

**2005 – 2006 Annual Report
Access to Information and Protection of Privacy
(Submitted to City Council on February 12, 2007)**

In 1993 *The Local Authority Freedom of Information and Protection of Privacy Act* was proclaimed. The *Act* was based on two principles—information must be accessible to the public, and personal information must be protected by public bodies. The City Clerk was delegated responsibility of administering the legislation for the City of Saskatoon, and in that capacity is known as the “FOIP Coordinator”.

In the first decade of operating under the legislation there was very little impact on the City. Since municipal government is the most open and accessible level of government, there was already a high level of transparency – e.g. all decisions of City Council are made in public, agendas and minutes are made public, meetings are held in public, etc. There were no issues raised regarding personal information in the possession of the City, and access to information requests were fairly routine.

However in the past several years there has been a marked increase in people’s awareness of access and privacy legislation (FOIP), and in their expectations of the City. The purpose of this report is to provide City Council with information regarding FOIP activities over the past two years, and to outline areas of concern and how they are being addressed. Further reports will then be submitted annually.

Access to Information

The gist of the FOIP legislation is that that all records in the possession, or under the control of, the municipality are accessible to the public unless the record falls within one of the exemptions. The exemptions relate to areas such as records from other governments, law enforcement and investigation, advice from officials, Solicitor/Client Privilege, and third party information.

All access to information requests must be responded to within 30 days. There is provision for an extension of up to 60 days if there are extenuating circumstances. If access to a record is refused, the FOIP Coordinator must advise the applicant the reason for the refusal. All refusals of the FOIP Coordinator can be appealed to the Provincial Information and Privacy Commissioner, who then investigates the matter and reports back to the City. Recommendations of the Information and Privacy Commissioner are not binding upon the City. If the City still refuses to release the information, the applicant can appeal the decision to the court, who can then order the City to release the record.

The legislation sets out an application request fee of \$20.00 plus GST. In addition the City is allowed to charge for actual costs such as photocopying, as well as any time in excess of one hour spent on searching for the record or preparing it for disclosure, at the rate of \$15 per half hour. An estimate must be given to the applicant, who then has the choice of whether to proceed or not.

The *Act* is clear that it relates only to existing records of the City. There is no requirement for the City to create records. However some of the requests that the City receives are for information rather than for an existing record. In those cases the City has created records in order to provide the information requested. The City has never refused to deal with a request because it is for information rather than for a specific record.

When people attempt to use the FOIP process to obtain records that are already public documents, arrangements are made to provide them with the documents outside of the FOIP process, thereby eliminating the application fee.

The option to charge for time spent in excess of one hour is seldom exercised. We are mindful of the danger of being perceived of estimating high in order to deter applicants, and for this reason have only implemented fees in a very few instances. However the time spent on each application is usually well over one hour.

Chart 1
Freedom of Information Statistical Summary Report
2005 and 2006

	2005	2006
Applications Received	26	16
Access Granted	15	7
Access Denied	3	2
Access Partially Granted	2	5
No FOI Application Required – Fee Returned and Info Provided	4	0
Records Do Not Exist	1	0
Denied – Records Not in City’s Possession or Control	1	2
Decision Appealed to Access and Privacy Commissioner	3	5
Processed Within 10 Days	10	4
Processed Within 30 Days (as legislated)	20	16
Processed in More Than 60 Days	4	0
Total Fees Estimated	\$899	\$195
Total Fees Collected	\$330	\$195

Protection of Privacy

There are two components to this part of the *Act* – how the City collects and handles the personal information of individuals with which it does business, and how the City collects and handles the personal information of its employees.

The City is in the process of reviewing its practices and preparing corporate policies relating to the following:

- the release of personal financial information to customers;
- a response plan for use in the event of breach or unauthorized release of personal financial information; and
- the collection, storage and use of personal employment-related information of employees.

In addition, informational material is being developed regarding the steps the City has taken to protect customer personal financial information, which will be made available to the public.

Appeals to Saskatchewan Information and Privacy Commissioner

The Saskatchewan Information and Privacy Commissioner deals with appeals from people who have been refused access to information, as well as complaints from people who feel that the City has disclosed their personal information inappropriately. There have been 12 reviews undertaken by the Commissioner relating to the City of Saskatoon, 11 of which are outstanding.

The file that has been concluded dealt with a complaint regarding the City's practice of selling information relating to building permit applications to contractors and suppliers. The Commissioner determined that the City acted appropriately, and commended the City for ensuring that the names of individuals were deleted from the report. A copy of the Commissioner's report may be viewed at the website of the Saskatchewan Information and Privacy Commissioner, at www.oipc.sk.ca/reviews.htm.

Chart 2
Status of Appeals
Saskatchewan Information and Privacy Commissioner

	2004	2005	2006	2007
Number of Appeals	2	5 *	3 *	2
Protection of Personal Information Issue	1	1	0	1
Access to Information Issue	1	4	3	1
Decision of City Upheld	1	Pending	Pending	Pending
Recommendation to Release (for Access Issue)	Pending	Pending	Pending	Pending
Recommendation to Change Process (for Protection of Personal Information Issue)	0	Pending	Pending	Pending

* Note – The variance between these figures and those provided in Chart 2 is due to the filing of appeals in the year following the date of the matter originally being dealt with by the City.

Janice Mann, City Clerk
February 7, 2007