



February 2, 2016

Mr. George E.H. Cadman, Q.C.  
Broughton Law Corporation  
Suite 700-595 Burrard Street  
P.O. Box 49290  
Vancouver, BC  
V7X 1S8

Dear Mr. Cadman

Thank you for your letter dated January 25, 2016 addressed to the Honourable Peter Fassbender, Minister of Community, Sport and Cultural Development (CSCD). Minister Fassbender has requested that I respond to you on behalf of the ministry.

Your letter, as personal legal advisor to Ms. Samra, outlined what apparently was said at a Mayor and Members of Council meeting held on January 19, 2016. It would not be appropriate for the Minister or Ministry staff to respond to matters allegedly discussed at an in camera City of Nanaimo Council meeting.

However, we have recently been contacted by Councillor Jim Kipp, in his capacity as acting Mayor, on his and other Councillors behalf regarding Ms. Samra as the acting Chief Administrative Officer. I am providing you with a copy of our response as it is relevant to your letter and I trust will provide you with our position on this matter.

It remains the position of the ministry that, ultimately such matters as you have raised in your letter must be resolved at the local government level.

Kind regards,

Tara A. Faganello, CPA CGA BA  
Assistant Deputy Minister  
Local Government Division

Enclosure cliff 165879 ADM letter

Mr. George E.H. Cadman, Q.C.

Page 2

Cc

The Honourable Peter Fassbender, Minister Community, Sport and Cultural Development

Jacquie Dawes, Deputy Minister, CSCD

Ms. Tracy Samra, Interim City Manager, City of Nanaimo

City of Nanaimo, Attn: Mayor and Councillors

Erin Faulkner, Legal Counsel, Ministry of Justice



July 22, 2016

Ref: 168414

Ms. Tracy Samra  
Chief Administrative Officer  
City of Nanaimo  
455 Wallace Street  
Nanaimo, BC V9R 5J6

Dear Ms. Samra:

I am writing today in follow up to recent media reports about advice provided to the City of Nanaimo by Ministry of Community, Sport and Cultural Development staff regarding the creation of select and standing committees under the *Community Charter*. I have provided the link to the media report for reference:

<http://newsnanaimo.ca/news/bestwick-led-group-moves-to-cement-control-with-new-committees/084108>

On July 15, 2016, I understand that staff provided information to you about how committees are created under section 141 and 142 of the *Community Charter*. Specifically, Ministry staff provided the information that under section 141, standing committees are established by the Mayor and that at least half of the members of a standing committee must be council members. Ministry staff further indicated that under *Community Charter* section 142, select committees are established by council to inquire on any matter and to report its findings and opinions to council, and that at least one member of a select committee must be a member of council.

I further understand that in your conversation with staff, they suggested that the City of Nanaimo may wish to obtain legal advice about the specific creation of the City of Nanaimo's committees.

In light of the statements included in the media report noted above, I felt it important to clarify the role of the Ministry and the Inspector of Municipalities with respect to local government legislation. Ministry staff provides local governments and the public with information and advice on the legislation and its general intent, and points to other potential sources of advice; however, neither the Inspector of Municipalities nor Ministry staff provide any legal determination or opinion as to whether local government actions in a particular matter comply with the legislation. That is, neither the Inspector of Municipalities nor Ministry staffs provide legal advice; hence there was no ruling by the Inspector or staff on the legalities of the committee structure.

Ms. Tracy Samra  
Page 2

As I am sure you appreciate, it is only the courts that can determine if legislative requirements are being met or if a public body is acting outside its statutory authority in any particular situation. I trust this clarifies the Ministry and the Inspector of Municipalities role in this situation. If you would like to discuss this matter further, please feel free to contact me: Tara Faganello, Inspector of Municipalities, by email at: [tara.faganello@gov.bc.ca](mailto:tara.faganello@gov.bc.ca), or by telephone at: 250 356-6575.

Sincerely,



Tara Faganello  
Inspector of Municipalities and  
Assistant Deputy Minister  
Local Government Division

pc: His Worship Mayor Bill McKay, City of Nanaimo  
Mr. Bill Bestwick, Councillor, City of Nanaimo  
Ms. Dianne Brennan, Councillor, City of Nanaimo  
Mr. Gordon Fuller, Councillor, City of Nanaimo  
Mr. Jerry Hong, Councillor, City of Nanaimo  
Mr. Jim Kipp, Councillor, City of Nanaimo  
Ms. Wendy Pratt, Councillor, City of Nanaimo  
Mr. Ian Thorpe, Councillor, City of Nanaimo  
Mr. Bill Yoachim, Councillor, City of Nanaimo

## CSCD LG Governance CSCD:EX

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**From:** Rhodes, Gillian GCPE:EX  
**Sent:** Wednesday, August 3, 2016 6:39 AM  
**To:** Faganello, Tara CSCD:EX  
**Cc:** Dann, Michelle CSCD:EX  
**Subject:** Re: MEDIA REQUEST: Jones\_News Nanaimo blog\_the new municipal committee structure\_DL Thursday August 4 noon

Ok

Sent from my iPhone

On Aug 3, 2016, at 5:43 AM, Faganello, Tara CSCD:EX <[Tara.Faganello@gov.bc.ca](mailto:Tara.Faganello@gov.bc.ca)> wrote:

I'm sure you are working with Michelle Dann on this one. <sup>s.13</sup>  
s.13

Sent from my iPhone

On Aug 2, 2016, at 12:24 PM, Rhodes, Gillian GCPE:EX <[Gillian.Rhodes@gov.bc.ca](mailto:Gillian.Rhodes@gov.bc.ca)> wrote:

Joan.

We're working on this media request regarding the <sup>s.13</sup>  
s.13 – will have a response to you this afternoon.

**MEDIA REQUEST – August 2**

**Reporter / Outlet: Dominic Jones / News Nanaimo (blog)**

**Phone Number: 250 933-5437**

**Email: [dominic.d.jones@gmail.com](mailto:dominic.d.jones@gmail.com)**

**Topic: City of Nanaimo's new municipal committee structure**

**Type of Request: interview**

**Deadline: August 4 noon**

**Request:**

Nanaimo City council created a new committee structure without the Mayor's approval. The mayor says these new committees are standing committees; B.C. law requires a mayor's approval for standing committees.

The Nanaimo city manager says they are select committees and as such, council can create them without the mayor's approval.

Mr. Jones says city manager told him that she spoke to "staff" at CSCD about the proposed committee structure and "she believed the City is in compliance".

Mr. Jones want to speak to a representative who can give the Ministry's perspective on the consultation that CSCD provided to city manager.

**Response: TBD**

Alec Tully  
Public Affairs Officer  
Government Communications and Public Engagement  
Office: 250 387-8031  
Cell: 778 677-2695  
E-mail: [Alec.Tully@gov.bc.ca](mailto:Alec.Tully@gov.bc.ca)

## **CSCD LG Governance CSCD:EX**

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**From:** Faganello, Tara CSCD:EX  
**Sent:** Wednesday, July 20, 2016 10:16 AM  
**To:** CSCD LG Governance CSCD:EX; Dann, Michelle CSCD:EX  
**Cc:** Marotz, Nicola CSCD:EX; Paget, Gary CSCD:EX  
**Subject:** Re: Nanamio Committees

s.13,s.16

Tara  
Sent from my iPad

On Jul 20, 2016, at 9:49 AM, CSCD LG Governance CSCD:EX <[LGgovernance@gov.bc.ca](mailto:LGgovernance@gov.bc.ca)> wrote:

Further to the previous email, the following is a summary of the discussion with Tracy and the written response sent to her.

Please let me know if you need anything else on this.

Hi Michelle,

I spoke to Tracy.

s.13,s.16

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**From:** Tracy Samra [<mailto:Tracy.Samra@nanaimo.ca>]

**Sent:** Monday, July 18, 2016 12:38 PM

**To:** CSCD LG Governance CSCD:EX

**Cc:** Sheila Gurrie; Jan Kemp

**Subject:** RE: Committees

Ms. Porter,

I appreciate you taking my call and discussion the provincial legislation with me.

Sincerely,

Tracy Samra, LL.B., LL.M.

Chief Administrative Officer

City of Nanaimo

Tel: 250-755-4410

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**From:** CSCD LG Governance CSCD:EX [<mailto:LGgovernance@gov.bc.ca>]

**Sent:** Friday, July 15, 2016 3:20 PM

**To:** Tracy Samra

**Subject:** Committees

Hi Tracy,

Further to our conversation today Sections 141 and 142 of the *Community Charter* provide the general authority to establish standing and select committees respectively. The legislation is permissive, that is it allows for the creations of committees, it does not legislate which matters should be taken to a standing versus a select committee. The *Community Charter* does not speak to timelines and commitments for committees, however, the local government's Procedure Bylaw may provide more information on how they conduct committee business.

Cheers,

**Dianna Porter** | Advisory Officer

Governance and Structure | Local Government Division

Ministry of Community, Sport and Cultural Development

(T): 250-356-9979 (E): [lggovernance@gov.bc.ca](mailto:lggovernance@gov.bc.ca)


<http://www.cscd.gov.bc.ca/lgd/>

**Mailing Address:**

Ministry of Community, Sports and Cultural Development

Advisory Services – Governance & Structure Branch

PO Box 9839 Stn Prov Govt, Victoria BC, V8W 9T1

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## CSCD LG Governance CSCD:EX

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**From:** Faganello, Tara CSCD:EX  
**Sent:** Wednesday, July 20, 2016 10:01 AM  
**To:** Dann, Michelle CSCD:EX; Paget, Gary CSCD:EX  
**Subject:** RE: Nanaimo

s.13

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**From:** Faganello, Tara CSCD:EX  
**Sent:** Wednesday, July 20, 2016 9:56 AM  
**To:** Dann, Michelle CSCD:EX  
**Subject:** Re: Nanaimo

Ok this is the link he sent

<http://newsnanaimo.ca/news/bestwick-led-group-moves-to-cement-control-with-new-committees/084108>

Sent from my iPhone

On Jul 20, 2016, at 9:42 AM, Dann, Michelle CSCD:EX <[Michelle.Dann@gov.bc.ca](mailto:Michelle.Dann@gov.bc.ca)> wrote:

s.13,s.16

I will send you the response we sent to Tracey.

Cheers Michelle

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**From:** Faganello, Tara CSCD:EX  
**Sent:** Wednesday, July 20, 2016 9:29 AM  
**To:** Dann, Michelle CSCD:EX  
**Cc:** Marotz, Nicola CSCD:EX  
**Subject:** Nanaimo

FYI, Mayor is calling me any minute...not sure why. Have you heard anything more up there?

*Tara A. Faganello, CPA CGA BA Ec.*  
Assistant Deputy Minister  
Local Government Division  
Ministry of Community, Sport and Cultural Development

Telephone: 250-356-6575

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## CSCD LG Governance CSCD:EX

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**From:** CSCD LG Governance CSCD:EX  
**Sent:** Friday, July 15, 2016 2:03 PM  
**To:** Dann, Michelle CSCD:EX  
**Subject:** RE: \*dp/md\*RE: The CAO from Nanaimo called - Tracy Samra

Hi Michelle,

I spoke to Tracy.

s.13,s.16

Cheers,

**Dianna Porter** | Advisory Officer  
Governance and Structure | Local Government Division  
Ministry of Community, Sport and Cultural Development  
(T): 250-356-9979 (E): [lggovernance@gov.bc.ca](mailto:lggovernance@gov.bc.ca)  
<http://www.cscd.gov.bc.ca/lgd/>

**Mailing Address:**

Ministry of Community, Sports and Cultural Development  
Advisory Services – Governance & Structure Branch  
PO Box 9839 Stn Prov Govt, Victoria BC, V8W 9T1

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**From:** Andrade, Ana CSCD:EX  
**Sent:** Friday, July 15, 2016 11:50 AM  
**To:** Dann, Michelle CSCD:EX; Paget, Gary CSCD:EX  
**Cc:** Porter, Dianna CSCD:EX  
**Subject:** \*dp/md\*RE: The CAO from Nanaimo called - Tracy Samra

Thank you.

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**From:** Dann, Michelle CSCD:EX  
**Sent:** Friday, July 15, 2016 11:49 AM  
**To:** Andrade, Ana CSCD:EX; Paget, Gary CSCD:EX  
**Cc:** Porter, Dianna CSCD:EX  
**Subject:** RE: The CAO from Nanaimo called - Tracy Samra

Yes one of us will follow up – Cheers Michelle

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**From:** Andrade, Ana CSCD:EX  
**Sent:** Friday, July 15, 2016 11:48 AM  
**To:** Paget, Gary CSCD:EX  
**Cc:** Dann, Michelle CSCD:EX; Porter, Dianna CSCD:EX  
**Subject:** RE: The CAO from Nanaimo called - Tracy Samra

Ok, Diana, are you able to take this? Thank you Gary.

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**From:** Paget, Gary CSCD:EX  
**Sent:** Friday, July 15, 2016 11:46 AM  
**To:** Andrade, Ana CSCD:EX  
**Cc:** Dann, Michelle CSCD:EX; Porter, Dianna CSCD:EX  
**Subject:** Re: The CAO from Nanaimo called - Tracy Samra

She should be talking to Michelle or one of here folks perhaps Diana Porter.

Michelle and I will be in a meeting mo

Sent from my BlackBerry 10 smartphone on the Rogers network.

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**From:** Andrade, Ana CSCD:EX  
**Sent:** Friday, July 15, 2016 11:37 AM

To: Panel: Gary CSCD:EX

Subject: The CAO from Nanaimo called - Tracy Samra

She is wondering who it is that she can talk to about questions on select and standing committees. Her number is 250-755-4410.

Thank you.

## CSCD LG Governance CSCD:EX

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**From:** Tully, Alec GCPE:EX  
**Sent:** Tuesday, March 15, 2016 3:36 PM  
**To:** Marotz, Nicola CSCD:EX  
**Cc:** Bates Gibbs, Bonnie GCPE:EX; Dann, Michelle CSCD:EX  
**Subject:** RE: MEDIA REQUEST: Nanaimo

Ok thanks very much, Nicola.  
Alec

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**From:** Marotz, Nicola CSCD:EX  
**Sent:** Tuesday, March 15, 2016 3:30 PM  
**To:** Tully, Alec GCPE:EX  
**Cc:** Bates Gibbs, Bonnie GCPE:EX; Dann, Michelle CSCD:EX  
**Subject:** RE: MEDIA REQUEST: Nanaimo

Alec -- s.13

Cheers Nicola

s.13

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**From:** Tully, Alec GCPE:EX  
**Sent:** Tuesday, March 15, 2016 3:09 PM  
**To:** Marotz, Nicola CSCD:EX  
**Cc:** Bates Gibbs, Bonnie GCPE:EX  
**Subject:** RE: MEDIA REQUEST: Nanaimo

Hi Nicola.  
Here is another one.  
s.13 -- MO received a call from CTV about it.  
See the question in yellow.  
Please advise asap.  
Thanks.  
Alec

REPORTER/OUTLET: Scott Cunningham/CTV

Phone Number: message from MO

Email:scott.cunningham@bellmedia.ca

Topic:Nanaimo Council

Question: Is there anything in legislation that would force the Mayor out without him saying that he will resign?

Deadline: asap

Alec Tully  
Public Affairs Officer  
Government Communications and Public Engagement  
Ministry of Community, Sport and Cultural Development  
Province of British Columbia  
Phone: 250 387-8031  
Fax: 250 356-1070  
[Alec.Tully@gov.bc.ca](mailto:Alec.Tully@gov.bc.ca)

## **CSCD LG Governance CSCD:EX**

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**From:** Marotz, Nicola CSCD:EX  
**Sent:** Tuesday, March 8, 2016 7:16 AM  
**To:** Dann, Michelle CSCD:EX; Paget, Gary CSCD:EX  
**Subject:** nanaimo appointment

### **Nanaimo council names Samra as city manager**

Nanaimo News Bulletin

Monday, March 07, 2016

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By Tamara Cunningham

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## CSCD LG Governance CSCD:EX

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**From:** Mayor Bill McKay <Bill.McKay@nanaimo.ca>  
**Sent:** Thursday, March 3, 2016 12:04 PM  
**To:** Faganello, Tara CSCD:EX  
**Cc:** Dann, Michelle CSCD:EX; Dawes, Jacquie CSCD:EX; Paget, Gary CSCD:EX  
**Subject:** RE: Question on Meetings

Tara,

Thank you for taking the time<sup>s.13,s.16</sup>

I certainly appreciate your efforts.

I will review carefully and will respond if I have any questions.

Very best regards,

*Mayor Bill McKay  
City of Nanaimo*

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**From:** Faganello, Tara CSCD:EX [<mailto:Tara.Faganello@gov.bc.ca>]  
**Sent:** Thursday, March 03, 2016 12:01 PM  
**To:** Mayor Bill McKay  
**Cc:** Dann, Michelle CSCD:EX; Dawes, Jacquie CSCD:EX; Paget, Gary CSCD:EX  
**Subject:** Question on Meetings

Dear Mayor,

s.13,s.16

I hope this is helpful.

Best regards,  
Tara

*Tara A. Faganella, CPA CGA BA Ec.*  
Assistant Deputy Minister  
Local Government Division  
Ministry of Community, Sport and Cultural Development

Telephone: 250-356-6575

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