

Committee of the Whole (1) Report

DATE: Tuesday, December 6, 2022

WARD(S): ALL

TITLE: ENFORCEMENT OPTIONS FOR UNLAWFUL USES OF
AGRICULTURAL LANDS

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: FOR INFORMATION

Purpose

This report is in response to the direction from Council, at its September 13, 2022, meeting of the Committee of the Whole, to report back on enforcement tools to deal with illegal truck yards.

Report Highlights

- Increasingly in the City, agricultural land is being used for the outside storage of shipping containers, trailers, trucks, and other heavy equipment, in contravention of the City's Zoning and other by-laws.
- There are a number of enforcement tools available to the City in dealing with these illegal activities; however, there are also limitations to these tools.
- City staff are exploring the development of new regulatory tools to more effectively deal with illegal truck yards.

Recommendations

1. That this report be received for information.

Background

Environmental stewardship has been one of the City's strategic priorities for some time. The protection and conservation of the City's green spaces has been and continues to be an important element in high quality of life enjoyed by Vaughan residents and visitors alike. As the City continues to evolve and grow, decisions about how to balance

urbanization and conservation come under increasing scrutiny. To ensure these decisions are transparent and accountable, municipalities have an extensive development approval process through which professional City staff, members of Council, and the public can provide input and arrive at informed decisions that, on the balance, are in the best public interest.

While the decisions of Council continue to publicly demonstrate our commitment to environmental stewardship, protection of agricultural lands and the greater public good, the City has experienced instances of continued non-compliance and contravention of the City's Zoning By-law and other By-laws. For instance, land users introduce industrial uses that are inconsistent with agricultural lands and can result in a number of detrimental conditions, both for the lands being used and for the nearby surroundings, such as: nuisance, increased pollution, heavy truck traffic, soil and water contamination, property damage, waste, road damage, dust and noise.

Enforcement options include establishing of the necessary regulatory compliance regime through municipal by-laws administered and enforced in accordance with governing legislations (i.e., *Municipal Act*, *Building Code Act*, *Provincial Offences Act*, etc.), best practices, legal principles and proceedings through the appropriate levels of Ontario Courts.

Analysis and Options

The unlawful use of agricultural lands for industrial purposes is often in contravention of the City's Zoning By-law. Investigations of Zoning By-Law contraventions are more complex and require greater investigation and commitment than that of other by-laws. In addition to the often-lengthier investigations, the prosecution of offences must proceed through the court system, which is backlogged even further by the COVID-19 pandemic, to such an extreme extent that courts and prosecutors have communicated that all but the most egregious offences are being withdrawn in order to alleviate the pressure of the backlog. Despite these constraints, Enforcement Services has continued with required resource commitment and increased attention, proceeding with charges in those instances where warranted.

In addition, the regulation of these types of issues often requires a multi-pronged approach, given that they may also trigger provisions of the City's Fill By-Law, Property Standards By-Law, Traffic By-Law, etc. Enforcement Services have applied a holistic approach to enforcement, using the tools it has available under each individual By-Law. For example, under the City's Fill By-Law, the City can order the remediation of built-up berms. In another example, the City can restrict use of an illegal culvert/driveway through its Encroachment By-Law. In other instances, contravention of the *Building*

Code Act has resulted in Orders to Comply and/or Notices of Violation issued and sometimes registered on title to the lands, with notice to the owners and/or lenders. Staff have explored, and continue to explore, opportunities for greater collaboration with and assistance of other provincial authorities, such as the Ministry of the Environment, Conservation and Parks, where spills of contaminants are identified, or the Ministry of Transportation, with respect to potential excessive loads and dimensions of vehicles on roadways. Coordination with York Regional Police on the enforcement of local by-laws that place load restrictions on municipal roads is also considered and applied. Again, while these more collaborative approaches can be effective in potentially curbing certain illegal activities, these approaches, which also require provincial and/or regional cooperation, at times may not achieve the ultimate objective of eliminating the underlying land use activity.

Enforcement Services, together with Legal Services, continue to avail themselves of every tool available to attack this multi-faceted problem and will return to Council throughout 2023 with recommendations for further tools, where necessary. One of the areas being explored is the modernization of the City's Fill By-law. That is, as part of the modernization of this By-law, staff are reviewing to ensure that stronger mechanisms exist and can be implemented for addressing dumping of material and building of illegal berms. Staff are also working on an overhaul of the Road Allowance By-law that will, among other things, provide greater authority and clarity on when the City may block access to its right-of-way.

In addition to the above, staff are exploring a new regulatory By-law to designate and provide protection for areas of municipal ecological significance and intend to come to Council with a recommendation in early 2023. Although there are federal and provincial regulatory regimes that address environmental degradation, these regulations largely deal with pollution and contamination. A municipal regulatory regime designed to protect areas of municipal ecological significance, not unlike the City's current tree protection regulations, would provide the City with an effective tool to ensure the protection of the City's ecological assets, further aligning with related provincial legislation.

Staff believe that although the uses on lands are governed by the City's Zoning By-law, additional protections are required to ensure the ecological integrity of designated lands. These protections would prohibit any activity that resulted in an adverse effect to the designated land and, thus, further support the intended land uses.

In the interim, the application and use of all available regulatory tools that are intended to allow for compliant behaviour, while still providing for punitive actions for continued violations, are utilized in efforts to secure long term compliance.

Financial Impact

There are no financial impacts to the City's budget as a result of the recommendations of this report.

It is important to note that while no immediate financial implications have been identified through staff's recommendation to receive this report, the on-going complexity and increase in unlawful land uses are having a negative effect on the existing enforcement resources. This includes public obligations and related necessary enforcement attention required by a multitude of competing demands. Notwithstanding, to better address growing demands Enforcement Services continues to leverage collaborative approaches, assistance of other authorities and greater exploration of provincial court options in order to achieve successful outcomes.

Broader Regional Impacts/Considerations

There are no broader regional implications or impacts as a result of the recommendations of this report.

Conclusion

When dealing with illegal truck yards, the City has a number of existing regulatory tools to address issues. A number of by-laws can address issues like improper use of fill, encroachments, or the erection of illegal structures; however, these regulatory tools do not address the activity itself. For that the City needs to continue to rely on the provisions of the Zoning By-law and continue to manage the prolonged delays in bringing matters forward. Despite the challenges of achieving successful prosecutions of zoning charges and the aforementioned legislative limitations, proceeding with other regulatory by-laws that will assist in addressing the systemic issues that have routinely arisen from other property condition violations. Staff continue to utilize all avenues and regulatory tools available to provide greater deterrents, including, where feasible, eventually substantiating a case that will allow the City to successfully obtain an injunction on the illegal activity. While this is not an expeditious remedy, it is, under the right conditions, another effective tool in achieving compliance. As previously noted within this report, and in addition to the tools already being applied, staff believe that development of regulatory by-laws that would allow Council to designate lands across the City as areas of municipal ecological significance, would allow the City to impose greater protective measures for these lands and to apply more aggressive enforcement strategies, such as remediation by the City and recovery of all costs from the property owner in a manner like taxes. Staff intend to bring a full report and by-law to Council, for its consideration, in early 2023.

For more information, Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952.

Attachment

1. Confidential Communication from the Deputy City Manager, Legal and Administrative Services & City Solicitor to be provided prior to the meeting.

Prepared by

Rudi Czekalla-Martinez, Manager, Policy and Business Planning, ext. 8782.

Approved by

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels, Deputy City Manager
Community Services

Reviewed by

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager