

ITEM 1

MANAGER'S REPORT NO. 70

COUNCIL MEETING Nov. 3/75

Re: BYLAWS FOR THE CONTROL OF NOXIOUS WEEDS  
(Item 5, Report No. 7, January 29, 1973)

Following is a report from the Chief Public Health Inspector regarding regulations for the control of noxious weeds.

On January 29, 1973, Council appointed the Trades Foreman I (Horticulture) to serve as a noxious weed inspector for the Municipality. It has been determined that since the time of appointment, there has been only one investigation involving noxious weeds in Burnaby, and as a result, the inspector, except on this occasion, has never had to exercise his enforcement authority. Although a number of complaints are received in connection with unsightly growth of vegetation, these complaints almost always involve species that are not noxious and therefore outside the scope of a noxious weed bylaw.

RECOMMENDATIONS:

1. THAT "Burnaby Noxious Weed Bylaw 1957, No. 3895" be repealed; and
2. THAT no action be taken at this time to enact a Municipal Bylaw under the authority as contained in the Provincial Government's new "Noxious Weed Control Act"; and
3. THAT the situation be monitored from time to time by the Parks and Recreation Administrator and the Chief Public Health Inspector to determine if any specific action is required in the future.

\* \* \* \* \*

October 24, 1975

Mr. M.J. Shelley  
Municipal Manager  
Corporation of Burnaby

Dear Sir:

Re: NOXIOUS WEED BY-LAW, NO. 3895

In November 1973, the Provincial Government approved a new Weed Control Act and Regulations, B.C. Regulation 451/73, pursuant thereto. This action nullified the authority of the "Burnaby Noxious Weed By-law 1957, No. 3895.

The new Act, in our opinion, is designed for the control of noxious weeds or weed seeds in agricultural or rural areas. There is, however, provision by which Municipal Councils may appoint one or more weed committees and weed control inspectors. It would seem that this action is complicated and would serve no value within this Municipality.

As an example section 3(2) of the Provincial Weed Control Act prohibits a Weed Control Inspector, appointed under Section 10(1), from entering a residential premises and property for the purpose of enforcing the requirements of the Act. The pertinent sections read as follows:

"Section 10(1). Every council may appoint one or more inspectors and weed control officers to enforce and administer this Act within the boundaries of the municipality.

Section 3(2). An inspector may, at any time during daylight hours, enter any land, premises, except residential premises, and property for any purpose relating to the administration or enforcement of this Act or the regulations, and may inspect and examine such land, premises, and property."

Mr. M.J. Shelley

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October 24, 1975

The Establishment of Weed Committees

Section 9(1) (2) (3) set forth the manner of appointing a Weed Committee and the duties, remuneration, and responsibility of the Weed Committee and the responsibilities of the Municipality.

The problem of unwanted vegetation growth on residential lands within the Municipality is not generally related to agriculture or noxious weeds as named in the Weed Control Act.

Our problem lies with tall grass, dandelions, blackberry bushes, scrub alder, morning glory, etc. and our information is to the effect that these growths would not be accepted within the Noxious Weed Act as noxious weeds requiring control.

The following is a list of noxious weeds as listed in the Noxious Weed Act.

Canada thistle (*Cirsium arvense* (L.) Scop.)  
 Dodder (*Cuscuta* spp.)  
 Halogeton glomeratus  
 Russian knapweed (*Centaurea repens* L.)  
 Diffuse knapweed (*Centaurea diffusa* Lam.)  
 Poison Ivy (*Rhus toxicodendron* L.)  
 Sow thistle, annual and perennial (*Sonchus* spp.)  
 Spurge (*Euphorbia* spp.)  
 Toadflax (*Linaria vulgaris* Hill)  
 Wild oats (*Avena fatua* L.)

Section 9(1) (2) (3) read as follows:

"Section 9(1). The council of any municipality may establish one or more weed control committees, each consisting of

- (a) one member of the council to be appointed by the council;
- (b) one resident in the municipality to be appointed by the council;
- (c) one member of the Provincial Department of Agriculture to be appointed by the minister;
- (d) one member in good standing, to be appointed by the council, of a society that is incorporated under the "Societies Act" and that has a primary purpose the protection of the environment or the encouragement of antipollution measures; and

(e) one member to be appointed by the Minister of Health, each of whom shall hold office for a period of one year, and may be reappointed for further terms of one year each.

Section 9(2). Where a council establishes a weed control committee under subsection (1), that council

- (a) shall notify the minister in writing of the names of its appointees;
- (b) shall provide secretarial or clerical assistance for the weed control committee;
- (c) shall designate the member of the weed control committee who is an appointee of council to be chairman; and
- (d) may provide for the payment of expenses to weed control committee members.

Section 9(3). Every weed control committee shall, with respect to its municipality,

- (a) advise the minister and the council on all matters relating to noxious weeds and noxious weed control;
- (b) compile, from time to time, a list of weeds that it considers to be noxious and to require control, and submit the list to the minister and the council;
- (c) advise council on the appointment of weed control officers, and supervise weed control officers;
- (d) assist in the organization and administration of weed control programmes;
- (e) submit, not later than the first day of October in each year, to the minister and the council an annual report, and estimates for the next year, respecting weed control matters; and
- (f) perform such other duties as the Lieutenant-Governor in Council may, by regulation, prescribe."

#### Responsibility of Municipality for Weed Control on Highways

Section 12(2) places the responsibility for weed control of a goodly portion of Highway with the Municipality. Section 12 (1) (2) (3) (4) read as follows:

"Section 12(1). In this section, "highway" means a highway as defined in the "Highway Act".

Section 12(2). Where a highway is owned by Her Majesty in right of the Province, but is in the possession of a municipality, other than a regional district, that municipality is, subject to subsection (4), the occupier of that highway.

Section 12(3). Where a highway is owned by Her Majesty in right of the Province and is not in the possession of a municipality, the occupier of that highway is the Minister of Highways on behalf of the Government of the Province.

Section 12(4). Where a new highway is constructed, or an existing highway is rerouted, within the boundaries of a municipality, other than a regional district, by or under the direction of the Crown in right of the Province, the Minister of Highways, on behalf of the Government of the Province, shall be deemed to be the occupier of that highway while it is being constructed or rerouted."

#### SUMMATION

The appointment of a weed inspector would not benefit this Municipality due to the prohibition of entering residential premises as set forth in section 3(2) of the Act.

The appointment of a Weed Control Committee, Section 9(1) (2) (3), is complicated and it is extremely doubtful that such a committee would be successful in the control of unwanted vegetation growth in this Municipality.

Section 12 (1) (2) would place a responsibility on this Municipality for weed control on the untravelled portion of a good many miles of Highway.

#### RECOMMENDATIONS

1. That the Municipality repeal the "Burnaby Noxious Weed By-Law 1957", No. 3895.
2. That the Municipality takes no action at this time in so far as the Provincial "Noxious Weed Control Act" is concerned.

This report has been discussed with the Parks and Recreation Administrator.

Yours truly,



G.H. Armon, C.P.H.I. (C)  
CHIEF PUBLIC HEALTH INSPECTOR

GHA/cc  
c.c. Parks and Recreation Administrator