



FOIP News

Issue No. 4, December 2001

“FOIP News” is an electronic newsletter produced by Information Management, Access and Privacy (IMAP), to highlight news relating to Alberta’s *Freedom of Information and Protection of Privacy (FOIP) Act*. FOIP News will be issued every month or two as needed. Web site links will be provided to allow you to easily obtain more information on a news item.

FOIP Act Review

On November 28, 2001, the Legislative Assembly of Alberta passed a motion establishing a Select Special Freedom of Information and Protection of Privacy Act Review Committee to review the *FOIP Act* as provided in section 91 of the Act.

The committee members are: Mr. Brent Rathgeber, Edmonton Calder, Chair; Mrs. Mary Anne Jablonski, Red Deer North, Deputy Chair; Ms Debby Carlson, Edmonton Ellerslie; Ms Alana DeLong, Calgary Bow; Mr. Broyce Jacobs, Cardston-Taber-Warner; Mr. Thomas A. Lukaszuk, Edmonton Castle Downs; Mr. Hugh MacDonald, Edmonton Gold Bar; Mr. Brian Mason, Edmonton Highlands; and Mr. Gary Masyk, Edmonton Norwood.

As the committee begins its work, we will keep you informed.

Annual Reports

Both the FOIP Annual Report and the Information and Privacy Commissioner’s Annual Report were tabled in the Legislature in November. If you want to catch up on what happened last year, click on http://www3.gov.ab.ca/foip/annual_reports/index.cfm for the FOIP Annual Report and <http://www.oipc.ab.ca/whatsnew/welcome.htm> for the Information and Privacy Commissioner’s Annual Report.

Questions from New Councillors?

The FOIP Help Desk has received several calls from municipalities for advice in dealing with requests from new councillors for records or personal information. We received the following information from Advisory Services, Alberta Municipal Affairs.

Section 142 of the Municipal Government Act (MGA) states:

- (1) Each municipality is governed by a council.
- (2) A council is a continuing body.

Section 143 establishes the number of councillors (unless prescribed by Order in Council), and it is these members of council collectively who have the power as a council to govern the municipality.

The methods by which council may act are outlined in section 180 of the MGA, which states that council may act only by resolution or bylaw. A decision by any one councillor is not a decision of council (unless council itself has delegated certain authority to the councillor) because it takes a majority of councillors to pass a resolution or bylaw. That can only be done at a council meeting.

Therefore, administration must only act on decisions of council!

If an individual councillor seeks information that is available to the general public, they have the same rights as the public. However, if the general public is not entitled to the information because of the provisions of FOIP, then an individual councillor is not entitled to receive it. No individual councillor, as a councillor, has any more rights to information than a member of the general public.

If the councillor wishes to see protected information, they do have the opportunity to put a resolution on the matter to council at a meeting and if the majority of council agrees, administration is obliged to provide the information to all of council. Usually, if the information would be protected under FOIP, it should be provided to council during an "in camera" session. Councillors are obliged to keep such matters confidential.

We hope this explanation helps FOIP Coordinators in municipalities.

Information & Privacy Commissioner Orders

Order 2001-024, Town of Okotoks

The applicant requested access to records relating to the applicant or a named organization, including bylaw complaints. The bylaw records were in the possession of the RCMP. The Town initially refused access to the bylaw records because the Town believed it did not have custody or control of them. However, the Town obtained from the RCMP those records that had not been created by the RCMP and disclosed a severed copy to the applicant. The applicant asked the Acting Information and Privacy Commissioner to determine whether the Town had custody or control of the bylaw records and whether the Town had conducted an adequate search for records.

The Acting Commissioner considered whether the bylaw records that were created by Okotoks Protective Services personnel and were in a records system shared with the local unit of the RCMP were subject to the *FOIP Act*. The Acting Commissioner noted that this issue had in effect been resolved when the Town obtained the records from the RCMP (not including records created by RCMP

officers) and disclosed them to the applicant. Although the Town did not have physical custody of the records, the fact that it had the ability to access them meant that the Town had control over the records.

The Acting Information and Privacy Commissioner found that the Town of Okotoks had met its duty to assist the Applicant.

Coming Soon for Your Book Shelf

FOIP Bulletin No. 12, *E-Mail: Access and Privacy Considerations* will be available on the FOIP web site in the middle of December. The bulletin provides guidelines for processing an access request that includes e-mail and offers suggestions for protecting privacy in the day-to-day use of e-mail.

Revised Statutes of Alberta (RSA)

The Revised Statutes of Alberta, 2000 are expected to come into force in January 2002. A concordance (table showing old and new section numbers) for the *FOIP Act* will be added to the FOIP web site when that happens. You may want to check the "What's New" section of the FOIP web site at the end of December for more information.

New E-Mail Address?

Shaw Cable e-mail addresses ending in @home.com will soon change to @shaw.ca. If your e-mail address changes, please let us know by e-mailing the FOIP Help Desk: foiphelpdesk@gov.ab.ca.

Sector Notes

- **Post-Secondary Institutions:** Next Post-Secondary FOIP Network meeting is February 8, 2002 in Edmonton.
- **Schools:** Next School Jurisdiction FOIP Network meeting is January 18, 2002 in Nisku.
- **Municipalities:** Next FOIP Alliance meeting is February 28, 2002 in Sherwood Park.
- **Health:** Next Health Network meeting is January 23, 2002 in Edmonton.

New Training Calendar

The Winter/Spring 2002 Training Calendar has just been released. The dates for training sessions are:

January 29, 30, 31, 2002

March 13, 14, 15, 2002

May 1, 2, 3, 2002

Registration can now be made for any one day of training. Each day of training in the three-day course offering builds upon the previous day.

To obtain the training calendar and registration form, click on http://www3.gov.ab.ca/foip/other_resources/training/index.cfm

FOIP Act and Regulation

The printed office consolidation of the *FOIP Act* and Regulation that was issued in September contained an error in section 15 of the Regulation. Section 15(1)(a), (c) and (e.1) of the Regulation should be shown as being repealed. Copies purchased after October 24 include an errata sheet. If you purchased a copy between the date this version was released and October 24, you may not have the errata sheet. The online versions at the Queen's Printer and FOIP web site were amended to include the changes.

Did You Know....

...Ontario's Information and Privacy Commissioner's Office has released *Guidelines for Using Video Surveillance Cameras in Public Places* based on Alberta and B.C.'s similar guides. Click on <http://www.ipc.on.ca/english/pubpres/papers/video-gd.pdf>.

...B.C.'s Corporate Privacy and Information Access Branch is planning a conference on e-government, access and privacy. Tentative dates are February 13-14, 2002. Watch for more information at http://www.mser.gov.bc.ca/FOI_POP/.

...B.C.'s Office of the Information and Privacy Commissioner has tentatively chosen June 14, 2002 for its *Public Sector Privacy Conference*.

...Industry Canada has a new online consumer privacy guide called Privacytown. The Privacytown web site is dedicated to giving information to consumers about privacy and the protection of personal information. Click on <http://strategis.ic.gc.ca/SSG/ca01298e.html>.

Alberta Government Services
Information Management, Access and Privacy
16th Floor, 10155 – 102 Street
Edmonton, Alberta T5J 4L4
Phone: (780) 422-2657
Fax: (780) 427-1120
Web site: <http://www3.gov.ab.ca/foip/>

FOIP Help Desk:
Phone: 780-427-5848
Toll free dial 310-0000 first
E-mail: foiphelpdesk@gov.ab.ca
