

Planning Ethics

What one word would you use to describe yourself?

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🕶️ Answers to this poll are anonymous



Text “**PeterFeroe311**”
to **22333** to join the
conversation.

Then, tell us about
yourself.

We’re going to use this
tool throughout the
presentation; texting
now sets everything up.

Planning Ethics

16th Annual *Alfred B. DelBello Land Use and Sustainable Development Conference:*
Reimagining the Role of Local Governments

Presented by the Land Use Law Center of Pace University
December 7, 2017



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AGENDA

- Required AICP Content
- Ethics Code Overview
- Focused Discussion
 - Plagiarism
 - Technology, Digital Data and Social Media
- Ethics Case of the Year

- Audience Discussion

REQUIRED AICP CONTENT

“PLEASE NOTE: This session has been created to provide general education regarding the AICP Code of Ethics. Though examples, sample problems, and question and answer sessions are an important part of illustrating application of the code’s provisions, all certified planners should be aware that “Only the Ethics Officer is authorized to give formal advice on the propriety of a planner’s proposed conduct.” (AICP Code of Ethics, Section C3). If you have a specific question regarding a situation arising in your practice, you are encouraged to seek the opinion of the Ethics Officer.”

- 312-786-6360
- www.planning.org/ethics
- ethics@planning.org *(not to discuss specific situations)*

AICP Code of Ethics



Why talk about ethics?

What is in the code?

WHY TALK ABOUT ETHICS

- Citizens have a right to expect that planners (in the public or private sectors) will help **elevate governance**, not fall to its more base level.
- Planners have **ethical responsibilities** to their colleagues, their clients and their communities.
- AICP planners belong to the American Institute of Certified Planners, and **must practice in accordance with standards of practice**, including the AICP's Code of Ethics and Professional Conduct.
- Planners are guided by both existing local, and sometimes state, ethics provisions. But frequently none exist, and planners must **exercise common sense**.
- Ethics scenarios are rarely “cut and dried” and often contain a high level of nuance. **Ethics discussions help develop reasoning and reflection skills** that can be applied in everyday situations.

OVERVIEW OF AICP CODE OF ETHICS

- Aspirational Principles (Ideals)
 - “Primary Obligation is to Serve the Public Interest”
 - “Diligent, Creative, Competent Performance”
 - “Contribute to the Development of, and Respect for, our Profession”
- Rules of Conduct (Standards)
- Procedures for Obtaining Guidance
- Procedures for Investigating Complaints
- Disciplinary Actions

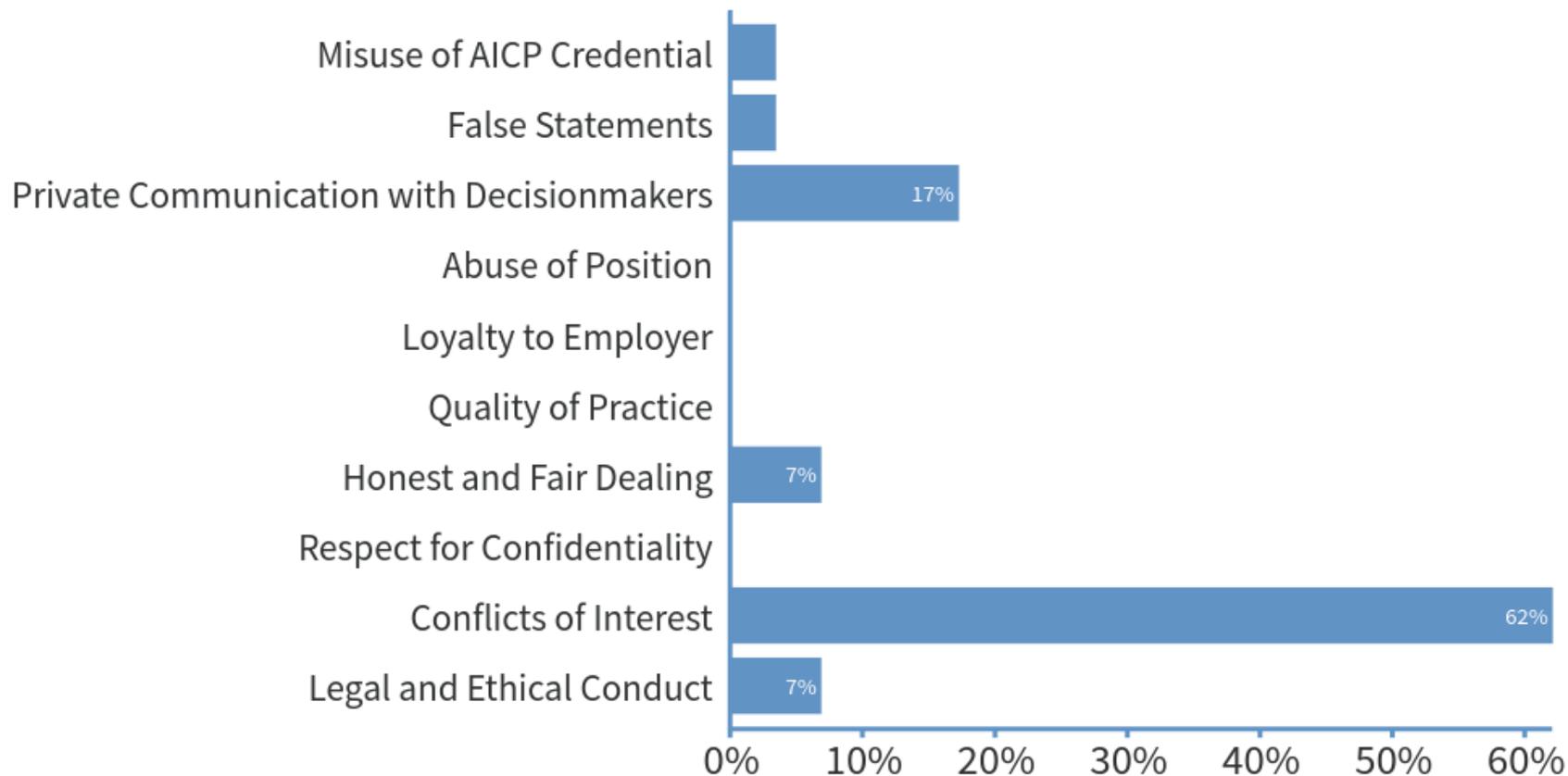
What issue do you think was the subject of the most ethics cases last year?



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ACTUAL ETHICS CASES AND ISSUES



ADVISORY OPINIONS

- Any person can seek informal advice
 - Via phone
 - Not binding, but considered in future investigations
- AICP members can seek formal opinion
 - In writing
 - Won't issue opinion if it concerns past conduct that might be subject of misconduct charge
 - Can use opinion as defense in future misconduct charge
- Ethics Committee can issue advisory opinions without a formal request
 - Membership may provide input on those opinions
 - All such advisory opinions must be published to the entire membership
 - Member can request edits to opinion

ADJUDICATION OF COMPLAINTS

- Any person can file a complaint against AICP member
 - Must be signed
 - Confidentiality not guaranteed
- Timelines for Review
 - Ethics Officer makes written decision and imposes discipline
 - Decision is appealable by both parties
- Encourage investigations and 'settlements'
 - Ethics Officer can negotiate settlement at any time in process
- Ethics Committee can continue investigations even if accused resigns AICP membership

Plagiarism



Valerie Monastra, AICP

WHAT IS PLAGIARISM?



According to the Merriam-Webster Dictionary:

- To steal and pass off (the ideas or words of another) as one's own
- To use (another's production) without crediting the source

PLAGIARISM IN WRITTEN MATERIAL



- Turning in someone else's work as your own
- Copying words or ideas from someone else without giving credit
- Failing to put a quotation in quotation marks
- Giving incorrect information about the source of a quotation
- Changing words but copying the sentence structure of a source without giving credit
- Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not (see our section on "fair use" rules)

PLAGIARISM IN MEDIA



- Plagiarism can take place in photographs, images, videos, and other forms of media
 - The two safest approaches to take in regards to these situations is:
 - 1) Avoid them altogether or 2) Confirm the works' usage permissions and cite them properly.

Source (<http://www.plagiarism.org/article/what-is-plagiarism>)

PLAGIARISM OF PUBLIC DOMAIN DOCUMENTS



- Materials not protected by trademarks, copyright, or patent laws
- The public “owns the documents”

Works prepared by an officer or employee of the United States Government as part of that person's official duties is automatically in the public domain.

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PLAGIARISM OF PUBLIC DOMAIN DOCUMENTS

© *Copyright Notices*



Works published in the U.S. before 1923	In the public domain
Works published in the U.S. after 1922 but before 1964	Initial term of 28 years. If not renewed during the 28th year, the work falls into the public domain.
Works published in the U.S. after 1922 but before March 1, 1989	Generally, if a work was published without copyright notice under the authorization of the copyright owner and the law does not provide an exception for the omission, the work is in the public domain
Works published after 1989	70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first

PLAGIARISM OF PUBLIC DOMAIN DOCUMENTS

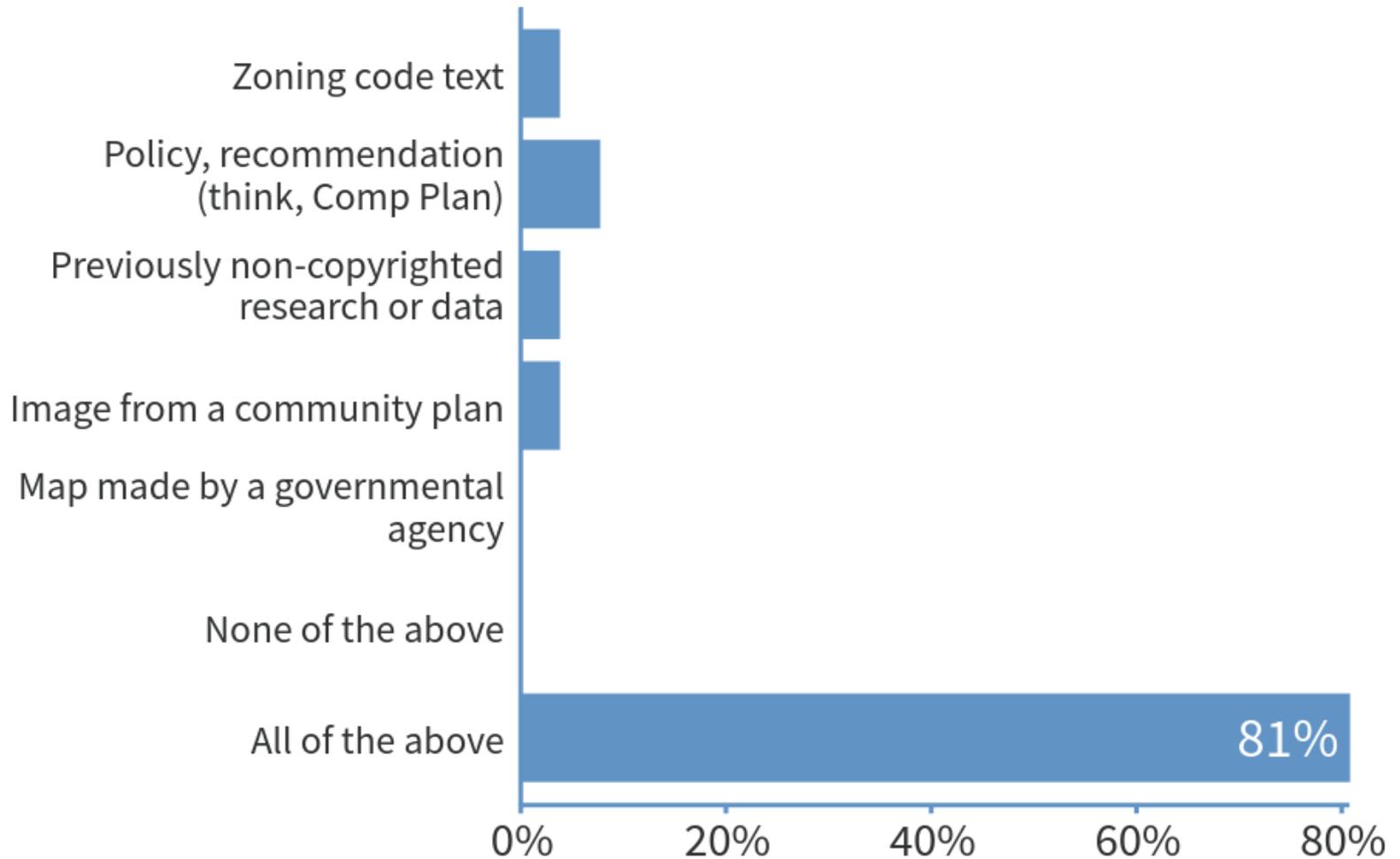


Advice:

- To cite the document even if there is no legal requirement because it prevents any appearance of you being the originator of the material and it prevents unintentional mistakes

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If copying for your own product, which of these is most important to cite?



ETHICS SCENARIO



- James Bond, AICP, is senior planner with a regional planning agency. One of his duties is to review draft comprehensive plans.
- After reviewing a draft plan for Geddesville, he sees that large portions of the text also appear—verbatim, including typos—in another community’s adopted plan.
- James phones Jane, AICP, the consultant who prepared the draft plan. After discussing the plan’s review process, James asks Jane about the copied text.
- Jane defends this as “acceptable practice,” noting that she has listed the other community’s plan—prepared by a different consulting firm—in her bibliography.

ETHICS SCENARIO

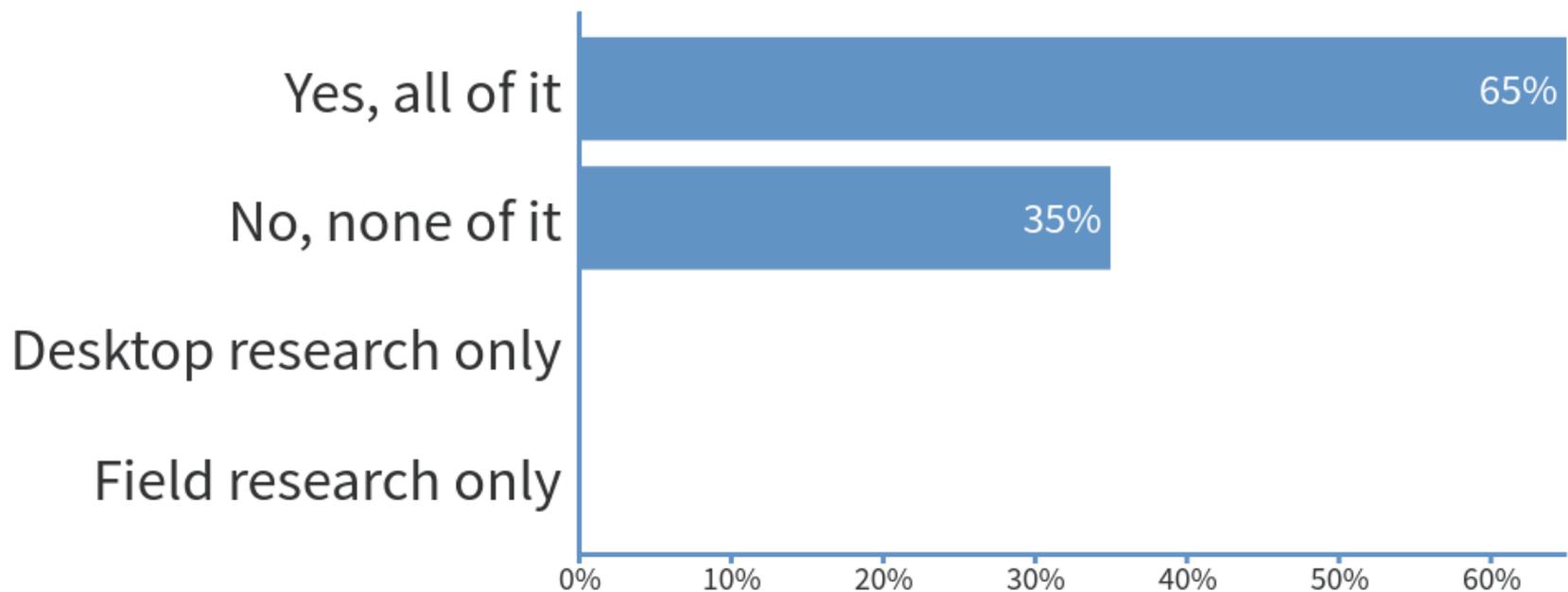


Q: Is this “acceptable” practice by Jane, AICP?

Q: If not, what—if anything—should James, AICP, do to comply with ethics requirements?

- If Jane does not agree to change the document, James could consider filing an ethical misconduct charge.
- Rule of Conduct #17: “We shall not use the product of others’ efforts to seek professional recognition or acclaim intended for producers of original work.”
- Principle #3a: “We shall protect and enhance the integrity of our profession.”
- Principle #3c: “We shall describe and comment on the work and views of other professionals in a fair and professional manner.”

A colleague at another agency or firm conducted research to identify bird species likely to be found in a certain area of Town and then, through field research, documented species actually found in that area of Town. The results were published in an EIS. Can you use that information in your EIS or report?



Technology and Digital Data



Bonnie Von Ohlsen, AICP, RLA
Gina Martini, AICP

TECHNOLOGY AND DIGITAL DATA

Technology

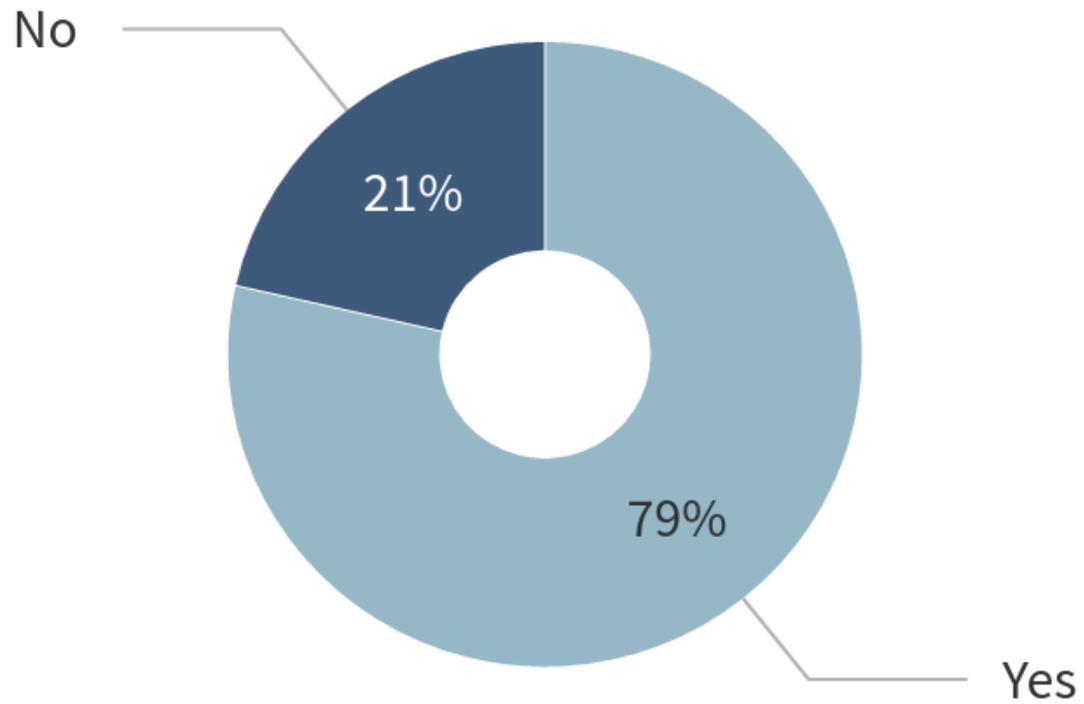
- Ubiquitous and constantly changing
- Integral part of our personal lives and the planning profession.
- “The Tools”

Digital Data

- Product(s) of digital technologies
- “The Information”

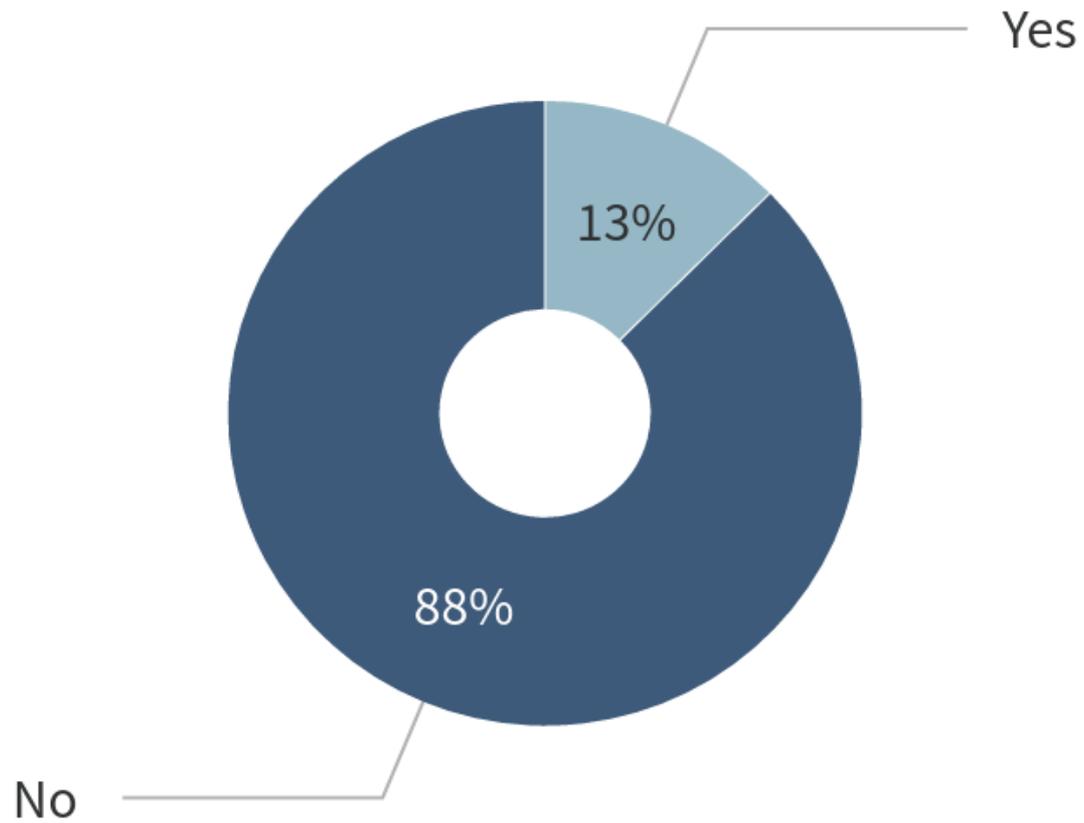
LinkedIn?

Yes **A** No **B**



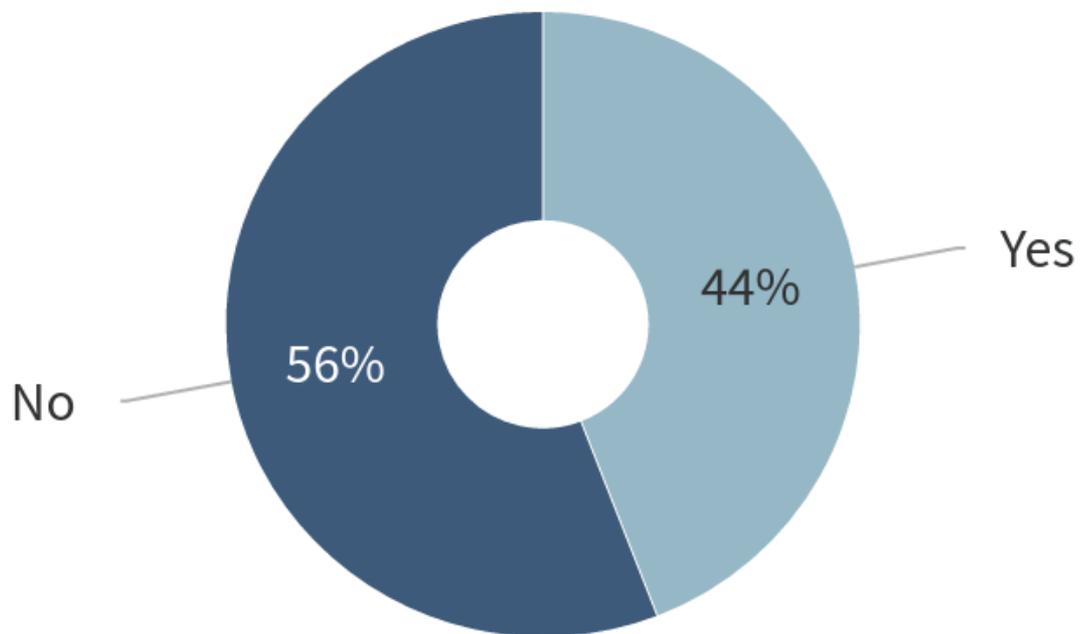
Twitter?

Yes **A** No **B**



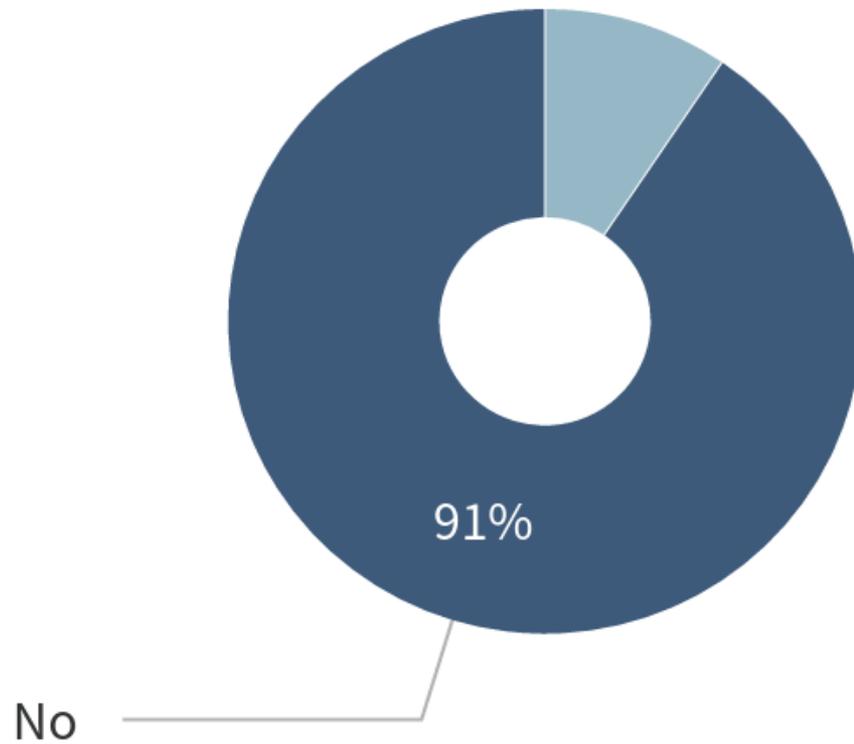
Facebook

Yes **A** No **B**



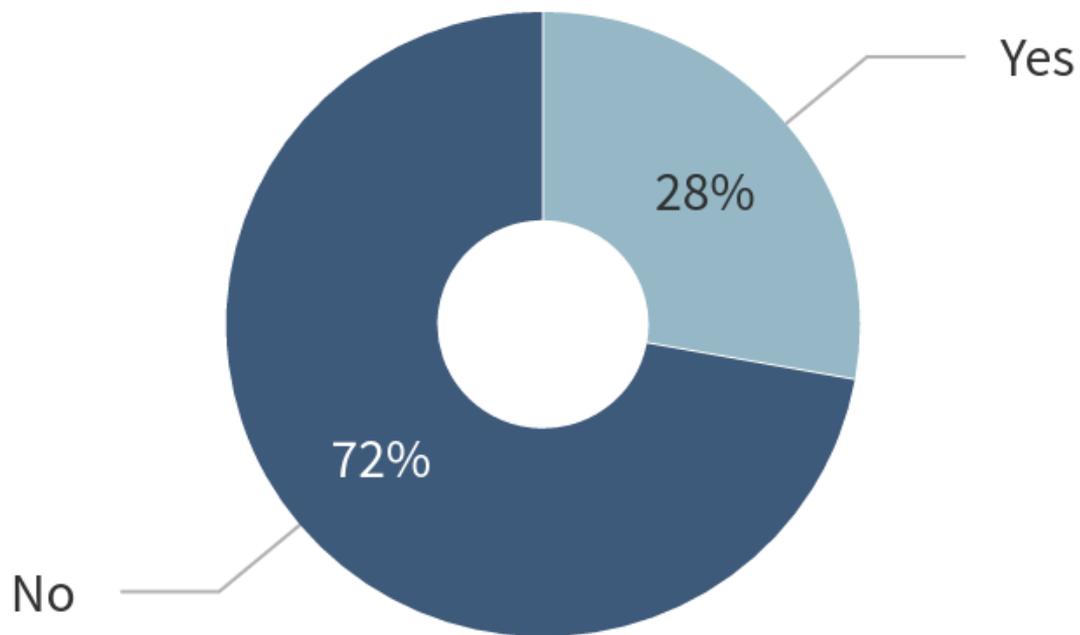
Instagram?

Yes **A** No **B**



YouTube?

Yes **A** No **B**



TECHNOLOGY AND DIGITAL DATA

Planners use technology and digital data for:

- Communication
 - Email
 - Social media: Facebook, Twitter, Instagram, You Tube, LinkedIn....
 - Smart phones: not just for phone calls!
- Data gathering, analysis and mapping
 - GIS, digital data linked to mapping
 - Geo-location, aerial photography
- “Big Data”

METADATA AND BIG DATA

Definitions*:

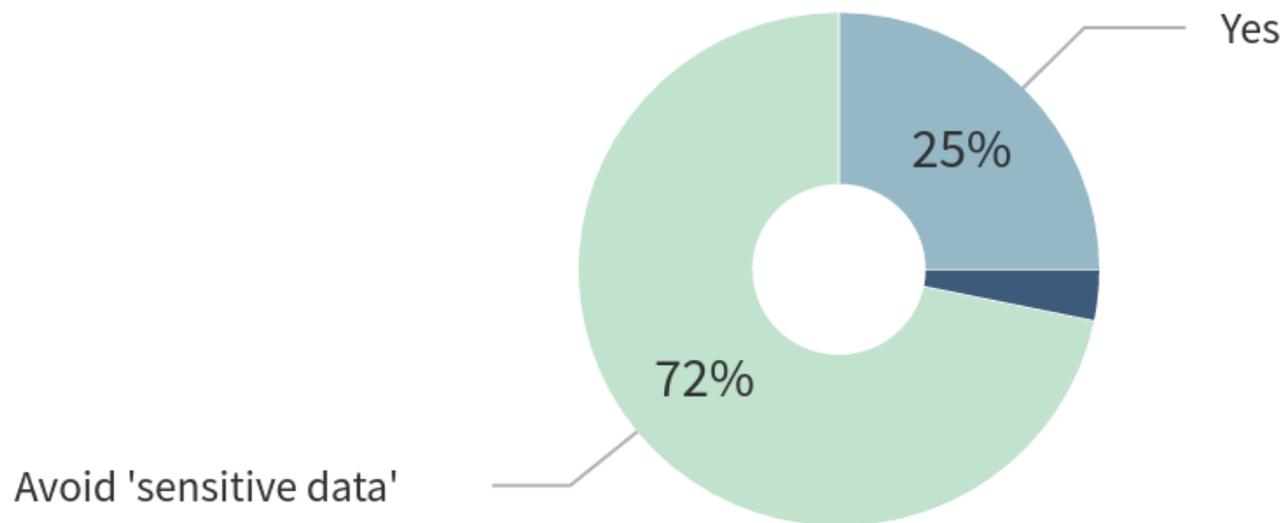
- Metadata: data that provides information about other data
- Big Data: an accumulation of data that is too large and complex for processing by traditional database management tools

* (<https://www.merriam-webster.com/dictionary>)

- Includes digital data such as government records, on-line searches, social media posts and more . . . embedded in our devices.
- This data provides the framework for much of what we refer to as “Smart Cities” technology

Should AICP planners encourage government agencies, institutions, and corporations to provide open public access to their data?

■ Yes **A** ■ No **B** ■ Avoid 'sensitive data' **C**

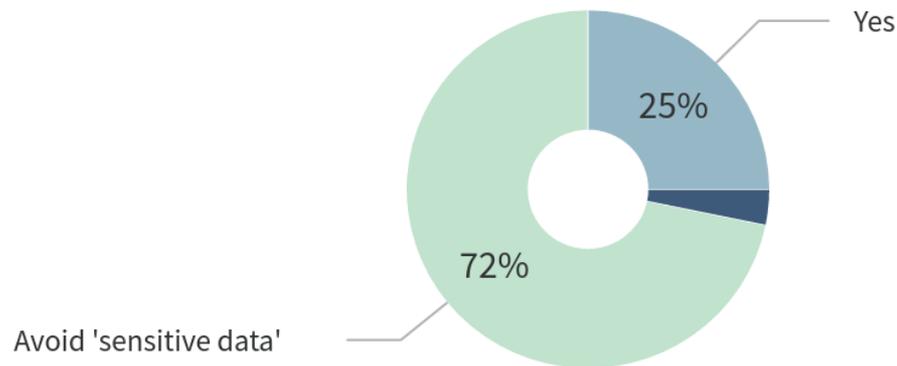


TECHNOLOGY AND THE ETHICS OF PLANNING

- AICP Code of Ethics and Professional Conduct (2005 and rev. 2016) does not specifically reference technology, social media or digital data.

Should AICP planners encourage government agencies, institutions, and corporations to provide open public access to their data?

Yes **A** No **B** Avoid 'sensitive data' **C**



TECHNOLOGY AND THE ETHICS OF PLANNING

- AICP Code of Ethics and Professional Conduct (2005 and rev. 2016) does not specifically reference technology, social media or digital data.
- Aspirational Principle 3i:
 - We [planners] shall systematically and critically analyze ethical issues in the practice of planning”

TECHNOLOGY AND THE ETHICS OF PLANNING

Data-driven culture

- New set of ethical issues and situations?

Challenge:

- How do we manage expanded technology in a digital world and still preserve the values that we, as planners, are concerned with?
 - Adapt to rapidly changing technologies
 - Use technology and data as tools
 - Apply judgement to professional situations based on the ideals, principles and rules found in the APA Code of Ethics.

ACCESS AND INCLUSIVENESS

- Everyone doesn't have equal access to the internet, email, APPS on a smartphone and/or social media
 - Should public notices be sent via email instead of US mail?
 - Is it adequate to post notices on a municipal website or Facebook page?
 - Do we still need to publish notices of hearings in newspapers?

ACCESS AND INCLUSIVENESS

Aspirational Principles (Ideals)

- Our Overall Responsibility is to the Public
- Our Responsibility to our Clients includes Diligent, Creative, Competent Performance
- Responsibility to our Profession
 - Principle #3a: “We shall protect and enhance the integrity of our profession.”

CLEAR AND ACCURATE INFORMATION

- Private communications not just verbal conversations any more...
 - Social media messages
 - Consider what is in the public interest
 - Consider Open Meetings laws in social media communications
- **Rules #8 and #9:** “We shall not, as public officials or employees, engage in private communications with planning process participants (or decision makers) ...if prohibited by law or by agency rules, procedures, or customs.”

CREDIT AND TRANSPARENCY

Planners rely on many forms of digital information.

- With access to all the data that is available on-line, we need to be aware of ownership and copyright for some types of on-line information that we, as planners, may use.
 - Photos
 - Videos
 - Memes (may include images, videos, or text that is copied (may include slight variations) and spread rapidly over the Internet

. may not be free to use without permission.

CREDIT AND TRANSPARENCY

AICP Code of Ethics and Professional Conduct:

Rules of Conduct

- **#11.** We shall not solicit prospective clients or employment through use of false or misleading claims, harassment, or duress.
- **#12.** We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.
- **#17.** We shall not use the product of others' efforts to seek professional recognition or acclaim intended for producers of original work.

(applicable to LinkedIn, Job recruiting sites, as well as Facebook, Instagram personal social media)

CREDIT AND TRANSPARENCY

How can planners protect themselves from these issues?

- Try to create your own content rather than relying on internet content that may be proprietary.

Municipal planners

- Obtain permission from an Applicant to post engineering and architectural plan on the Internet.
- At the start of a project, obtain written consent from the applicant to allow copying and distribution of application materials or posting of application materials on the Internet.

Consultant planners

- Establish clear written parameters in your initial consultant's agreement regarding ownership of materials and distribution materials or posting of materials on the Internet.

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION

- Are emails and social media private?
- What information is subject to the Freedom of Information Act (FOIA)?
- How should email conversations among planners and decision makers be treated?

Rules of Conduct

- #7. Protects client's confidential information

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 has requested be held inviolate or that we should recognize as confidential because its disclosure could result in embarrassment or other detriment to the client or employer. . .

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION

- Are emails and social media private?
- What information is subject to the Freedom of Information Act (FOIA)?
- How should email conversations among planners and decision makers be treated?

Rules of Conduct

- #7. Protects client's confidential information
- #8. Restricts private communication with planning process participants.

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.

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION

- Are emails and social media private?
- What information is subject to the Freedom of Information Act (FOIA)?
- How should email conversations among planners and decision makers be treated?

Rules of Conduct

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.

- #9. Prohibits private conversations with “decision makers”.

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION

- Information on social media sites or other public Internet sites **ARE** public records and **ARE** subject to FOIA.
- Nothing is private when posted on the Internet.
- Anything posted on the Internet may be copied or recreated before you attempt to remove it - - consider all information on the Internet **permanently** public.
- Be mindful when discussing new projects or proposed development activities with friends and family - - information can be inadvertently leaked through social media.

APA 2017 ETHICS CASE OF THE YEAR

Social Media

- Harland, a realtor, is one of five members of the Hudson Plan Commission.
- After a Commission meeting, he posts an item on his Facebook page about a development proposal.
- He hopes to get some reactions from Facebook “friends” in Hudson.



APA 2017 ETHICS CASE OF THE YEAR

Social Media

- Included in the long thread of comments on Harland's Facebook page are some from two of his fellow Commission members.
- Harland replies to these comments and a back-and-forth exchange ensues.
- Dan, AICP, the planning director of Hudson, sees the Facebook posts.



APA 2017 ETHICS CASE OF THE YEAR

Social Media – Questions

- **Q:** Are there any ethical concerns that Dan should have?
- **Q:** What should Dan, AICP, say to Harland, even though he is not a planner?



APA 2017 ETHICS CASE OF THE YEAR

Ethical Issues

- Dan may want to brief Harland—and his fellow Commission members—about citizen participation issues.

Ethical Principles for Planning (for planning process participants): “Strive to give citizens (including those who lack formal organization or influence) full, clear, and accurate information on planning issues.”

Principle #1e: “Participation should be broad enough to include those who lack formal organization or influence.”

Principle #1h: “We shall deal fairly with all participants in the planning process

APA 2017 ETHICS CASE OF THE YEAR

- Dan should check state and local “Open Meetings” laws, since three Commission members, including himself, were commenting about a project outside of a public meeting

A. Open Meetings Act

The Open Meetings Act (the “Act”) v accessible to the public. It requires mee for expressly authorized closed sessions subject matter of the meeting. “The pr construed in favor of open government

APA 2017 ETHICS CASE OF THE YEAR

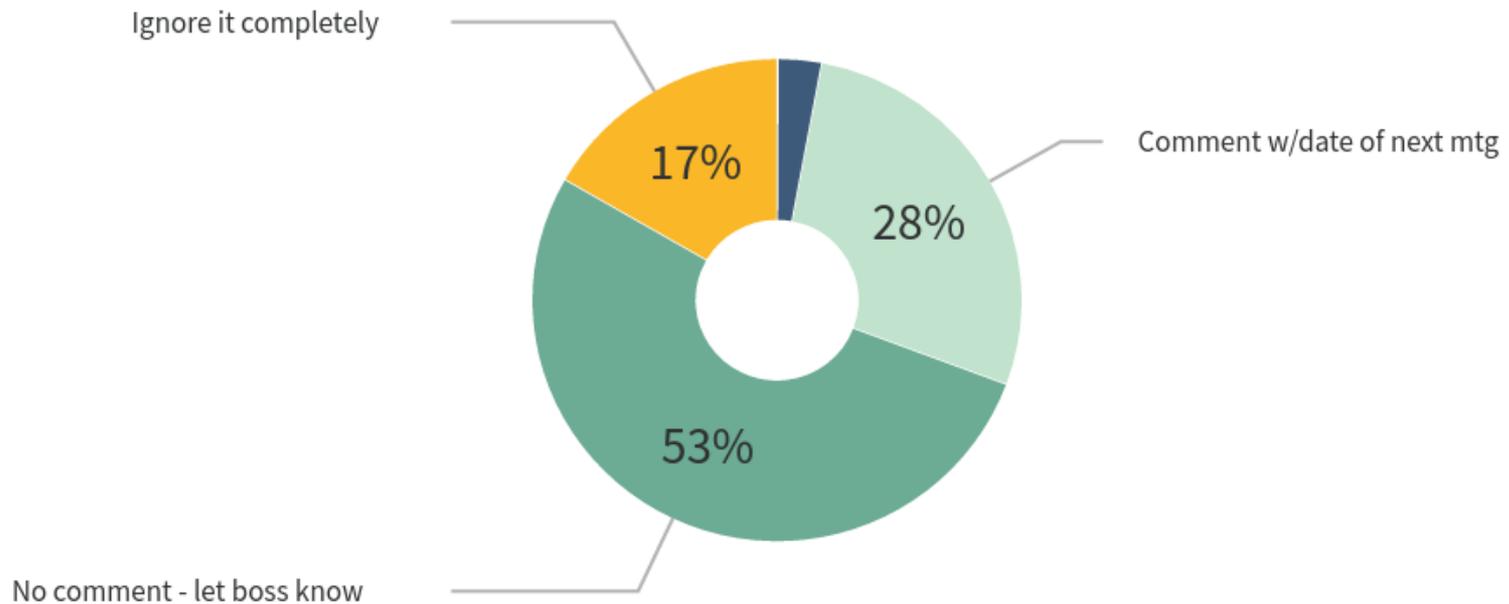
Social Media – Questions

- **Q:** Is Facebook an adequate and appropriate forum for public engagement?
- **Q:** Are there any potential problems—and advantages?



You see a Facebook post by a neighborhood group opposing a private development project in the community for which you work. Should you:

- Comment w/"official" position **A**
- Comment w/"personal" position **B**
- Comment w/date of next mtg **C**
- No comment - let boss know **D**
- Ignore it completely **E**



SOURCES

- www.Planning.org
- AICP Code of Ethics and Professional Conduct, 2016.
- APA Ethics Cases of the Year 2017-18 (PowerPoint presentation)
- APA Webinar – Ethics and the Digital World (December 7, 2016).
- Weitz, Jerry, The Ethical Planning Practitioner, American Planning Association, 2015.

Without civic morality communities perish; without personal morality their survival has no value.

—Bertrand Russell

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