputy prosecutor Carlos Lam resigned Thursday, after admitting to writing an email to the Wisconsin governor, encouraging violence.

It suggested hiring someone to stage a fake attack with weapons on Wisconsin Governor Scott Walker, in order to stem the uproar over collective bargaining and undercut union support. When first confronted with the email, he told Wisconsin journalists he didn't write it, but early Thursday, Lam called his boss, the Johnson County prosecutor, and admitted everything.

In a statement to Eyewitness News, prosecutor Bradley Cooper said: "Over the weekend, on his own time and on his own personal computer, one of my deputy prosecutors sent an email to Governor Walker of Wisconsin that contained a foolish suggestion. Early this (Thursday) morning, the deputy contacted me from his home, admitted to me that he did send the email to Governor Walker and tendered his resignation, which I have accepted."
Legal Issues

• **1st Amendment**: If govt. uses privately hosted site, can’t take comments down (i.e., Mayor is an idiot) unless pornographic, threatening, etc.
  
  – Is a comment section worth it?
  
  – Require registration to comment? Would need to disclose privacy policy/issues.
  
  – Not much case law yet. Fairfax, VA has untested policy (no vulgarity, off-topic discussion, etc.)
ASOK, we're getting killed by bad customer reviews online.

I need you to pretend you're several different customers and write positive reviews.

Doesn't that break some sort of law?

Heck no, it only crosses some ethical boundaries and violates the terms of service for the website.

And depending on your religious views, it might be a hiccup on your way to paradise.

But I'm almost positive there won't be any jail time or eternal damnation.

Well... okay.

And be sure to defame our competitors.
• Records Retention & Freedom of Information Act:
  – Local government webpage subject to public records law per Florida’s Attorney general.
    *K.K. attending May 5 Indiana Public Access Law Seminar*
  – How do you keep tweets, etc.?
  – How do you control something owned by a private entity (i.e., Facebook)?
KK Discovers Facebook Issues

There are still some aspects of Facebook's Terms of Service that bother me...

You agree to waste precious and valuable time searching for new friends and also boring the daylights out of the friends you currently have with the most mundane details of your sad, sad life...
• Open Meetings Law:
  – If majority of board/commission members are online at same time, is it a public meeting that needs a notice?
  – Reading something sent over the internet (i.e., staff report) is probably OK, chatting about it is not
  – Beware of “Reply to All”

*Discussion needs to take place in a public hearing!*
Legal Issues

• **Ex-parte contact does not have to be in person!** Beware e-mails, tweets, blogs, etc.
  – IC 36-7-4-920 (g) says that a person may not communicate with any member of the Board of Zoning Appeals (BZA) before the hearing with intent to influence the member's action on a matter pending before the board.

*What should you do if you are contacted?*
Privacy Policy: Employer’s Gadgets

• Per Supreme Court, you have reasonable expectation of privacy when using employer’s phone, computer, unless the agency has a policy about monitoring your postings, etc. for discipline, etc.

• Ethics and common sense go beyond the legalities!
Is there a company or agency policy?

BETH IS OUR NEW MARKETING MANAGER FOR SOCIAL MEDIA.

BY THE WAY, COMPANY POLICY FORBIDS THE USE OF FACEBOOK AND TWITTER AT WORK. AND WE DON'T TRUST YOU TO WORK FROM HOME.

IF YOU BLOG ABOUT HOW LAME WE ARE, YOU'RE FIRED!!!

FIRST DAY, NOT SO GOOD.
Social Media Ethics – AICP Code

The AICP Code does not say anything specifically about social media/electronic communication...

But that doesn’t mean it can’t be applied!
A. Principles to Which We Aspire

1. Our Overall Responsibility to the Public

Our primary obligation is to serve the public interest .... To comply with our obligation to the public, we aspire to the following principles:

d) We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision makers.

Also, excerpted from APA’s Ethical Principles in Planning:

Planning Process Participants should:

• Ensure reports, records and other non-confidential information available to decision makers is made available to public in a convenient format and sufficiently in advance of any decision;

Would using social media help get more up to date info out? Is it the best way to provide technical information? Are there copyright issues (drawings, etc.)?
A. Principles to Which We Aspire

1. Our Overall Responsibility to the Public

   e) We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.

Also, excerpted from APA’s Ethical Principles in Planning:
Strive to give citizens full, clear & accurate information on issues & opportunity to have meaningful role in plans & programs;

Would social media help broaden participation? Will it reach the “have-nots”? 
A. Principles to Which We Aspire

1. Our Overall Responsibility to the Public

f) We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.

Do our current policies for communication help expand choice and opportunity for everyone?
A. Principles to Which We Aspire

2. Our Responsibility to Our Clients and Employers

c) We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.

Is it a conflict if you are Facebook Friends or are Linked In with an applicant? With an opponent?

What should you do?
A. Principles to Which We Aspire

3. Our Responsibility to Our Profession and Colleagues

We shall contribute to the development of, and respect for, our profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

a) We shall protect and enhance the integrity of our profession.

Would social media help develop and increase respect for our profession? Would it increase public understanding of planning?

Welcome to APA Indiana!
A. Principles to Which We Aspire

3. Our Responsibility to Our Profession and Colleagues

b) We shall educate the public about planning issues and their relevance to our everyday lives.

Also, excerpted from APA’s Ethical Principles in Planning:

Planning Process Participants should:

• Assist in clarification of community goals, objectives & policies...

Can social media help us educate the public?
Social Media Ethics – AICP Code

A. Principles to Which We Aspire

3. Our Responsibility to Our Profession and Colleagues
c) We shall describe and comment on the work and views of other professionals in a fair and professional manner.

Also, excerpted from APA’s Ethical Principles in Planning:

• Do not commit a deliberately wrongful act which reflects adversely on planning as a profession....

• Accurately represent the qualifications, views, and findings of colleagues;

• Treat fairly and comment responsibly on the professional views of colleagues and members of other professions;

Beware of tweets, blogs, e-mails, etc...
Social Media Ethics – AICP Code

A. Principles to Which We Aspire

3. Our Responsibility to Our Profession and Colleagues

i) We shall systematically and critically analyze ethical issues in the practice of planning.

Also, excerpted from APA’s Ethical Principles in Planning:

APA practicing planners:

• Systematically and critically analyze ethical issues in the practice of planning.

Hey, Indiana planners are doing it for ourselves!
B: Our Rules of Conduct

We adhere to the following Rules of Conduct, and we understand that our Institute will enforce compliance with them. If we fail to adhere to these Rules, we could receive sanctions, the ultimate being the loss of our certification:

1. We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.

*If you aren’t taking advantage of “instant communication” are you breaking this rule?*
B.7. We shall not use to our personal advantage, nor that of a subsequent client or employer, information gained in a professional relationship that the client or employer.... **Nor shall we disclose such confidential information** except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public. Disclosure pursuant to (2) and (3) shall not be made until after we have verified the facts and issues involved and, when practicable, exhausted efforts to obtain reconsideration of the matter and have sought separate opinions on the issue from other qualified professionals employed by our client or employer.

Also, excerpted from **APA’s Ethical Principles in Planning:**

APA practicing planners:

(shall) not disclose confidential information acquired in the course of their duties except when required by law...

*Beware the blog, tweet, e-mail, etc...*
B. 8. We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination if such private communications are prohibited by law or by agency rules, procedures, or custom.

If it is a plan commission or BZA matter where you don’t have final approval, and the AICP Code doesn’t apply to the citizen planners, isn’t it OK to use private communication?
B. 9. We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom.

*If it isn’t against the law or your rules, why not do it?*
Talk About It First...

- With Elected Officials
- With Plan Commission and Board
- With Planning Staff
- With Citizens
- With others who have done

Don’t just rush out and do it!
Social Media Recommendations

• Don’t just do it – have a public participation plan and figure out how it fits in to that.

Building A Social Media Strategy

As our Social Media Strategist, we’ll need you to draft our employee policy on social media usage.

Sure! So we’ll educate our employees on social media and how it can be used to grow our business and serve our customers, right?

Actually, I was just thinking it would be more along the lines of “Stop playing on Facebook and get back to work”.

View more social media cartoons at www.socmedsean.com
Social Media Recommendations

• Develop policies (i.e., employee use of agency equipment and personal equipment, rules of conduct on official sites, re: language, personal attacks, etc.)
Social Media Recommendations

- Make one person in charge of monitoring
Social Media Recommendations

• Amend rules of procedure to deal with electronic ex-parte contact, open door concerns
Any last words, texts, tweets, or status updates?
The links for Utah and North Carolina are embedded in the article below:

Detroit:
www.ci.detroit.mi.us

Muncie:
http://www.muncieactionplan.com/