

CITY OF BURNABY
ENVIRONMENT & WASTE MANAGEMENT COMMITTEE

HIS WORSHIP THE MAYOR
AND COUNCILLORS

RE: CHANGES TO THE LAND RESERVE COMMISSION

RECOMMENDATIONS:

1. THAT Council request the Mayor to write to the Honourable Stan Hagen, Minister of Sustainable Resource Management to request that the preliminary areas of concern outlined in Section 3.0 of this report be addressed in the development of proposed legislative changes relating to the governance of the Agricultural Land Reserve.
2. THAT Council request the Mayor to write to the Honourable Stan Hagen, Minister of Sustainable Resource Management to request that the Provincial Government consult with local governments, the agricultural community and the general public prior to the introduction of anticipated new legislation for the governance of the Agricultural Land Reserve.
3. THAT Council forward copies of this report to Burnaby Members of the Legislative Assembly, the Union of British Columbia Municipalities (UBCM), and to the Chair and Members of the Land Reserve Commission.

REPORT

The Environment & Waste Management Committee, at its 'Open' meeting held on 2002 April 09, received the attached report outlining recent and anticipated changes to the structure and operation of the Provincial Land Reserve Commission. The Committee noted key changes in the Service Plan for the Land Reserve Commission including:

- restructuring of the commission around 6 regional panels;
- voluntary delegation of some decisions to local governments;
- deregulation and streamlining of required applications;
- reducing budget and staffing resources.

The Committee also identified potential areas of concern related to anticipated changes to the operation of the Land Reserve Commission.

**CC; -CITY MANAGER
-DIRECTOR ENGINEERING
-DIRECTOR FINANCE
-DIR. PLNG & BLDG.
-DIR. PRKS, REC. & CULT. SVCS**

Respectfully submitted,

Councillor D. Johnston,
Chair

Councillor C. Redman,
Vice Chair

Councillor B. Der
Member

TO: CHAIR AND MEMBERS APRIL 5, 2002
ENVIRONMENT AND WASTE
MANAGEMENT COMMITTEE

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE:02.120.1

SUBJECT: CHANGES TO THE LAND RESERVE COMMISSION

PURPOSE: To provide the Committee with a preliminary report on recent and anticipated changes to the structure and operation of the Provincial Land Reserve Commission.

RECOMMENDATIONS:

1. **THAT** the Mayor be requested to write to the Honourable Stan Hagen, Minister of Sustainable Resource Management to request that the preliminary areas of concern outlined in Section 3.0 of this report be addressed in the development of proposed legislative changes relating to the governance of the Agricultural Land Reserve.
2. **THAT** the Mayor be requested to write to the Honourable Stan Hagen, Minister of Sustainable Resource Management to request that the Provincial Government consult with local governments, the agricultural community, and the general public prior to the introduction of anticipated new legislation for the governance of the Agricultural Land Reserve.
3. **THAT** Council be requested to forward copies of this report to Burnaby Members of the Legislative Assembly, the Union of British Columbia Municipalities (UBCM), and to the Chair and Members of the Land Reserve Commission.

REPORT

1.0 BACKGROUND

At its 2002 February 11 meeting, Council received correspondence from the Land Reserve Commission (LRC) regarding the results of the core review completed by the Province for the Agricultural Land Reserve and the operation of the Commission. Council referred the correspondence to the Environment and Waste Management Committee. Council and the Committee were advised that staff would prepare a report on this matter.

This preliminary report outlines recent and anticipated changes to the structure and operation of the Provincial LRC as we understand them to date. The report also identifies potential areas of concern related to anticipated changes to the operation of the Land Reserve Commission and the prevailing legislation which currently serves to maintain the integrity of the Agricultural Land Reserve.

2.0 AGRICULTURAL LAND RESERVE

Agricultural land in BC is a scarce resource. Of the land in BC, less than 3% is capable of supporting a range of agricultural uses, with just over 1% considered prime agricultural lands. The greatest pressures on BC's limited food lands are urbanization and development. In 1972, an estimated 15,000 acres of farmland were being lost every year to other uses.

To address this important public issue, the original *Land Commission Act* of 1973 established a Provincial mandate for the preservation of agricultural land in B.C. and created the Land Reserve Commission (LRC). Since 1973, the Land Reserve Commission (LRC) has been responsible for preserving and protecting BC's farmland to ensure that our limited supply of agricultural land will continue to be available for food production. The LRC has served to protect this important land base for present and future use and to encourage the establishment and maintenance of BC's farms and farming community.

The LRC administers the Agricultural Land Reserve (ALR) which is a provincial land use zone established to protect the integrity of the agricultural land base in B.C. The ALR encompasses about 4.7 million hectares (11.6 million acres) of land. Within Burnaby, approximately 260 hectares (640 acres) of land are within the boundaries of the ALR.

The *Agricultural Land Reserve Act* (ALRA) sets out the legislative framework for the establishment and administration of lands within the reserve. The Act is supported by the *Agricultural Land Reserve Procedure Regulation* which details procedures for applications; the *Agricultural Land Reserve Subdivision and Land Use Regulation* which defines permitted land uses and subdivisions of land within the ALR; and the *Soil Conservation Act* (SCA) which regulates the placement of fill and removal of soil from land within the ALR. The *Land Reserve Commission Act* (LRCA) provides for the establishment of the Commission.

3.0 CORE REVIEW

In 2002 February, the Provincial Government completed its core review of the Land Reserve Commission. The purpose of the core review was to identify and confirm the government's core role and responsibilities and to determine ways of improving the delivery of services

related to the ALR and the LRC consistent with the Provincial Government's *New Era* directions. The core review of the Land Reserve Commission determined that the Agricultural Land Reserve serves a compelling public interest by:

- *protecting the land base and business environment needed by BC's agricultural producers to operate efficiently without undue restrictions or competition from other land uses; and*
- *preserving the limited supply of agricultural land that can provide a secure and healthy food supply for current and future generations.*

While confirming the public interest in maintaining the ALR, the government is pursuing a number of changes to the operation of the LRC, established legislation, regulations and processes, and the role and responsibilities of local governments. Key changes outlined within the *Service Plan for the Land Reserve Commission*, include:

- restructuring of the commission around 6 regional panels
- voluntary delegation of some decisions to local governments
- deregulation and streamlining of required applications
- reducing budget and staffing resources

The following summarizes the available information on anticipated changes to the operation of the LRC and regulation of the ALR. At this time, detailed information has yet to be released on the specific legislative and other proposed changes. Given the available information, staff have identified potential areas of concern and proposed directions that the Provincial Government should take into consideration in the formulation and drafting of proposed legislative changes to the LRC and the legislation with supports the long term preservation of lands within the ALR.

3.1 Restructuring of the Commission

In late 2001, the government replaced the 11 members of the LRC with an interim commission consisting of five senior civil servants. The new commission will be structured around six Regional Panels and is expected to be appointed this spring. Regional Commission Panels will be established to serve the North, Central Interior, Okanagan, Kootenays, Lower Mainland, and Vancouver Island regions of the Province. Each Regional Panel will consist of 3 members (2 commissioners and a vice chair). The provincial appointments for each panel are expected to come from within the respective regions. Each panel will have the full powers of the Commission to make decisions on applications and to review plans and bylaws within its region.

An Executive Committee consisting of the Provincial Chair and the 6 regional vice chairs is also expected to be established. The Executive Committee may define broad policies for the Commission, provide direction on issues of province-wide or cross-region interest, and develop policy directions. The Executive Committee is **not** expected to provide an appeal or review process for independent panel decisions.

The re-organization of the Commission as 6 panels based within specific regions is intended to respond to provincial objectives to increase the regional responsiveness of the Commission to community needs, encourage collaborative governance of the reserve with local governments, and ensure the timely processing of applications. From a local perspective, the formation of regional panels should assist with improving local access to the Commission, and ensuring that Commission decisions take into account local and regional characteristics, plans and objectives.

Area of Concern: From a province-wide perspective, there is a concern that the considerable independence afforded to each regional panel could result in a regional divergence of decisions related to the public interests in the protection of long term viability of agricultural lands for agricultural use. The pressure on agricultural lands and the potential for the decisions of Regional Panels to be increasingly influenced by local development interests at the expense of the long term public interest of maintaining viable agricultural lands is likely to be more prevalent in high growth regions such as the Lower Mainland, Vancouver Island and the Okanagan regions. At this point, it is unclear as to how, to what extent and under what criteria the Executive Committee will be able to review and monitor independent panel decisions to ensure a general consistency in panel decisions from a broader policy perspective.

As such, it is suggested that in order to ensure that the independent decisions of the Regional Panels consistently reflect the broader public interest in the preservation of agricultural lands, any changes to the legislation governing the operation of the LRC and the regulation of the ALR should seek to strengthen the legislation to ensure panel decisions give priority to the preservation of agricultural lands over and above competing interest for development or the accommodation of non-farm uses and activities on viable agricultural lands.

In addition, a clear mandate and approach should be established to enable the Commission to operate in a consistent manner across all regional panels. In this regard, one of the responsibilities of the Executive Committee should involve the monitoring of regional panel decisions to ensure a level of consistency with ALR objectives.

3.2 Delegation to Local Governments

The *Service Plan for the Land Reserve Commission* seeks to reduce the workload for the Commission through the voluntary delegation of non-farm and subdivision applications to local governments. Agreements for delegation of these decisions to local governments would be based on an approved community plan and related guidelines for local decision making. The *Service Plan* targets call for 60% of non-farm use and subdivision applications under the ALRA to be decided by local governments by the end of year 2004/2005.

The statutory framework for the establishment of delegation agreements between the Commission and local governments is currently in place. The prevailing ALRA enables the Commission to enter into an agreement with local governments to exercise some or all of the Commission's powers with respect to the approval of non-farm use and subdivision of lands within the ALR. However, to date, the Commission has not exercised this power to any extent. Staff are aware of one limited delegation agreement in the Fraser Fort George area. Currently, under the terms of the ALRA and the SCA, the City and other local governments have a decision making and administrative role in the processing of the following types of applications to the LRC:

- to include land into the ALR
- to exclude land from the ALR
- to subdivide or use land for non-farm purposes within the ALR
- to place of fill or removal of soil from the ALR

The City receives these applications and reviews requests in context with applicable local land use plans. Council authorization is generally required for these applications to proceed to the Commission. If Council authorization or support is not granted, the application does not proceed to the Commission for consideration. Defined *Special Case* applications for subdivision and non-farm use of land within the ALR are currently made directly to the LRC and are referred back to the City for comment. For SCA applications, the City may issue the permit with Commission approval of the application made to the City. A prescribed portion of each application fee is retained by the City to cover administrative costs.

The proposal for the voluntary delegation of non-farm and subdivision applications to local governments would give local government the ability to decide on these specific types of applications directly based on the terms of an approved delegation agreement. However, this power would **not** extend to decisions related to the inclusion or exclusion of lands from the reserve.

Area of Concern: Given the current regulatory environment, from Burnaby's perspective, the establishment of a delegation agreement for applications related to the subdivision or non-farm use of lands within the ALR would result in some additional City duties and responsibilities related to decision making on individual applications and compliance with provincial regulatory requirements.

At this time, however, detailed information on the proposed nature and form of potential delegation agreements with Burnaby and other local governments has yet to be developed. Depending on the scope and extent of potential regulatory changes to the prevailing legislation governing the ALR, or changes that could be incorporated into the anticipated Community Charter legislation, the volume, complexity and scope of municipal responsibilities related to processing of current application and under delegation agreements could be significantly affected. Whether or not the City has the necessary expertise and resources available to meet these potential new demands is unclear at this time.

While the City may have the ability to expand its current responsibilities to enter into a delegation agreement that would enable the City to be the decision maker for non-farm use and subdivision applications, the City would need to await the development of specific information on the legislative framework and associated guidelines for delegated agreements in order to fully evaluate the implications for the City. As indicated previously, the *Service Plan* targets 60% of non-farm and subdivision applications under the ALRA to be decided by local governments by the end of year 2004/2005.

While recognizing that local government has an important role in the preservation of agricultural lands through the community planning process, zoning control, and review of applications, it is suggested that any change to the prevailing legislation should ensure that municipal resources are not appropriated to preform provincial responsibilities related to ALR, and that local governments are able to recover costs associated with processing applications, redirect applications to the LRC, and define the scope of municipal responsibility as part of delegation agreements.

Area of Concern: Further, there is some potential that as decision making powers related to ALR applications are transferred from a provincial commission to regional panels to local governments that regional and local interests will have a greater influence on decisions than the broader public province wide interest in protecting the long term viability of agricultural lands. As such, there is a need to ensure that a sound framework is in place to guide local decisions, and that there is the mandate and ability for the LRC to track and monitor decision making at the local level to ensure that the overall objectives of the ALR are protected.

To address this concern, it is suggested that legislative changes and principles for the establishment of voluntary delegation agreements should ensure that the broader public interest in the long term preservation of agricultural lands is appropriately protected through the terms of delegation agreements, community plan requirements, and that the LRC is in a position to monitor and track local decisions to ensure that they are in keeping with the terms of the delegation agreements and the agricultural objectives of the ALR.

More specifically, in the interest of ensuring that local and regional panel decisions are monitored and in keeping with the objectives of the ALR, it is suggested that the LRC be requested to prepare an annual summary report of the effect of local and regional panel decisions related to the overriding stated objective of protecting agricultural lands for submission to the UBCM.

3.3 Deregulation and Streamlining

The *Service Plan for the Land Reserve Commission* seeks to reduce the number of regulations and applications by amending the Land Reserve Commission Act (LRCA), the Agricultural Land Reserve Act (ALRA), the Soil Conservation Act (SCA) and related regulations. Planned changes to applicable legislation will focus on streamlining application processes, broadening permitted non-farm uses, and deleting regulatory provisions. Specific strategies introduced within the *Service Plan* to achieve deregulation and streamlining objectives include elimination of the Soil Conservation Act by incorporating key provisions within ALRA regulations, and expanding the range of 'value added and complementary' permitted non-farm uses within the ALR. The Service Plan proposed to identify non-farm use and value added activities that can be permitted in the ALR without negative impacts on agricultural businesses or the long-term suitability of lands for agriculture. These changes are targeted to reduce current applications by 20% and reduce the number of regulations related to the ALR by 30% by 2004/2005.

Area of Concern: At this time, details of proposed changes to the Acts and regulations affecting the ALR have yet to be released. Depending on the scope of changes and the range of 'value added and complementary non-farm' uses permitted with the ALR, these changes could significantly detract from the use of reserve land for agricultural production purposes.

To protect the current and longer term viability of agricultural lands from competing uses, it is suggested that legislative changes that expand the range of permitted non-farm uses should not only seek to maintain the integrity of the future viability of agricultural land base, but also result in a net benefit to agriculture by supporting directly related farming and agricultural production activities.

3.4 Budget and Staffing Targets

Changes to the LRC, applicable legislation and regulations also include targets for budget and staff reductions of about one-third by 2004/2005. The following table from the *Service Plan* for the LRC shows planned reductions in total staff FTE's (full time equivalents), operating expenses and total budget allocation.

<i>Resources</i>	<i>2002/03 Estimates</i>	<i>2003/04 Plan</i>	<i>2004/05 Plan</i>	<i>Percentage Change</i>
<i>Total Staff FTE's</i>	29.5	21	20	-32.2%
<i>Other Direct Operation Expenses (\$000)</i>	1,129	876	699	-38.1%
<i>Total Budget (\$000)</i>	2,931	2,296	1,957	-33.2%

Area of Concern: Staff expect that the Commission will face significant challenges in meeting the stated objectives of the Agricultural Land Reserve while implementing planned operating and legislation changes with significantly reduced staff and operating resources. Planned reductions will likely affect the level of service and expertise available to the public, the agricultural community, and local governments and other agencies. Budget and staffing cuts may affect the ability of the LRC to monitor, audit and enforce compliance with ALR legislation, to encourage local planning and development controls which support agricultural uses, and to assist in the development of programs and policies for sustainable agriculture.

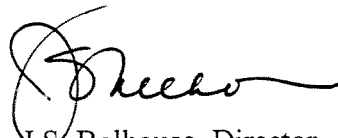
To ensure that the long term objectives of the ALR are served, adequate funding of the work of the LRC is necessary in order to protect, promote and maintain agricultural production and the viability of agricultural lands, and to support local government in managing development in a manner compatible with agricultural objectives.

4.0 CONCLUDING COMMENTS

Over the past 25 years, the protection of agricultural lands for current and future food production has been a cornerstone of local, regional and provincial land use frameworks and a key component of growth management strategies for the rapidly urbanizing areas of the province. Over the next 25 years and beyond, given continued population growth and competing pressures on agricultural lands for both urban development and agricultural production, it will be increasingly important that we continue to protect viable agricultural lands and farm operations at the local, regional and provincial levels.

The core review of the Land Reserve Commission completed by the Provincial Government has reaffirmed the public interests in protecting and preserving agricultural lands within the provincial Agricultural Land Reserve.

At the same time, however, staff have concern as to the degree to which the protection of the province's agricultural lands could potentially be affected by changes to the operating framework and legislation governing the LRC and the ALR. Given the lack of detailed information on potential changes to the legislation governing the LRC, it is not possible to fully assess the potential impact of proposed changes at this time. This report identifies some potential areas of concerns to be addressed by the province as it prepares planned changes to the ALR. As more specific information becomes available, staff will report back on resulting implications for the protection and management of designated viable agricultural lands.



J.S. Belhouse, Director
PLANNING AND BUILDING

LP/sla

- cc: City Manager
- Director Engineering
- Director Finance
- City Clerk