

DATE OF MEETING | September 16, 2019 |

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COORDINATOR

SUBJECT | **CITY OF NANAIMO PRIVACY POLICY & WHISTLEBLOWER
POLICY**

OVERVIEW

Purpose of Report

To present Council with the Draft City of Nanaimo Privacy Policy and Draft City of Nanaimo Whistleblower Policy for approval. |

Recommendation

That Council:

1. Approve the City of Nanaimo Privacy Policy as presented in the report titled “City of Nanaimo Privacy Policy & Whistleblower Policy” dated 2019-SEP-16.
2. Approve the City of Nanaimo Whistleblower Policy as presented in the report titled “City of Nanaimo Privacy Policy & Whistleblower” dated 2019-SEP-16.

BACKGROUND

Privacy Policy:

On August 2, 2018, British Columbia’s Information and Privacy Commissioner, Michael McEvoy, made several recommendations to the City of Nanaimo regarding privacy management.

Mr. McEvoy’s recommendation 1(b) was as follows:

1. The City take immediate steps to implement a Privacy Management Program. The program should include:
 - b. a privacy policy that applies to every instance of collection, use or disclosure of personal information, as a necessary component of the diligence required by s. 30 of the *Freedom of Information and Protection of Privacy Act (FIPPA)*.

Staff have been working towards implementing the Commissioner’s recommendations. A draft Privacy Policy (Policy) was brought to Council on 2019-APR-08 for information. The Policy has had a subsequent legal review, and Staff have now completed a final draft for Council’s consideration (Attachment A).

Whistleblower Policy:

The City’s financial auditors, KPMG, recommended the adoption of a Whistleblower policy in the Management Notes included in the 2018 Annual Report. The recommendation came about after the existing Reporting Serious Misconduct policy was used to trigger an investigation into alleged wrongdoing. That policy was found to be inadequate for its intended purpose and did not reflect “best practices” for dealing with serious allegations.

Staff have reviewed policies in other municipalities as well as other employment sectors. With the assistance of the City's legal counsel Staff have prepared the attached draft Whistleblower policy (Attachment B) to replace the existing Reporting Serious Misconduct policy for Council's consideration. |

DISCUSSION

Privacy Policy:

The purpose of the Policy is to describe how the City collects, uses, discloses and protects personal information. The Policy provides a framework for how the City will operate in order to ensure personal information is managed responsibly, and in accordance with *FIPPA*. In alignment with the Commissioner's recommendations, the Policy will be the foundation of the City's Privacy Management Program and will set the framework for privacy to be a central component of our business practices and a built-in component of our day-to-day program operations. Additionally, the Policy supports Council's strategic theme of Governance Excellence and supports Council's goal to review and update Council policies.

Whistleblower Policy:

The Whistleblower policy, unlike the Reporting Serious Misconduct policy it replaces, extends to both Staff and Council. The policy provides a clear process for individuals wanting to report potential wrongdoing by others at the City, as well as a well-defined procedure for those who must address the allegations. It remedies the issues identified with the Reporting Serious Misconduct policy and addresses the recommendations in KPMG's Management Notes from the City's 2018 Annual Report. As with the Privacy policy noted above, the Whistleblower policy supports Council's strategic theme of Governance Excellence and supports Council's goal to review and update Council policies. |

OPTIONS

1. That Council:
 1. Approve the City of Nanaimo Privacy Policy as presented in the report titled "City of Nanaimo Privacy Policy & Whistleblower Policy" dated 2019-SEP-16.
 2. Approve the City of Nanaimo Whistleblower Policy as presented in the report titled "City of Nanaimo Privacy Policy & Whistleblower" dated 2019-SEP-16.
- The advantages of approving the policies are:
 1. The Privacy Policy will assist the City in complying with the requirements of *FIPPA*, will fulfill the Commissioner's recommendation 1(b), and creates a culture of privacy awareness at the City of Nanaimo.
 2. The Whistleblower policy provides an improved process for reporting wrongdoing by staff or elected officials, and responding to such reports. It also addresses the recommendation made by the City's audit firm, KPMG.
 3. Approving the policies supports Council's strategic theme of Governance Excellence.

4. Budget implications are not expected with the implementation of the Policies.
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2. That Council approve the City of Nanaimo Whistleblower Policy and deny approval of the City of Nanaimo Privacy Policy.
 - The disadvantages of denying approval of the Privacy Policy are:
 1. The City will continue to not be in compliance with the requirements of *FIPPA*.
 2. The Commissioner's recommendation 1(b) will remain outstanding.
 3. There will continue to be a lack of direction for City of Nanaimo Staff regarding the appropriate handling of personal information.
 4. This option does not support Council's strategic themes.
 3. That Council approve the City of Nanaimo Privacy Policy and deny approval of the City of Nanaimo Whistleblower Policy.
 - The disadvantages of denying approval of the Whistleblower Policy are:
 1. The City will not have addressed the recommendation from the City's audit firm from early 2018.
 2. The City will continue to use the flawed Reporting Serious Misconduct policy to address serious, potentially damaging, allegations of wrongdoing. |

SUMMARY POINTS

- The Information and Privacy Commissioner of British Columbia has made several recommendations to the City of Nanaimo regarding privacy management.
- Staff have drafted a Privacy Policy that applies to the collection, use and disclosure of personal information at the City of Nanaimo.
- The Privacy Policy is an essential component to the City of Nanaimo Privacy Management Program.
- The Whistleblower policy was recommended by the City's audit firm in 2018.
- The Whistleblower policy was developed after examining such policies in a number of different organizations, and with the assistance of legal counsel.

ATTACHMENTS:

City of Nanaimo Draft Privacy Policy – Attachment A
City of Nanaimo Draft Whistleblower Policy – Attachment B |

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