



Report to: Development Services Committee

Meeting Date: March 19, 2018

SUBJECT: Whistle Cessation on Stouffville GO Line – March 2018 Progress Update (Wards 3, 4, 5 & 8)

PREPARED BY: Alain Cachola, P.Eng., Senior Manager, Infrastructure and Capital Works, ext. 2711

REVIEWED BY: Brian Lee, P.Eng., Director of Engineering, ext. 7507

Recommendations

- 1) That the report entitled “Whistle Cessation on Stouffville GO Line – March 2018 Progress Update (Wards 3, 4, 5 & 8)” be received;
- 2) And that the draft By-law substantially in the form attached hereto as Attachment “B” be approved and placed on the next City of Markham Council agenda for adoption;
- 3) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

This report provides an update on the progress of the design and construction of the crossing safety upgrades for whistle cessation at 13 crossings on the Stouffville GO Line. This report also requests Council to approve a by-law that prohibits train whistling at the City crossings listed in Attachment “A”, as required by the Transport Canada “Procedure for Eliminating Whistling at Public Grade Crossings”.

Background

Staff has provided various updates to Development Services Committee (DSC) on Whistle Cessation in 2017 (March 20, June 27, and September 26). The City’s Train Anti-Whistling webpage was also updated in November, 2017 with the latest progress information and links to all the Staff updates to DSC.

Discussion

Time Schedule for Design, Tender and Construction

Package 1 - Construction

Since the last update at the September 26, 2017 DSC meeting, the City, through a competitive process has retained Aqua Tech Solutions Inc. to carry out construction of the crossing safety upgrades at the 5 crossings in Package 1 (Eureka Street, Kennedy Road North, Main Street Markham, Castlemore Avenue, and Major Mackenzie Drive E.). To date, the contractor has completed all of the civil work (including the maze barriers), and the remaining works are signs and landscaping which are scheduled to be completed in early Spring.

Package 2

The original six crossings in Package 2 (Highway 7, Main Street Unionville, McCowan Road, Snider Drive, 16th Avenue and Bur Oak Avenue) are in the 100% design stage with the exception of the 16th Avenue crossing. In order not to delay the construction tendering of Package 2, the 16th Avenue crossing has been moved to Package 3.

In summary, the following locations will be included in the Package 2 construction tender scheduled for this month:

- Highway 7
- Main Street Unionville
- McCowan Road
- Snider Drive
- Bur Oak Avenue

Package 3

As reported at the September 26, 2017 DSC meeting, the Kennedy Road (South) design requires significant design and construction coordination with Metrolinx, where a new set of tracks has recently been added as part of the Metrolinx's Regional Express Rail program. A number of meetings have taken place between Metrolinx and City Staff, and it has been determined that there is a window of opportunity for the City to construct the safety upgrades at this location within a two month window between April and June. This will enable the City to procure a general contractor for this work through a competitive process instead of using the contractor of Metrolinx. The Denison Street crossing, and the deferred 16th Avenue crossing will be carried out under the same construction tender.

In summary, the following locations will be included in the Package 3 construction tender to be tendered in April:

- Denison Street
- 16th Avenue
- Kennedy Road (South)

Additional 3 Public Crossings

Staff was directed (at the November 21, 2016 DSC meeting) to include 3 additional crossings for whistle cessation (i.e. Elgin Mills Road, 9th Line and 19th Avenue). Staff will continue to work with Metrolinx and third party consultants to carry out the crossing safety assessment for whistle cessation for these 3 additional locations.

Memorandum of Understanding and Liability/Insurance/Indemnity Agreement

At the June 27, 2017 Council meeting, Council authorized the Mayor and Clerk to enter into agreements and/or memoranda of understanding with Metrolinx and York Region for the construction of the crossing safety upgrades and implementation of whistle cessation at 13 crossings on the Stouffville GO Line (the “Memorandum of Understanding”), and to enter into a liability/insurance/indemnity agreement with Metrolinx in connection with the City crossings listed in Attachment “A” (“Metrolinx Liability/Insurance/ Indemnity Agreement”).

The Memorandum of Understanding and Metrolinx Liability/Insurance/Indemnity Agreement have been finalized by the City, Metrolinx and York Region, and are being circulated for execution.

Markham By-law for Implementation of Whistle Cessation

The Transport Canada “Procedure for Eliminating Whistling at Public Grade Crossings”, Step 6, requires the following:

Step 6

Municipality passes a resolution declaring that it agrees that whistles should not be used in that area, thereby prohibiting train whistling.

Once it is deemed that the provisions of the *Grade Crossings Regulations* and Standards are satisfied, the municipality must declare, by resolution, that it agrees that train whistles should not be used at the prescribed crossing(s). A copy of the resolution should be sent to the railway company and all relevant associations or organizations, including the head quarters of Transport Canada’s Rail Safety Directorate (railsafety@tc.gc.ca).

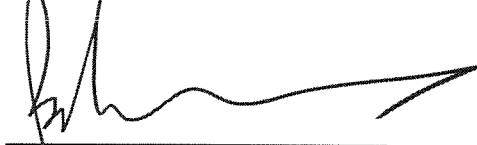
The City and York Region are required to adopt a bylaw to implement whistle cessation at the prescribed crossings when the crossing safety upgrades are complete (and meet the whistling cessation requirements specified in the *Grade Crossings Regulations* of the *Railway Safety Act* and the Transport Canada Grade Crossing Standards).

Staff recommend that Council approved the draft By-law substantially in the form attached as Attachment “B”, so that whistle cessation shall apply to a particular crossing when the crossing safety upgrades are complete for that crossing, and the railway has issued special instructions in respect of that crossing pursuant to Rule 14(1)(iv) of the *Canadian Rail Operating Rules*, which relieves the railway company of its obligation to sound a whistle at that crossing.

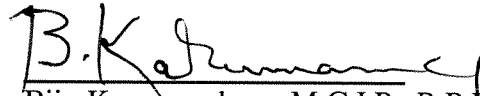
BUSINESS UNITS CONSULTED AND AFFECTED:

This report was reviewed by the Legal Department and its comments have been incorporated into this report.

RECOMMENDED BY:



Brian Lee, P. Eng.
Director of Engineering



Biju Karumanchery, M.C.I.P., R.P.P.
Acting Commissioner, Development Services

Attachments:

Attachment "A" – City (Anti-Whistling) Crossing Locations

Attachment "B" – Draft Whistle Cessation By-law

Attachment "A"
City (Anti-Whistling) Crossing Locations

Castlemore Avenue
Bur Oak Avenue
Main Street Markham
Snider Drive
Main Street Unionville
Eureka Street
Denison Street

Attachment "B"
Draft Whistle Cessation By-law

BY-LAW 2018-

Train Whistle Cessation By-law

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended ("Municipal Act") provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and,

WHEREAS Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority; and,

WHEREAS Section 11(2)6 of the Municipal Act provides that a municipality may pass by-laws in the interest of the health, safety and well-being of persons; and,

WHEREAS the *Railway Safety Act, R.S.C. 1985, c.32 (4th Supplement)* (the "Railway Safety Act") legislates to ensure the safe operation of railways within Canada; and,

WHEREAS the Railway Safety Act provides that a Council of a municipality may, in appropriate circumstances, prohibit the use of the whistle on any railway equipment in an area within the municipality;

AND WHEREAS the Council of The Corporation of the City of Markham deems it desirable to pass a by-law to prohibit the use of train whistles at specified railway/roadway crossings situated within the boundaries of the City of Markham.

NOW THEREFORE the Council of The Corporation of the City of Markham enacts as follows:

1. By-law Title

This By-law may be referred to as the "Train Whistle Cessation By-law".

2. Train Whistle Prohibition

Except as hereinafter provided, the sounding of whistles on any railway equipment at the railway/roadway crossings within the boundaries of the City of Markham listed in Schedule "A" attached hereto and forming part of this By-law (the "Crossings"), is hereby prohibited.

3. Exceptions

Section 2 of this By-law shall not prohibit the sounding of a whistle if:

- (1) there is an emergency;
- (2) any rules in force under section 19 or 20 of the *Railway Safety Act, as amended*, require its use; or
- (3) a railway safety inspector orders its use under section 31 of the *Railway Safety Act, as amended*.

4. Application of By-Law

This By-law shall apply to a particular railway/roadway crossing listed in Schedule "A" on the date upon which the railway company has issued special instructions in respect of that crossing pursuant to Rule 14(1)(iv) of the *Canadian Rail Operating Rules*, which relieves the railway company of its obligation to sound a whistle at that crossing.

5. Enactment

This By-law shall come into force and effect on the date of its passing and enactment.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS

XXTH DAY OF XXXXXX, 2018

KIMBERLEY KITTERINGHAM,
CITY CLERK

FRANK SCARPITTI,
MAYOR

Schedule "A"

<u>Roadway</u>	<u>Mileage</u>
Castelmore Avenue	Mileage 45.47
Bur Oak Avenue	Mileage 45.74
Main Street Markham	Mileage 46.95
Snider Drive	Mileage 47.17
Main Street Unionville	Mileage 49.78
Eureka Street	Mileage 49.94
Denison Street	Mileage 51.98