

Council given options to preserve Linley Valley West

By [Toby Gorman - Nanaimo News Bulletin](#)

Published: February 16, 2012 12:00 PM

Updated: February 16, 2012 12:05 PM

There are alternatives to protect a portion of Linley Valley from development without the city having to pay market value.

Save Linley Valley West, a group of Nanaimo residents concerned that privately owned parcels of the unique ecosystem could be lost forever because they are zoned for residential development, suggests city council has several options beyond purchasing the property outright.

Ben Arsenault, from the University of Victoria's Environmental Law Clinic, told council Monday there is financial value in protecting the land, and that rezoning Linley Valley West with a parks and open spaces designation would be consistent with the city's official community plan.

"No one has ever regretted establishing Stanley Park in Vancouver," said Arsenault. "The founders of Beacon Hill are now unanimously praised for their foresight. Similarly, future generations of Nanaimo residents will thank councillors that take such a visionary view of the future of Linley Valley."

Linley Valley West includes about 162 hectares of marshlands, coastal Douglas fir forest, beaver ponds and wildlife habitat that is home to endangered great blue heron and red-legged frog, among other species. Its market value was assessed at about \$6.6 million.

Development has already begun to creep into areas of the valley, most notably along Rutherford and Turner roads.

Nanaimo Mayor John Ruttan said he has a desire to protect the park, but the price tag is currently beyond the city's ability to pay.

"I think Linley Valley is a wonderful piece of land and I can assure you I'd like to do everything within my power to preserve it," said Ruttan. "Where the issue comes in, of course, is that we may have to reimburse the people who have purchased the land ... and to do otherwise would invite a massive amount of litigation."

Two years ago, the city purchased a portion of Neck Point Park for \$3.1 million, depleting its property acquisition fund.

Nanaimo puts aside about \$800,000 annually for property purchases, and the parks master plan indicates seaside properties are top priority while forested properties are the third priority behind lakefront property.

"It's a situation where there are lots of good property acquisitions and only so much money," said Al Kenning, city manager.

Arsenault suggested that to preserve Linley Valley West while funds are raised, the city could pass an amended zoning bylaw under the Parks, Recreation and Culture One (PRC-1) zone, which facilitates nature park use and does not permit residential development.

"The only restriction courts place on municipalities' zoning power is that it be exercised for a proper public purpose," said Arsenault. "Providing parkland ... is considered to be a service that municipalities provide to their citizens under the Community Charter."

Jennifer O'Rourke, spokeswoman for Save Linley Valley West, said a recent paper by lawyer Deborah Curran states "local governments do not have to compensate landowners for any reduction in the value of land or for any loss of damage that results from adopting an OCP or zoning bylaw," and that "changing zoning for legitimate community purposes will not attract any liability."

"It can be rezoned but still left in private hands, which can keep development uses at bay while we raise money to protect the land," said O'Rourke.

She added that by developing the property, the city would likely have to spend as much or more as the land is worth today in future city services, such as a fire truck apparatus built to handle fires for buildings and houses on steep slopes.

Arsenault suggests the city initiate a parcel tax of \$10 annually for residents to generate a parkland acquisition fund, noting that in the long run, green spaces have been proven to be economically beneficial to municipalities because they provide a better quality of life and increase the city's tax base through higher property values.

He also pointed out that protecting Linley Valley meets several goals of the OCP, including: Goal 1, to manage urban growth; Goal 4, to promote a thriving community; and Goal 5, to protect and enhance the environment.

"I think council treated us a potential partners in this initiative and we're on the first step of the first rung of the ladder," said O'Rourke. "It's up to us to show council the alternatives."

