



## Administration Report

**Report Date:** September 7, 2012  
**Meeting Date:** September 17, 2012

**To:** City Manager  
**From:** Director of Finance/Head of FOIPPA – Kari Bolton  
**Subject:** Freedom of Information and Protection of Privacy Act (FOIPPA)

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### PURPOSE

The purpose of this report is to give an overview of the Freedom of Information and Protection of Privacy Act (FOIPPA) and to seek Council's approval of the City of Quesnel Freedom of Information and Protection of Privacy Act Bylaw No 1707.

### SUMMARY

- The main purpose of the FOIPPA Act is to provide the right of access to information under public bodies control with limited and specific exceptions and to protect personal information held by government organizations.
- The bylaw is being updated to recognize changes to the designated Head of FOIPPA and to streamline the bylaw so that it does not duplicate any information already contained in the FOIPP Act or BC Regulations ensuring that in the future there is no discrepancies between the bylaw and the FOIPP Act.
- FOIPPA requests as well as other information requests have increased significantly over the past year, requiring significant staff time and costs. An Information Requests budget line will be added to the 2013 Budget Process to account for the costs involved in these types of requests including staff time, legal and audit costs.

### STATUTORY REQUIREMENTS

#### *FOIPP ACT*

#### **Purposes of this Act**

- 2 (1) The purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy by
  - (a) giving the public a right of access to records,
  - (b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,
  - (c) specifying limited exceptions to the rights of access,
  - (d) preventing the unauthorized collection, use or disclosure of personal information by public bodies, and
  - (e) providing for an independent review of decisions made under this Act.

(2) This Act does not replace other procedures for access to information or limit in any way access to information that is not personal information and is available to the public.

## **BACKGROUND**

Under the FOIPP Act, applicants can request copies of records held by public bodies. The requests need to be for specific records versus information requests which would generally be handled outside of the FOIPP Act.

The FOIPP Act sets out guidelines for how public bodies need to respond, including time limits, third party notifications, exceptions to disclosure and fees. The decision to disclose or not disclose information is made by the FOIPPA Head.

The public bodies **MUST** not disclose the following types of information:

- Disclosure harmful to business interests of a third party (Sec 21)
  - Trade secrets, commercial information, anything that could harm third party negotiations
- Information that would be an unreasonable invasion of a third party's personal privacy (Sec 22)
  - Personal information relating to medical information
  - Personal information related to employment, occupational or educational history
  - Personal information describing a third parties finances
  - Personal information containing personal recommendations or evaluations
  - Personal information containing a third party's name, address or telephone number

*Note:* one exception to this is remuneration to municipal employees which can be disclosed

If for some reason the FOIPPA Head is considering disclosing some information that might be excepted from disclosure under section 21 or 22, the head must give the third party a written notice, giving the third party the opportunity to make representations concerning disclosure. (Sec 23)

The public bodies **MAY** not disclose the following types of information

- The substance of deliberations of a meeting held by elected officials closed to the public (Sec 12 (3)(b)) . Topics discussed at in-camera meetings are often of a sensitive nature and often fall under this section of the FOIPP act as well as other sections that do not allow disclosure. One example is human relations matters discussed in-camera that cannot be disclosed as per Section 22 of the FOIPP Act.
  - If the only section of the Act that applies to in-camera meeting minutes is 12 (3)(b), then Council, with recommendations from staff will provide the final approval of what is released.
  - If other sections of the FOIPP Act apply to an in-camera meeting meetings, then the FOIPP Head will make the decision as to what is released.
- Legal Advice (Sec 14) – only under extraordinary circumstances would this type of information be released due to the fact that by doing so the City runs the risk of having waived solicitor client privilege on the matter.
- Disclosure harmful to law enforcement (Sec 15)
- Disclosure harmful to intergovernmental relations or negotiations (Sec 16)
- Disclosure harmful to the financial or economic interests of a public body (Sec 17)

- Disclosure harmful to the conservation of heritage sites (Sec 18)
- Disclosure harmful to individual or public safety (Sect 19)

The City must respond to requests within 30 days, unless an extension is provided. If an applicant is not satisfied with the response, they have the option to request a review of the issue by the Office of the Information and Privacy Commissioner.

Fees for FOIPPA requests are set out by the B.C. Regulation 323/93. Before providing records to a FOIPPA applicant, the City will provide a fee estimate. The first three hours of time looking for records and the time spent redacting information from the records are not charged. Any other time required searching and preparing records and the cost of photocopying is charged. In practice, the City does not charge copying fees for requests under 20 pages. The FOIPPA Head can excuse an applicant from paying the fee if the applicant requests a fee waiver in writing stating the reason for the request. Fees can be potentially waived if the applicant cannot afford the payment or if the applicant has justified to the FOIPPA Head that the record relates to a matter of public interest, including the environment or public health or safety. (Sec 75)

***Summary of FOIPPA Requests since May 1, 2012***

May 2012	5
June 2012	4
July 2012	9
August 2012	<u>5</u>
<b>TOTAL</b>	<b>23</b>

**ATTACHMENTS**

1. City of Quesnel Freedom of Information and Protection of Privacy Bylaw No. 1707

**RECOMMENDATION**

**THAT Council proceed with the first three readings of the “City of Quesnel Freedom of Information and Protection of Privacy Bylaw No. 1707.**