

# Anti-Whistle Resolution - Agreement

## 38 Avenue/CN Railway Crossing

### Recommendation:

That Transportation and Infrastructure Committee recommend to City Council:

That the cessation of railway whistling at the proposed rail crossing at 38 Avenue, east of 17 Street within the Maple Neighbourhood (Mile 7.21 Camrose Subdivision) be approved, and that Administration proceed with an Anti-Whistle agreement with CN Rail for this rail crossing, and that the agreement be acceptable in form and content to the City Manager.

### Report Summary

**A resolution by the government of a municipality is required pursuant to section 23.1 of the *Railway Safety Act*, R.S.C. 1985, c. 32, in order for Administration to pursue the cessation of train whistles at the proposed rail crossing at 38 Avenue east of 17 Street within the Maple Neighbourhood (Mile 7.21 Camrose Subdivision).**

### Report

The 38 Avenue crossing is to be built during the 2011 construction year. Train whistling will be required at the crossing as per Transport Canada's Canadian Rail Operating Rules. There are opportunities to have this requirement eliminated by agreement between the municipality and the railway to seek an exemption from Transport Canada

pursuant to the Procedure and Conditions for Eliminating Whistling at Public Crossings.

The background respecting the crossing is as follows:

- City Council approved the Maple Neighbourhood Structure Plan in April 2010. Stage one of the development establishes a new rail crossing along 38 Avenue, east of 17 Street. The Maple Neighbourhood Structure Plan included requirements for developers to provide noise mitigation improvements along the west boundary of the neighbourhood in consideration of the vicinity of the existing CN Rail line.
- The first subdivision was approved by Administration on April 7, 2011. The conditions for noise mitigation identified within the Neighbourhood Structure Plan have been included within the subdivision conditions and the developer intends on following through with all requirements. Transportation Services added an additional condition that requires the developer to conduct a Whistling Cessation Study with submission to the City for review and approval.
- A Whistling Cessation Study was completed by the developer's consultant in April 2011. The study assessed both the current location in context of the proposed design and construction improvements. The study confirms that the crossing will operate safely without the need for whistling for each train and the proposed location meets the requirements established by Transport Canada with limited alterations (minor tree brush

removal). Administration supports this assessment.

- Transport Canada's Canadian Rail Operating Rules requires rail operators to use engine whistle signals at the approach of all road crossings as an implement to rail safety. Rule 14 includes the provision of "special instructions" that include signal prohibition in whole or in part. Transport Canada does not generally support the prohibition of engine whistling as a first step because whistling is an important part of rail safety.
- Transport Canada does provide Municipalities with a Guideline for "Procedures and Conditions for Eliminating Whistling at Public Crossings." The design of the new 38 Avenue rail crossing includes flashing lights, bells, and gates and will meet the criteria and conditions of these guidelines for elimination of whistling.
- Section 23.1 sets out the process municipalities must follow in seeking whistle cessation. A municipality must pass a resolution declaring that it agrees such whistles should not be used in an area and before passing the resolution:
  - Consult with the railway company that operates the relevant line.
  - Notify relevant associations and organizations as described in Schedule C (Attachment 1).
  - Give public notice of its intention to pass the resolution.

Consultation with the railway has been continuous throughout this process. Notification of relevant organizations and associations has been completed. Public notice was

given via advertisement in a local newspaper on June 25, 2011, and July 2, 2011.

- The City has submitted the Whistling Cessation Study to CN Rail for review and approval. Subsequent to City Council passing the contemplated resolution, the City and CN will enter into an agreement to proceed to Transport Canada to cease whistling as trains cross the new 38 Avenue crossing. If Transport Canada confirms the assessment that the crossing meets the conditions for elimination of whistling at the crossing, CN will be given permission to cease whistling.
- Having whistling eliminated at the proposed crossing places greater emphasis on the other crossing controls to provide an acceptable level of safety to the general public. Controls at this intersection are similar to other existing crossings.

### Public Consultation

The guidelines established by Transport Canada for anti-whistling require public notification through advertising and letter notices to specific relevant organizations. Administration has completed the required public notifications in accordance with Transport Canada's guidelines.

### Legal Implications

- The 38 Avenue rail crossing meets the conditions established by Transport Canada for eliminating whistling at public crossings.
- Administration will work together with CN to come to a mutually satisfactory agreement to take forward to Transport Canada.

- The recommendation complies with the requirements under section 23.1 of the *Railway Safety Act*.

### **Justification of Recommendation**

A resolution by the government of a municipality is required as a first step to eliminating the use of train whistles at the proposed rail crossing at 38 Avenue east of 17 Street; thereby, having a positive impact on the quality of life in the surrounding residential neighbourhoods. Based on professional assessments completed, the proposed rail crossing will operate within the context of national guidelines established by Transport Canada for whistling cessation. An agreement with CN Rail is required to proceed to Transport Canada to request a whistle cessation at 38 Avenue east of 17 Street.

### **Attachments**

1. Procedure and Conditions for Elimination of Whistling at Public Crossings
2. Key Plan

### **Others Reviewing this Report**

D. H. Edey, General Manager,  
Corporate Services