



City of Richmond

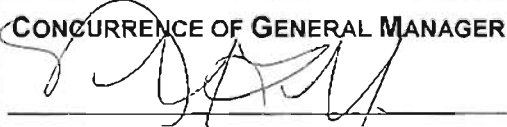


Report to Committee

To: General Purposes Committee
From: Doug Long
City Solicitor
Date: January 16, 2013
File: 12-8060-01/2012-Vol
01
Re: Regulation of Soil Removal and Deposit Activities on Agricultural Land

Staff Recommendation

1. That staff be directed to prepare a bylaw amendment to Soil Removal and Fill Deposit Regulation Bylaw No. 8094 to provide that soil deposit and removal activities relating to existing "farm use" in the Agricultural Land Reserve will require a permit from the City;
2. That, following first, second and third reading of the above bylaw amendment, the bylaw be forwarded to the responsible Provincial ministries for approval;
3. That staff be directed to report back on the options and implications for charging fees for soil removal and deposit activities in the Agricultural Land Reserve;
4. That an education and "Soil Watch" program, as outlined in the staff report dated January 16, 2013 titled "Regulation of Soil Removal and Deposit Activities on Agricultural Land" from the City Solicitor, be implemented; and
5. That staff be directed to review the authority and process for the Agricultural Land Commission to delegate to the City decision-making and enforcement relating to non-farm uses of land within the Agricultural Land Reserve, and in particular, in relation to soil deposit and removal activities.

Doug Long
City Solicitor

REPORT CONCURRENCE			
		CONCURRENCE OF GENERAL MANAGER 	
REVIEWED BY SMT SUBCOMMITTEE	INITIALS: 	REVIEWED BY CAO	INITIALS: 

Staff Report

Origin

At the January 14, 2013 Council meeting, a number of concerns were brought forward regarding soil deposit and land filling activities on agricultural land and a request was made for staff to review the City's *Soil Removal and Fill Deposit Regulation Bylaw No 8094* ("Bylaw 8094") to identify any deficiencies in relation to regulating soil deposit activities on lands within the Agricultural Land Reserve ("ALR").

This report supports Council's Term Goal # 8 *to demonstrate leadership in sustainability through continued implementation of the City's Sustainability Framework* which includes the continued commitment to the protection of the City's ALR for future agricultural viability.

Analysis

Current Regulatory Framework - Powers/Authority

The *Agricultural Land Commission Act* ("ALC Act") and related regulations regulate properties within the ALR and the Agricultural Land Commission ("ALC") oversees the regulations under the *ALC Act*. Therefore, City bylaws relating to land within the ALR, including Bylaw 8094 and the City's Zoning Bylaw 8500, must be consistent with the *ALC Act*.

As provided for in Bylaw 8094, soil deposit and removal permits activities on ALR land (unless exempted by section 3.2 of Bylaw 8094) require a permit issued by the City's Manager of Community Bylaws. Permits processed under Bylaw 8094 include review by the City's Agricultural Advisory Committee ("AAC") prior to issuance. The City's Community Bylaws Division is responsible for monitoring compliance with issued permits and the requirements of Bylaw 8094.

Section 3.2(a) of Bylaw 8094 provides that a permit is not required where soil deposit or removal:

- (a) is related to or carried out in connection with an existing "farm use", as defined in the *ALC Act*;
- (b) for an approved farm practice as defined in the *Guidelines for Farm Practices Involving Fill*; and
- (c) is outlined in a "Soil Removal or Fill Deposit Notice" submitted to the City at least five business days before the soil removal or deposit activity is to take place.

As a result of the exemption under section 3.2 of Bylaw 8094, the City receives notice of soil removal and deposits for existing "farm use" but once the ALC determines that the activity is related or carried out in connection with a "farm use", a City permit is no longer required and the City (including the AAC) is not involved further in reviewing, regulating or enforcing the soil removal or deposit activity.

Repeal of Permit Exemption for "Farm Use"

If the City wishes to apply the permitting process under Bylaw 8094 to all soil removal and deposit for "farm use", section 3.2 of Bylaw 8094 will have to be repealed. The repeal of section 3.2 will require Provincial approval, as the *Community Charter* provides that certain bylaws relating to soil removal require the approval of the Minister of Energy, Mines and Petroleum Resources and certain bylaws relating to soil deposit require the approval of the Minister of Environment. Further, bylaws imposing a fee relating to soil removal or deposit require approval by the Minister of Community, Sport and Cultural Development.

Upon repeal of section 3.2 of Bylaw 8094, the City would have the same influence over soil removal and deposit activities related to "farm uses" as for "non-farm uses", including referral to the AAC for comment and oversight by the City's Community Bylaws Division. However, as with all agricultural activities, the City's influence is subject to any regulations and requirements under the *ALC Act* and related regulations. The City will not be able to prohibit a soil removal or deposit activity related to a "farm use" (i.e. refuse to issue a permit for such activity) if the ALC approves the soil removal or deposit.

If section 3.2 of Bylaw 8094 is repealed, staff expect that the Community Bylaws Division will process a higher volume of permit applications. This may warrant the imposition of a fee for soil removal and deposit activities (which, as mentioned earlier, would require the approval of the Minister of Community, Sport and Cultural Development).

Additional Awareness Measures

Awareness of City and ALC regulations relating to soil removal and deposit activities would promote compliance with such regulations. Staff recommend that the City work closely with the AAC to develop an educational program regarding Richmond's farming community and soil removal and deposit activities on ALR land.

Further, a community "Soil Watch" program would assist the Community Bylaws Division and ALC with identifying concerns and monitoring compliance with City and ALC requirements for soil removal and deposit activities. A Soil Watch Program would include the following:

- strategically-placed signage within the ALR neighbourhoods to draw attention to soil removal and deposit activities; and
- a phone number to report non-compliance or concerns to City for appropriate action by City and/or ALC staff.

Delegation of ALC Powers Relating to "Non-Farm Use"

Under section 26 of the *ALC Act*, the ALC has the authority to delegate its decision-making and enforcement powers relating to "non-farm use" to a local government through an agreement between the ALC and the local government. Soil removal and deposit activities are considered "non-farm use" unless the *ALC Act* and regulations specify otherwise (i.e. soil removal and

deposit activities associated with certain farm uses). Where the ALC determines that a soil removal or deposit activity is a "farm use", the delegated authority relating to "non-farm use" would not apply.

So far, very few local governments have entered into agreements to accept the permitted delegation under section 26 of the *ALC Act*. If directed by Council to do so, staff will review the authority and process for the ALC to delegate to the City decision-making and enforcement relating to non-farm uses of land within the ALR, and in particular, in relation to soil deposit and removal activities.

Financial Impact

Staff estimate that the increased cost of processing and monitoring additional permit applications for soil removal and deposit activities relating to "farm use" will be offset by the application fee required for such permits.

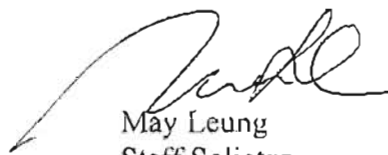
Staff estimate the cost of the "Soil Watch" program signage and educational initiatives at \$12,000.

Conclusion

This report provides information on the City's current regulation of soil deposit activities in the ALR, and consideration of measures to address the City's permit exemption for soil removal and deposit activity related to existing "farm use" in the ALR and increase awareness of regulations and monitoring relating to soil removal and deposit activities within the City.



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