



Corporate Report

NO: R006

COUNCIL DATE: January 17,

2005

REGULAR COUNCIL

TO: Mayor & Council DATE: January 14,
2005

FROM: General Manager,
Engineering FILE: 0410-20
(MWLAP)
0250-07

SUBJECT: Update Riparian Areas Regulation

RECOMMENDATIONS

That Council:

1. receive this report for information.
2. adopt the continued use of the "Land Development Guidelines" as the basis of establishing Riparian setbacks in the City of Surrey until such time as the Provincial Government has completed its implementation guidelines, established Tripartite Agreements, and enabled the City to develop revised by laws to be able to incorporate Legislation changes enabling the Riparian Areas Regulation (RAR) adoption in the City.
3. approve the City's participation in the Provincial Pilot Project that will look at the implementation strategies and mechanisms for adoption of RAR with the Provincial and Federal agencies.

BACKGROUND

In 2001, the new Provincial Government decided to revisit the Streamside Protection Regulations that had been adopted by the previous Government's Cabinet earlier that year. Since early 2002, there has been no consultation with Local Governments on this matter, except through direct consultation with UBCM under strict confidentiality agreements.

In June 2004, a Corporate Report was presented to Council outlining the concerns at that time, with the proposed Legislation and lack of Local Government involvement. As a result, Surrey Council recommended that a resolution be forwarded to the UBCM for consideration during the 2004 UBCM convention. Council also forwarded a copy of the report to the Provincial and Federal Governments requesting a delay in Legislation. The Provincial Government enacted the Legislation on July 27, 2004. At the UBCM convention in September, the resolution presented regarding the RAR, was endorsed by the member municipalities.

On July 27, 2004, the Provincial Government enacted the Riparian Areas Regulation. It calls on Local Governments to endorse and develop protocols to reflect the Riparian Areas Regulation by March 31, 2005. This timeline is far less than the year originally suggested, and is less time than what is deemed practical to implement such Legislation, considering it will require some by-law amendments, new business practices, and possible education and enforcement.

The Provincial Government had promised implementation guidelines, assistance in by law development, more scientific field implementation, training of consultants and staff, and answers to some of the concerns presented by the UBCM.

The intent of the regulation was to provide consistency, a uniform approach and clarity in Riparian Area determinations throughout the Province. Upon review of the Legislation, several key issues emerged, making achieving these goals more of a challenge. A Corporate Report to Council was submitted on September 7, 2004 outlining these concerns.

DISCUSSION

Since the September 7, 2004 Corporate Report some work has advanced by the Province, but has been limited in terms of interactions with Local Governments and dissemination of knowledge to assist in RAR implementation. The pilot projects proposed by the Province, which were originally to be started in the fall of 2004, are now just about to commence. The City of Surrey has originally received verbal acknowledgement that we will be one of the municipalities participating in the implementation pilot projects and helping to refine Provincial policies in this regard.

In the mean time, City staff have been working with other Local Government environmental staff to estimate the impact of the proposed RAR setbacks in the Municipality. The current setback determination method used by the City of Surrey is based on the Federal Government document entitled "Land Development Guidelines for the Protection of Aquatic Habitat." This has been the setback standard for the City since the early 1990's as applied by the Ministry of Environment, Lands and Parks (now Ministry of Water, Land and Air Protection) and the Department of Fisheries and Oceans. This current setback methodology was conservative enough to also deal with geotechnical concerns, hazard trees concerns, wildlife corridor provisions, floodplain concerns (in most cases), and drainage rights-of-way issues.

The proposed RAR setbacks do not look at any other setback considerations except those required to protect fish habitat. They are therefore not necessarily consistent with other Provincial Legislation dealing with floodplains and wildlife considerations along the same corridors. A developer may be able to meet the setbacks for RAR only to find out later through the process that geotechnical considerations or those associated with floodplains may take precedence over the development of the site.

As such, City staff are reviewing the concept of developing for the City a more comprehensive approach to setbacks for developers on a 'one stop shop' type of approach. This approach would incorporate all the setbacks required by enabling Legislation, which the City must address. This would lead to a more defined process in the City which would allow for consistency in application for developers and would identify key constraints early on in the development process in advance of costly detailed works.

This new setback determination would provide developers with more certainty. Additionally, staff are also reviewing a two staged approach. One stage would have setbacks defined on all water courses in advance which developers may wish to use, reducing costs for expert team members for the developer, and saving time. The second stage would allow for the developer to hire an expert team to address the pertinent issues and refine the setback for their development to proceed. Once this strategy is defined, we will seek input from the Development Advisory Committee.

At the present time, the Province has not provided additional information to Local Governments on RAR and its implementation guidelines and expectations, yet the timeline for a March 31, 2005 adoptions by all Local Governments still exists. There is a clause in the Legislation that allows a Local Government to adopt an alternative method. In order for the City to continue to facilitate the development process in a consistent and streamlined manner, it is recommended that Council adopt the continued use of the Land Development Guidelines until such time as a comprehensive all-inclusive setback approach can be developed for the City (including necessary by-laws), consistent with Provincial Regulations and Legislation.

CONCLUSION

The success of any Riparian Areas Regulation requires effective partnerships between Local Governments, the Province, the DFO, and the development industry. For the Riparian Areas Regulation to successfully proceed, pragmatic, open and meaningful consultation is needed with Local Governments to ensure that the revised Regulation adequately covers issues. Also required are implementation guidelines, and education program, and experts familiar with the proposed regulations to implement it.

It is therefore recommended that the City participate in the Pilot Projects the Provincial Government is proposing to undertake to help guide the implementation process and policies and that the City continue to use the current "Land

Development Criteria” for setback determination until revised by-laws and setback policies can be established by Council based on Provincial findings.

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