RECOMMENDATION:

That report PED10036 be received for information.

EXECUTIVE SUMMARY

City Council, at its October 28, 2009 meeting, directed staff to investigate the feasibility of establishing a by-law to prohibit the use of outdoor cameras aimed by one neighbour at another neighbour’s property.

While the Municipal Act, 2001 authorizes a municipality to deal with public nuisances affecting the general public, there is no authority to deal with private nuisances such as the use of a camera by one neighbour to film another. The concerns that this gives rise to, such an invasion of privacy, may be dealt with as a civil matter.

Alternatives for Consideration – Not Applicable
FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:  N/A

Staffing:  N/A

Legal:  The Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act protect the privacy of individuals with respect to their personal information held by provincial and local government organizations. The Personal Health Information Protection Act protects the privacy of individuals with respect to their personal health information held by health information custodians. There is no legislation governing the collection of private information by private individuals.

HISTORICAL BACKGROUND (Chronology of events)

Motion 7.2 of the October 28, 2009 City Council reads as follows:

“That staff be directed to investigate the use of outdoor cameras, which may be aimed at neighbours homes and yards, and the feasibility of establishing a by-law prohibiting such use.”

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Legal Services.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The Municipal Act, 2001 authorizes a municipality to deal with public nuisances affecting the general public, as was recently done with the enactment of a Public Nuisance By-law which regulates certain behavioural issues. The Act also provides authority to deal with noise, vibration, odour, dust and outdoor illumination (including outdoor illumination that can be seen outdoors) which, while they may be private nuisances, tend to be or become public nuisances as well. Beyond this however, there
is no authority to deal with private nuisances such as one neighbour using surveillance cameras to film another neighbour's property.

While a municipality does not have authority to deal with the use of surveillance cameras by one neighbour to film another neighbour's property, this is conduct that may be actionable (when all circumstances are considered) within the common law categories of emotional distress, private nuisance, invasion of privacy and harassment. In several cases, the courts have found in favour of plaintiffs complaining, amongst other things, about surveillance cameras.

The Federal and Provincial Privacy Commissioners have jurisdiction over personal information gathered by government and some associated institutions, but not over private information gathered by private individuals. The Privacy Commissioners do, however, take on an advocacy role with respect to privacy issues generally and may be interested in this particular issue.

**ALTERNATIVES FOR CONSIDERATION:**
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


N/A

**APPENDICES / SCHEDULES**

MH/dt