

Report

Date February 1, 2023
Subject Amendment to Consent Agenda Policy

File:

PURPOSE

To consider what personal information is to be disclosed to the public in correspondence contained within Consent Agendas.

BACKGROUND

On January 18, 2023, Council resolved that staff be directed to amend the [Consent Agenda Policy](#) in such a way that names are no longer automatically redacted from correspondence.

When Council adopted the Consent Agenda Policy on September 21, 2021, all personal information, including the author's name, was redacted from correspondence prior to inclusion in a public agenda in accordance with the [Freedom of Information and Protection of Privacy Act](#) (the "Act"). The Act requires a public body to protect personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized collection, use, disclosure or disposal (s. 30 of the Act).

With Council's direction to amend the Consent Agenda Policy to disclose the author's name in correspondence being considered by Council in an open meeting, it is clear that Council wishes to make this information public for transparency purposes. This direction, along with updated information on the website and a reply to the public when submitting correspondence to Council, means the public will be made aware that their correspondence is not confidential and their name (and address, if provided) will be disclosed online.

The Act provides, among other things, that a public body may disclose personal information in accordance with Part 2 of the Act or if the individual the information is about has consented to the disclosure (s. 33(2)(a) and (c) of the Act).

Part 2 of the Act includes section 22 [disclosure of personal information], which sets out the test for determining whether or not disclosure of the information would be an unreasonable invasion of a third party's personal privacy. As the author's name (and address), in the context of correspondence from the public to Council on an open Consent Agenda, has not been supplied in confidence, and disclosure is desirable for the purpose of transparency, disclosure of this personal information is not an unreasonable invasion of personal privacy and is in accordance with Part 2 of the Act.

DISCUSSION

Personal information which the Municipality may disclose under the Act, as it relates to correspondence commonly placed in a Consent Agenda, includes:

- (1) Where it is deemed not an unreasonable invasion of personal privacy under Part 2 of the Act, or the individual has consented in writing to the disclosure (such as correspondence included in consent agendas);

- (2) If the information is made available to the public under an enactment that authorizes or requires the information to be made public (such as public hearing written submissions in which the personal information is collected and then disclosed in the Public Hearing Information Package for the purpose of administering the public hearing); or,
- (3) If the information was collected at a meeting that was open to the public where the individual provided the information voluntarily (such as during the Public Input and Question Period portions of the meeting where the individual states their name and address at the beginning of their speech).

All correspondence that is addressed to Council is emailed to Council without any redactions. Redactions are only made when publishing the correspondence to a public agenda that is made available online. Currently, any public member may submit a freedom of information (FOI) request for a copy of a correspondence record included in a Consent Agenda, with the author's name included. The Information Management Officer would then contact the author (i.e., third party) for written consent to their personal information being disclosed.

The advice that staff obtained regarding the disclosure of personal information in a public agenda was to insert "*with the exception of author name*" before "all personal information shall be redacted" in section 4.4 of the Consent Agenda Policy (Attachment 1). However, if Council desired to have individuals' residential address disclosed as well, the insertion should state "*with the exception of author name and address*" instead.

As a general rule, personal information collection, use and disclosure is limited to what is needed to meet initiative or program objectives. Author name is required as the Consent Agenda Policy does not allow for anonymous correspondence. This is different from the author's residential address, as this information is not required in general correspondence from the public and would likely not be included by the author if irrelevant to the request to Council. If the author's name and address are relevant to the author's request, then it may make sense to disclose both.

There are a number of reasonable reasons for a member of the public to request that their name and/or address not be disclosed broadly on an online agenda (e.g. risk to personal safety, physician concerns of disclosing their address to patients, etc). Staff recommend that an exception be included in the policy that would allow an individual to request that their name be redacted (without having to disclose the reason). This approach is consistent with how FOI requests for personal information are processed and avoids the administrative challenges of having staff validate whether a member of the public has met the exception criteria.

OPTIONS

1. **(Recommended Option)** Disclose the author's name (only) in correspondence published in a Consent Agenda.

THAT Council amend the Consent Agenda Policy by:

- (1) Inserting "With the exception of author name" before "all personal information shall be redacted" in section 4.4; and,
- (2) Inserting "Where an author has requested that their name not be disclosed publicly, their name shall be redacted prior to inclusion in the Consent Agenda" to the end of section 4.4.

- *This option is consistent with the direction given by Council on January 18, 2023.*

2. Disclose the author's name, and address (if provided) in correspondence published in a Consent Agenda.

THAT Council amend the Consent Agenda Policy by:

- (1) Inserting "With the exception of author name and address" before "all personal information shall be redacted" in section 4.4 and,
- (2) Inserting "Where an author has requested that their name or address not be disclosed publicly, this information shall be redacted prior to inclusion in the Consent Agenda" to the end of section 4.4.

- *This option would provide members of the public with the author's name and address (if provided). There continues to be no requirement that residential addresses be included in the correspondence, and if requested, staff would redact this information prior to disclosure on the open agenda.*

3. Continue with the current practice to redact all personal information, allowing any member of the public who wishes to know the name and/or address of an author to submit an FOI request.

THAT Council rescind their January 18, 2023 decision to amend the Consent Agenda Policy in such a way that names are no longer automatically redacted from correspondence.

- *Members of the public who wish to know the name of the author may submit an FOI request for the information.*

IMPLICATIONS

Social implications – increase public transparency while striking a balance to protect the privacy of individuals who request that their names be redacted prior to publishing their correspondence in a public agenda.

Personnel implications – this will add an additional step for staff when finalizing the Consent Agenda correspondence as the author will need to be advised (via reply or auto-reply) that North Cowichan will be disclosing their name online in a public agenda. Staff would also need to update the website to advise the public of the impact related to this administrative change.

RECOMMENDATION

THAT Council amend the Consent Agenda Policy by:

- (1) Inserting "With the exception of author name" before "all personal information shall be redacted" in section 4.4 and,
- (2) Inserting "Where an author has requested that their name not be disclosed publicly, their name shall be redacted prior to inclusion in the Consent Agenda" to the end of section 4.4.

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Attachment: Consent Agenda Policy (redline)