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REPORT TO THE GOVERNANCE COMMITTEE MEETING OF WEDNESDAY, FEBRUARY 03, 2021

SUBJECT *Freedom of Information and Protection of Privacy Act (FIPPA)*
2020 Overview

ISSUE SUMMARY

The purpose of this report is to provide an annual year-end update on the key metrics of Freedom of Information (FOI) requests received in 2020.

BACKGROUND

The *Freedom of Information & Protection of Privacy Act* (the Act) requires all public bodies to be accountable to the public and to protect personal privacy by giving the public a right of access to records in the custody of, or under the control of, a public body including records containing personal information about the applicant.

In 2020, the Capital Regional District (CRD) received 172 requests for information under the Act. Records were retrieved across all departments and are categorized under the following themes:

- **Regulatory & Legal** – Property files, building plans, Bylaw contravention reports, dog-bite incident reports, contracts and agreements;
- **Costs, Budgets & Performance** – Financial responsibility for the lease payments for fuel cell vehicles, CAO expenses, CRD Residuals Treatment Facility RFQ results;
- **Data** – WATT Report on trail crossings of public roads reports, Goldstream Watershed Reservoirs Design, Sooke Lake and Deception Reservoir - Probable Maximum Precipitation and Probable Maximum Flood Update;
- **Projects** – Air Valve chamber installation for the Trent Forcemain project; survey records for flood plain, storm sewer between Knibbs and Chesterfield on Interurban;
- **Policy & Recommendations** – Policies on Sooke Lake Reservoir water management, policies on complaints of bylaw violations;
- **Personal Information** – HR and/or correspondence records of named individuals;
- **Consultations from other governments;** federal, provincial & local public bodies.

Tables 1 and 2 below outline the type of requesters and the number of requests broken down by CRD department area. The level of effort required to address each request varies significantly based upon the nature and scope of what the applicant is looking for. A useful metric to assess the impact on staff is the cumulative total number of pages that are reviewed and released as set out in Table 3.

Table 1

Type of Requester	Requests	
Year	2020	2019
Individuals	108	109
Law Firms	16	9
Special Interest Groups	6	9
Federal/Provincial	7	7
RCMP & Police	2	4
Businesses	23	10
Local Governments	8	12
Media	2	2
Total	172	162

Table 2

Requests by Department	Requests	
Year	2020	2019
Planning and Protective Services	123	122
Parks and Environmental Services	15	11
Executive Services	3	12
Corporate Services	11	8
Finance & Technology	1	2
Integrated Water Services	16	7
Capital Regional Housing Corp.	3	0
Total	172	162

Table 3

Year	Requests	Pages Reviewed	Pages Released	Average Review	Average Release	30 Day Extension
2020	172	15,280	11,790	94	69	2
2019	162	9,186	5,831	57	36	11

DISCUSSION

Two key trends in FOI requests for 2020 include:

- There continues to be a high volume of requests for property-related information;
- The large volume of duplicate records, emails in particular, highlights the need for better strategies and tools to manage electronic records.

Increased requests for property-related information

Real estate sales and purchases continue to drive requests for property information from both the Building Inspection and Bylaw Enforcement divisions. In 2020, the FOI and Privacy office received 99 property-related FOI requests, more than half of all requests received that year. In 2019, 92 of the 162 requests received were property-related.

Currently, accessing property records requires applicants to submit an FOI request as property records contain personal information about the owners of the property for their period of ownership; such as title, name, telephone number and email address. Other records, such as those associated with bylaw contraventions, also contain personal information. In accordance with Section 22 of the Act, the CRD must redact all personal information, unless an owner provides their written consent authorizing the disclosure of their personal information to the requestor.

The Building Inspection division routinely provides a Building Permit Information Report for \$30 for any property within the Juan de Fuca, Salt Spring Island and Southern Gulf Island areas. This report outlines the permit information for a property, but does not include any violation-related information or personal information about the homeowner(s).

Building plans, surveys and technical reports are copyright protected by the creator of the material. Section 32.1 of the federal *Copyright Act* allows the release of a copy of copyright protected materials under the *Freedom of Information and Protection of Privacy Act* (the Act) for research or private use of these materials. Due to the copyright implications, these records cannot be made publically accessible and an FOI request is required for access to these records.

A growing trend is for local governments to make their permit information available for public inspection online, however, any personal information from the permits is omitted to comply with the Act. Currently, the CRD does not publish permit information online, but may wish to consider this in the future to improve open access to permit information and potentially reduce the number of building permit access requests which must be processed by staff. While this may reduce staff time in the long-term, the short-term costs and level of effort required to digitize, review and redact property files to allow for open access would be significant.

Large volume of duplicate records highlights the need for better records management

When the Privacy Manager receives an FOI request, it is distributed to staff to conduct a search for responsive records. Once all responsive records are provided, the Privacy Office must review and de-duplicated redundant information. This reduces risk of human error when applying required redactions and allows for better consistency and readability for the requestor. Email messages, in particular, pose significant challenges in identifying and deleting duplicate copies, especially for large volumes of email records accumulated across CRD staff and business areas.

One recent FOI request highlighted this issue. The request spanned multiple years and was complex in scope, ultimately producing more than 4,000 pages of email records. The majority of these email messages were duplicate records received for information purposes only (as convenience copies or cc). These types of email messages are transitory records that staff could delete when no longer required for further reference, however many staff do not routinely delete email records because it is time-consuming and some staff are uncertain about what they are required to retain and what can be safely deleted. CRD staff are not unusual in this regard: records management professionals estimate that roughly 60-80% of all organizational records are transitory in nature, containing information with no further business value. As transitory records accumulate and clutter our information systems, it becomes more difficult for staff to differentiate between transitory and final/official business records. Further, the sheer volume of transitory records which may be produced if responsive to FOI requests, can impact how much time and effort is needed process FOI requests and respond in a timely manner.

Staff are taking steps to address this issue by improving our records management tools and education. In the fall of 2020, approximately 100 CRD staff undertook email records management training for Microsoft Outlook. Participants have self-reported deleting over 343,000 transitory email records. This training will continue in 2021. Additionally, staff are continuing to develop the business case for implementation of an electronic document records management system (EDRMS) which, once implemented, would assist in reducing our digital footprint by scheduled deletion of records in accordance with a defined retention schedule.

CONCLUSION

In 2020, the CRD received 172 requests for information compared to 162 in 2019, with property-related requests being the most frequently requested. Staff released approximately double the number of pages in 2020 as compared to 2019.

A continued focus on mandatory FOI and records management training for staff may assist in reducing the number of responsive records generated when a request is received, thereby reducing FOI processing time. Potential EDRMS implementation and digitization of building inspection records are longer-term options that may help streamline public access to information.

RECOMMENDATION

The Governance Committee recommends to the Regional Board that the FIPPA 2020 Overview report be received for information.

Submitted by:	Kevin Kim, Manager, FOI and Privacy
Concurrence:	Kristen Morley, JD, General Manager, Corporate Services
Concurrence:	Kevin Lorette, P. Eng., MBA, Acting Chief Administrative Officer

WRITERS INITIALS: KK/KM