



City of Richmond

Report to Committee

To: Community Safety Committee
From: Don Pearson
Manager, Community Bylaws

to Community Safety - Mar 15, 2005
Date: January 6, 2005

File: 10-6000-03

Suzanne Bycraft
Manager, Emergency & Environmental
Programs

Re: Soil Management within the Agricultural Land Reserve- Recommended City Action

Staff Recommendation

1. That Council endorse the development of a threshold-based Soil Bylaw to address soil activity within the Agricultural Land Reserve.
2. That staff consult with the Richmond Agricultural Advisory Committee in developing the above proposed Soil Bylaw.

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Law	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	
Policy Planning	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	
Transportation	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	
Development Applications	Y <input checked="" type="checkbox"/>	N <input type="checkbox"/>	
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			YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/>

Staff Report

Origin

The Province has made changes to the legislation governing the movement of soil in the Agricultural Land Reserve (ALR). Under previous legislation, local governments were involved in the review and issuance of permits for the removal and placement of fill on the ALR. However, under current legislation, municipalities are no longer involved in permitting activities.

This report evaluates the effectiveness of the current situation and recommends the adoption of a City "threshold-based" bylaw to better ensure that local interests are being adequately considered during the placement or removal of soil on agricultural land within Richmond.

Background

1. Potential Issues Pertaining to Placement of Soil and Removal in Richmond's ALR

There are a number of potential issues pertaining to the placement of fill and removal of fill in Richmond's ALR. Of utmost importance is the protection of agricultural viability and assurance of responsible soil practices which support farming. Representatives from the Agricultural Land Commission indicate that there is strong economic incentive for accepting large quantities of fill from construction sites regardless of whether this material supports farming activities. There is no direct regulatory oversight on the transfer and disposal of excavation material.

Potential concerns include:

- deposition of soil or removal of soil which does not support long-term agricultural viability with respect to quality and/or quantity
- ensuring adequate protection of City built infrastructure and environmental sensitive areas
- neighbourhood impacts (e.g., drainage impacts, hours of operation, odour, noise, etc.)

2. Legislative Changes Pertaining to Soil Management in the ALR

Prior to 2002, soil management within ALR was regulated by the Soil Conservation Act (SCA). Unless otherwise exempted by regulation, the SCA prohibited the removal of soil or placement of fill on land in the ALR without prior approval by the ALC and the issuance of a permit by local government. Applications for non-exempted soil activities were received by the local government and referred to the ALC for approval. Upon ALC approval, local governments would determine whether or not to issue the required permit and establish specific conditions if desired. Local governments were also responsible for enforcing any permit and/or ALC approval provisions. Under the SCA, the City had authority to appoint a Soil Conservation Officer with responsibility for overseeing activities relating to the movement of soil on ALC. This function was conducted by personnel in Community Bylaws.

Under present legislation, the removal of soil and placement of fill on ALR are still considered to be non-farm uses unless otherwise exempted under regulation. Local governments must still

approve non-exempted soil activities through Council resolution which are then forwarded to the Agricultural Land Commission. However, key legislative changes include:

- expanded list of exempted activities which do not require Provincial or local government approval; and,
- the loss of local government authority to establish Soil Conservation Officers and thereby, a loss of local government responsibility for issuing permits or enforcing non-compliance.

3. Action Taken by Other Municipalities

The majority of municipalities in the GVRD regulate soil movement throughout their jurisdictions in accordance with municipal soil bylaws. These bylaws typically require municipal approval via permits enabling the deposition and/or removal of soil. Permit requirements are quite varied. Some notable requirements include certification from a registered professional that the soil is not contaminated and will not adversely impact drainage or result in erosion, and a communication plan for informing neighbouring properties.

Most bylaws incorporate exemptions, which exclude activities of less than a certain volume, removal/deposit within the same property, municipal works and/or exemptions due to other legislation. Fees usually cover the cost of City staff proposal review and site inspections.

Analysis

1. Effectiveness of Current Situation

Legislative changes were made by the Province with the intent of streamlining application processes, broaden permitted non-farm uses and reduce regulatory provisions. This new approach has resulted in a number of advantages, including reduced workload and administrative processing responsibilities for local governments. These changes were also made to reduce the number of “automatic” permits (i.e., activities that were always granted approval).

However, while there are a number of advantages of the new approach, there remains concern that the reduced regulatory oversight may be insufficient for ensuring responsible soil management in the ALR. Key areas of concern include:

- *Loss of Local Government Regulatory Presence:* The removal of the Soil Conservation Officer role has resulted in loss of local regulatory presence in the community. This loss of presence means that there is reduced municipal awareness of what soil activities are taking place and reduced level of comfort in knowing that activities are being conducted in a way that supports long-term agricultural viability and in a manner which adequately addresses local community concerns. The City is also no longer able to proactively support the community by advising on what constitutes appropriate activity nor is it able to respond to community concerns. Rather, the City must rely exclusively on the Commission. However, the Commission only deals with issues from a solely agricultural perspective and does not take into account issues such as drainage, truck traffic, hours of

operation, activity duration, etc. The ALC has recommended that local governments enact bylaws to ensure that broader community needs are being adequately addressed.

- *Reduced Capacity of the Agricultural Land Commission:* The ALC has indicated that they have limited resources to cover large areas and wide spectrum of responsibilities. While the legislation shifted enforcement responsibility away from local governments to the Commission, resources within the Commission have been significantly reduced rather than maintained or even strengthened. As a result, there is less ability to manage soil activity proactively and respond to issues of non-compliance.
- *Uncertain Degree of Legislative Protection:* It remains unclear how the current exemption-based approach will perform in ensuring that soil activity is being managed effectively (i.e., adequately protects agricultural land in a manner which doesn't unreasonably impact the local community or is impaired by unnecessary regulation). Without any role in oversight, Richmond will not be able to evaluate the effectiveness of this approach and thereby, will not be able to be in a position to affect any positive change should that be deemed necessary.

2. Management Options

There are three options available for the City:

- a. Option 1 – No Additional Action/Maintain Status Quo
- b. Option 2 – Enter into a Delegation Agreement
 - The Agricultural Land Commission Act (Section 26) includes the authority for the Province to enter into a delegation agreement with a Local Government to undertake the responsibilities of processing soil and/or other non-farm use applications. This option is not recommended as it would require that the City adopt the responsibility of the Agricultural Land Commission and develop significant technical capacity in soil management.
- c. Option 3 – Enact a Soil Bylaw (*Recommended*)

3. Recommended Action

Staff recommends that the City develop a bylaw that re-instates the City's ability to undertake management oversight of soil activity in the ALR. The objectives of the bylaw would be to enable local awareness of soil activity, facilitate greater proactive review of significant soil activity and strengthen management of local issues. It is envisioned that the bylaw would:

- be threshold-based, requiring that a permit be issued for soil activity of certain magnitude and/or duration within the ALR
- stipulate notification/provision of information to enable local awareness of activity and review

- stipulate management conditions to protect City assets (e.g., infrastructure, Environmental Sensitive Areas, etc.), address potential community concerns and ensure compliance with existing legislation
- include provisions for the recovery of City costs
- establish a regular review to ensure bylaw relevance and efficacy.

The bylaw would be directed at strengthening the current management regime by re-instating local presence and oversight. The bylaw would be developed in such a manner to ensure that the municipal resources are not appropriated to perform provincial responsibilities nor unduly impair legitimate farming practice. To assist in meeting this objective, the bylaw would be developed in consultation with the City's Agricultural Advisory Committee.

The enactment of a soil bylaw is recommended based on the following rationale:

- agricultural land represents a significant portion of the Richmond community and agricultural viability is an important City objective
- the ALC advise that unlawful soil activity is a serious issue in Richmond
- Richmond may be more vulnerable to unlawful soil activity if it remains one of the few municipalities without a bylaw
- construction activity is high in the Lower Mainland and there is a significant need to dispose of excavation material
- current management regime is predominately reactive, and re-instatement of local presence would facilitate proactive review and early identification of potential issues. The intent would be for the City to "screen" activity applications and direct any applications of concern to the Agricultural Land Commission.
- the administration of the bylaw is not anticipated to require significant staff resources and could be accommodated within existing budgets.

The City's Bylaw department will be responsible for developing and administering the Soil Bylaw. Due to the research involved in developing a strategic and enforceable bylaw which is in compliance with the Agricultural Land Commission Act, it is anticipated that this will be completed by December 2005.

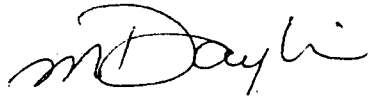
Financial Impact

The development and administration of a soil bylaw for managing activity within the ALR can be accommodated within existing departmental budgets.

Conclusion

Legislative changes made by the Province have resulted in the loss of local government oversight and regulatory presence of soil activity in the Agricultural Land Reserve. In consideration of the need for local involvement to facilitate preventative action, strengthen compliance and better address community issues, this report recommends that the City develop a Soil Bylaw that would:

- Relate only to land included in the Agricultural Land Reserve;
- Set thresholds levels that would require a City permit prior to the removal of placement of soil;
- Stipulate management conditions to protect City assets (e.g., infrastructure, Environmental Sensitive Areas, etc.), address potential community concerns and ensure compliance with existing legislation
- Establish provisions for cost recovery
- Establish regular review to ensure bylaw relevance and efficacy.



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