

TOP SOIL REMOVAL & SITE ALTERATION BY-LAW PUBLIC MEETING #2

May 11, 2009
Council Chambers
7:00 p.m. – 9:10 p.m.

Present: Mayor Rodriguez
Councillors Dutrisac Landry-Altman
Barbeau Thompson
Berthiaume Gasparini
Cimino Dupuis

City Staff
Wm. Lautenbach, Acting General Manager of Growth & Development
Guido Mazza, Director of Building Services/Chief Building Official
Jason Ferrigan, Senior Planner
Paul Baskcomb, Manager of Community & Strategic Planning
Eric Labelle, Assistant City Solicitor
Corrie-Jo Delwo, Coordinator of Permits & Approvals Integration
Valerie Klotz, AA to the Director of Building Services/Chief Building Official

Consultant Alex Sorensen, Dennis Consultants

Media: Northern Life, Sudbury Star

Presentations

Guido Mazza gave slide presentation regarding the Draft Top Soil Removal & Site Alteration By-law describing the evolution of the draft by-law to date. In recent consultations, local topsoil producers have expressed concerns with the draft by-law, including the scope, requirements and cost implications. The producers suggest that the lands purchased or leased for the purpose of top soil removal be subject to the terms and conditions of the Topsoil Removal By-law passed by the former Town of Valley East for a period of five years, after which time, they would be subject to the draft by-law. Some possible solutions to the concerns raised by the topsoil removal industry would be to:

- Recognize all operations under development
- Use January 1, 2009 as a cut off date
- Have 90 days to file for an Existing Operation Permit
- Include a Modified Control Plan
- Match the permit life to the project schedule (5 year maximum)
- Clarify permit transferability provisions
- Broaden appeal rights

This system could be implemented in a number of ways as follows:

- Option #1 Apply to existing stockpiles, reduced Control Plan, 5 year maximum
- Option #2 Apply to existing stockpiles plus 5 hectares, reduced Control Plan, 5 year maximum, + 5 ha/5 years – full Control Plan
- Option #3 Apply to the entire parcel, full Control Plan

Guido noted that following discussions with various stake holders the sites in the Agricultural Reserve have been reduced from 12 sites to 9.

The floor was opened to presentations and comments from the attending public.

Cathy Orlando-Mather

Ms. Orlando-Mather, MSc, BEd, gave a presentation entitled “A Perspective From a Climate Project Canada Volunteer”. As a mother and volunteer, she stressed the importance of not allowing any further top soil stripping in the Agricultural Reserve and felt that the grandfathering clause for the by-law should go as far back as 2006. She also felt that any topsoil removed should be “put back”. She noted that we should be considering the future food growth for our children and grandchildren while creating a “gold standard” top soil and site alteration by-law that is sustainable.

Mike Soenens

Mr. Soenens, a member of the Agricultural Advisory Panel, gave a slide presentation on their behalf. His presentation outlined some of the work the Advisory Panel undertook regarding the selection of the Agricultural Reserve and the draft top soil by-law. The committee would like to see Sudbury’s by-law set the “gold standard” for top soil protection in Canada. They would also like to see the grandfathering clause go back to 2006. He pointed out that some top soil has already been stripped in the Agricultural Reserve. Even though this by-law should have been in effect a long time ago, it is better late than never.

Gabe Belanger

Mr. Belanger noted that farmers in Sudbury are a “dying breed” and that farming activities have reduced significantly from the past. As a business owner and a top soil producer, he would like to work with farmers to help increase farming in the area. He suggested that perhaps farmers should examine raising pumpkins, cabbages, mink, bison, exotic birds such as ostriches or horses for meat. As a top soil producer he has helped beautify the City by supplying top soil for such projects as College Boreal and has brought jobs to the City.

Neil Tarlton

Mr. Tarlton gave a slide presentation on behalf of the Ontario Federation of Agriculture. He stressed the importance of having adequate top soil for use by farmers and for the City to look towards future agriculture possibilities instead of focusing on the present. He cited a famous quote “a nation that destroys its top soil destroys itself”.

He also noted that there are approximately 160 farms with Sudbury’s farm sales equal approximately \$9 million each year. The value of top soil removed per acre is approximately \$8,604 (price per cubic yard is \$8.00). A farmer working that land for 20 years would generate \$17,300. It doesn’t make economical sense to sell the soil for short term gain. The top soil industry is not sustainable but farming is. As a point of interest, he noted that the Municipal Property Assessment Corporation (MPAC) taxes agricultural Class 6 land 25% less than the regular rate.

With respect to the previous options developed by staff, he felt that Option #1 was measurable, Option #2 was not and Option #3 had wide open exemptions that could cause problems.

Sudbury has a world-wide excellent reputation for its re-greening efforts to date through the Land Reclamation Program and it would be going against those efforts to promote stripping of top soil.

Jim Found

Mr. Found, member of the Agricultural Advisory Panel, noted that Ontario Hydro is considering conversion from coal fired to biomass propulsion. In 10 years or so, there may be a major industry providing crops and wood for this activity.

Guy Beaulieu

Mr. Beaulieu spoke on behalf of Gabe Belanger and top soil producers noting that Sudbury is very different from southern Ontario because our topography consists of a lot of rock. He feels that our draft by-law was modeled from a southern Ontario by-law and is still too stringent.

Sudbury is hosting the summer games next year and his firm has been tasked with preparing the Laurentian University track for the event. This high profile event projects Sudbury’s image and without top soil this greening project couldn’t take place. They need to provide a special mixed soil and the draft by-law doesn’t mention mixing facilities.

The terms outlined in Schedules A and B are stringent and will put the small top soil producers out of business. Schedule A, Condition “o” may cost producers between \$10,000 to \$30,000. Condition “k” may cost them between \$4,000 to \$8,000. These terms are prescriptive in nature. Schedule A, Condition 3, whereby the Director can waive the necessity of a Control Plan is not fair. The same rules should apply to all. Schedule B, clauses d, e, f, g and h, are all measures on adequate performance which is prescriptive and may cost in the line of \$10,000 to \$30,000. Clause g, may cost \$50,000 to \$60,000, not \$20,000 that the City is projecting.

The draft by-law should only deal with top soil, not site alteration or placing of fill. Top soil producers would like to sit down with City staff and re-work the by-law to focus just on top soil.

He suggested that: the nine sites in the Agricultural Reserve be grandfathered; that the by-law be limited to topsoil removal only; that soil removal parcels in rural areas in the former Town of Valley East have a transition period of 5 years under the terms and conditions of the former Town of Valley East by-law. He also offered to meet with City staff and select Councillors to refine the draft by-law.

Ron Bradley

Mr. Bradley stated that he has always been a supporter of the City’s re-greening efforts while he was a member of Council and at his work at INCO. If we don’t do anything to protect top soil now, the generations to come will suffer.

The farming community was very disappointed when the draft by-law was deferred at the Priorities meeting of April 22nd, because of all the hard work that went into drafting the by-law. He noted that northern Ontario is predicted to be the prime agricultural area due to climate change. Stripping soil jeopardizes our ability to grow food.

Top soil removal operations shouldn’t be taking place in residential areas as the dust generated from this activity is a major problem. No consideration is shown to residents who live near these operations.

Lionel Brosseau

Mr. Brosseau owns a small top soil production company. He noted that some producers will be able to live with the terms of the proposed by-law and some won’t. If the rules are strictly applied, some will have to get out of the business. He has also supplied top soil to the City in the past. He asked the City watch out for the small producers.

Rene Grandmaison

Mr. Grandmaison, long term resident of Sudbury, is a professional engineer who teaches soil related courses at College Boreal. He stressed that it takes many thousands of years to produce mature soil. We won't be able to replace the soil that is stripped in our life time. He wondered how long we will allow our land to become a dust bowl.

He expressed a concern as to how top soil removal will take place. Trucking will create dust and traffic snarls that will affect his business (a golf course). We have to take a serious look at the situation and the impact this will have on our community and generations to follow.

Jim Belanger

Mr. Belanger is sympathetic to local farmers however he is a small top soil producer in Rayside-Balfour and feels that people should be able to do what they want with their own property. He has spent a lot of money on top soil equipment and should be allowed to continue with his business. Having to hire an Engineer shouldn't be necessary. If there is no top soil available in Sudbury, people will go elsewhere for the product.

Sudbury is not like southern Ontario and is not a large farming community. Top soil producers also form part of the community. The by-law should not be passed in its current format. If it is, costs will prove too prohibitive and he will be driven out of business even though his operation is not in the Agricultural Reserve. He pointed out that top soil is used to grow trees, etc. Sudbury does need a by-law but it should address everyone's needs and concerns properly.

Monique & Mark Lafreniere

Mr. & Mrs. Lafreniere, who own a top soil production business, noted that the draft by-law is a 3-in-1 by-law covering top soil removal, placing of fill and site alteration. There should be only 1 by-law dedicated to top soil removal.

They have had a part in the re-greening of Sudbury with involvement in such projects as Bell Park, Laurentian University, the hospital and ball fields. They asked everyone to try to picture these areas without grass.

The top soil industry provides employment opportunities. This restrictive by-law may force companies to lay off people or go out of business and possibly double the average price of top soil to \$800 per load.

They wondered if the draft by-law was copied from the City of Brampton's by-law and pointed out that Brampton doesn't have the amount of rock Sudbury does. Our by-law should reflect Sudbury's unique topography. Schedule A should be completely

removed. Schedule A, Section 3 allows the Director to pick and chose who should comply which is unfair. Sections 18 and 15 of the draft by-law are not acceptable. How can producers promise that a site will look better than before?

If the by-law is passed, any land they have purchased or leased for top soil removal should be grandfathered for 5 years and they should be allowed to follow the terms of the former Town of Valley East by-law.

Myrna Gray

Ms. Gray, from Omega Industries in Valley East, felt that this matter came about rather quickly there was not much warning about extra fees, etc. She understands the issues of re-greening and responsible top soil removal. She's part of a small operation and feels that if nobody can afford to produce then the by-law severely restricts the top soil industry. Local farming isn't viable anyway. Top soil can be recycled into lots and gardens. This product can be re-used. If the City puts too high a price on production, top soil producers will not be able to continue with their operations.

Vic Bene

Mr. Bene doesn't support the by-law in its current format as it is too large and not clear. It would be better if it just focused on top soil. Producers shouldn't have to have an engineer get involved in the Control Plan.

He noted that we can't re-green without top soil. We are dumping fill into holes when we should be covering them with greenery. He feels that \$800/load is too much to have to pay for top soil.

Jean Lamontaigne

Ms. Lamontaigne is a resident of Azilda who lives beside a site where topsoil and clay has been removed. There is big pool of stagnant water on this site. Top soil removal should not take place in residential areas. She feels it's acceptable to take some soil but what happens with the land once it has been stripped? The by-law should be examined very carefully and should be fair to both sides (farmers and top soil producers).

Violet Lanthier

Cathy Orlando-Mather spoke on Ms. Lanthier's behalf. Soil stripping is taking place in Ms. Lanthier's area. She feels there should be a moratorium on all stripping activities until the by-law is passed. She expressed concern regarding erosion, habitat loss and dust.

Mike Soenens

Mr. Soenens gave a slide presentation on behalf of the Sudbury District Soil & Crop Improvement Association. Their association is interested in the responsible management of soil, water, air and crops. They feel that Sudbury's top soil should be preserved and all stripping activities should be terminated. We should buy and eat local. By allowing top soil stripping to continue we are creating more land reclamation opportunities, which goes against the premise of re-greening. Food production cannot survive without a land base and there is already a shortage of farm land in Sudbury.

Claire Viau

Ms. Viau resides on Regional Road #35, Azilda. She has been approached by a top soil producer to remove top soil from some of her land. Since her land is in the Agricultural Reserve, she cannot split her property and give it to her sons. She noted that the property in front of hers has been stripped 10 to 15 years ago and she invited anyone to come out and see how it has been re-greened with trees and shrubs. She cannot do anything else but lease or sell her land for top soil stripping. Stripping land doesn't necessarily mean the creation of an eye sore.

Naomi Grant

Ms. Grant spoke on behalf of the Coalition for a Livable Sudbury. They are in support of preserving top soil within the Agricultural Reserve. She noted that of the previous options developed by City staff, Option #1 is the only option that is consistent with the City's Official Plan and the provincial government mandate. Council should choose this option.

The Top Soil Advisory Panel's work thus far has given clear guidance. The protection of future generations' food source is in Council's hands. They must consider the long term benefits.

Mr. Mazza thanked those who attended and spoke for their input.

Next Steps

The issues raised at this meeting will be taken into consideration when staff re-works the options to be presented to Council. All efforts will be made to come up with a balance that addresses both sides.

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