



Report to: Development Services Committee

Meeting Date: February 11, 2019

SUBJECT: Whistle Cessation on Stouffville GO Line – Three Rural Crossings
(Ward 5)

PREPARED BY: Peter Chan, P.Eng., Capital Works Engineer, ext. 4055

REVIEWED BY: Alain Cachola, P.Eng., Senior Manager, Infrastructure & Capital
Works, ext. 2711

RECOMMENDATION

- 1) That the report dated February 11, 2019 entitled “Whistle Cessation on Stouffville GO Line – Three Rural Crossings (Ward 5)” be received; and,
- 2) That the Mayor and Clerk be authorized to enter into agreements and/or a memorandum of understanding (as required) with Metrolinx and York Region for construction of crossing safety features and implementation of whistle cessation at three (3) rural crossings (Elgin Mills Road, 9th Line and 19th Avenue) on the Stouffville GO Line, in a form satisfactory to the City Solicitor and the Chief Administrative Officer (CAO); and,
- 3) That the Mayor and Clerk be authorized to enter into At-Grade Crossing Modification Agreements, Crossing Agreements or similar agreements (as required) with Metrolinx for modification of the existing crossings to incorporate new crossing safety features and to implement whistle cessation at three (3) rural crossings on the Stouffville GO Line, in a form satisfactory to the City Solicitor and the CAO; and,
- 4) That the Mayor and Clerk be authorized to enter into the Metrolinx Liability/Insurance/Indemnity Agreement or similar agreement (as required), which requires the road authorities to obtain insurance and assume full responsibility/liability for any claims, damages, etc., resulting from incidents that arise from or would not have arisen but for whistle cessation, in a form satisfactory to the City Solicitor and the CAO; and,
- 5) That Schedule “A” to the City’s Train Whistle Cessation By-law 2018-19 be amended to include the Elgin Mills Road crossing and the 19th Avenue crossing; and,
- 6) That the Regional Municipality of York be requested to confirm 100% funding (budget:\$43,159) and 100% liability for grade rail crossing at 9th Line (Regional Road 69), and requested to enter into an agreement or memorandum of understanding (as required) with the City of Markham and Metrolinx for construction of crossing safety features and implementation of whistle cessation at the 9th Line crossing, and enter into any additional necessary agreements with Metrolinx for implementation of whistle cessation at the 9th Line crossing; and,

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- 7) That the Regional Municipality of York be requested to implement a 24-hour whistle cessation by-law for the 9th Line crossing; and,
 - 8) That the Regional Municipality of York be requested to pass a Regional Council resolution for the implementation of whistle cessation for the 9th Line crossing; and further,
 - 9) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

BACKGROUND

At the Development Services Committee meeting on November 21, 2016, Staff was directed to review and report on other crossings that may be appropriate for whistle cessation. The remaining three rural crossings on the Stouffville Line, namely Elgin Mills Road, 9th Line and 19th Avenue, were identified as potential crossings for implementation of whistle cessation. Staff was directed to refer these three crossings to a future budget process. The purpose of this report is to seek Council's authority to proceed with the planning, design and construction of safety features at these three crossings for the implementation of whistle cessation.

DISCUSSION

1. Agreements or MOU for the Construction of Crossing Safety Features (with Metrolinx and York Region)
Staff is seeking Council's authorization for the Mayor and Clerk to enter into agreements and/or memoranda of understanding (MOU) (as required) with Metrolinx and York Region for the construction of crossing safety features to implement whistle cessation at the three (3) rural crossings on the Stouffville GO Line, similar to the terms of the MOU executed on January 1, 2018 for the 13 urban crossings on the Stouffville Line, and in a form satisfactory to the City Solicitor and CAO.
2. At-Grade Crossing Modification Agreements (with Metrolinx)
As the three (3) rural grade crossings will be modified to accommodate whistle cessation, there will be new arrangements and responsibilities for the ownership, operations and maintenance of these new or modified safety features. Metrolinx requires the road authorities to enter into new crossing agreements or modify existing crossing agreements to reflect the safety upgrades. Therefore, Staff is seeking Council's authorization for the Mayor and Clerk to enter into At-Grade Crossing Modification Agreements, Crossing Agreements or similar agreements (as required) with Metrolinx for the crossings that are within Markham's jurisdiction, in a form satisfactory to the City Solicitor and CAO. These agreements may need to be executed prior to the start of construction of the safety upgrades, if required by Metrolinx. York

Region will also need to enter into these agreements for road crossings under the Region's jurisdiction. These At-Grade Crossing Modification Agreements / Crossing Agreements are under the jurisdiction of the City's Operations Department.

3. Metrolinx Liability/Insurance/Indemnity Agreement (between Metrolinx and Markham/Region)

As indicated in the September 2015 and May 2016 Staff reports, all road jurisdictions requesting whistle cessation on Metrolinx corridors are required (by Metrolinx) to enter into the Metrolinx Liability/Insurance/Indemnity Agreement, or similar agreement (as required). As indicated previously, the Liability/Insurance/Indemnity Agreement requires the road authorities to obtain insurance and assume full responsibility/liability for any claims, damages, etc., resulting from incidents that arise from or would not have arisen but for the whistle cessation. This agreement needs to be executed prior to Metrolinx notifying Transport Canada that it has arranged to have whistling ceased at these crossings. The City entered into this agreement on January 1, 2018 with Metrolinx for the 13 urban crossings on the Stouffville Line. Therefore, Staff is now seeking Council's authorization for the Mayor and Clerk to enter into the Metrolinx Liability/ Insurance/Indemnity Agreement or similar agreement (as required), in a form satisfactory to the City Solicitor and CAO for the 3 rural crossings.

4. Under the Transport Canada Rail Safety Act, municipalities have to follow the "Procedure for Train Whistling at Public Grade Crossings" before they can implement whistle cessation. Step 6 of this eight-step procedure requires municipalities to pass a Council resolution declaring that it agrees that whistles should not be used. Council passed the "Train Whistle Cessation By-law" (By-law 2018-19) on April 3, 2018 for the 7 urban crossings on roads under the City's jurisdiction. Council is requested to amend Schedule "A" of By-law 2018-19 to include the crossings under the City's jurisdiction at Elgin Mills Road and 19th Avenue.
5. As the 9th Line crossing is under the jurisdiction of York Region, York Region is requested to fund this crossing and assume the liability as per the Metrolinx Liability/ Insurance/Indemnity Agreement. The Region is requested to enter into a tri-party agreement or MOU (as required) with Metrolinx and Markham for the construction of crossing safety features to implement whistle cessation. The Region will also enter into its own Metrolinx Liability/Insurance/Indemnity Agreement or similar agreement (as required) for the 9th Line crossing.

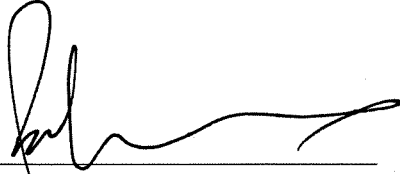
FINANCIAL CONSIDERATIONS:

Staff has included a budget for this project in the 2019 Capital Budget Process (Project Number 19260) in the amount of \$173,500. Markham's share is estimated at \$130,341 and the Region of York's share at \$43,159.

BUSINESS UNITS CONSULTED AND AFFECTED:

This report was reviewed by the Finance (Risk Management), Operations and Legal Departments and their comments have been incorporated into this report.

RECOMMENDED BY:

A handwritten signature in black ink, appearing to read 'Brian Lee', written over a horizontal line.

Brian Lee, P.Eng.
Director of Engineering

A handwritten signature in black ink, appearing to read 'Arvin Prasad', written over a horizontal line.

Arvin Prasad, M.C.I.P., R.P.P.
Commissioner, Development Services

Figure No. 1 – key Map to Three Rural Crossings
Attachment – Schedule ‘A’ to By-Law 2018-19

