

DATE: August 29, 2013

TO: Mayor and Members of Council

RE: **Deputation By Dan Tersigni – Whistle Cessation**
Committee of the Whole Meeting – September 3, 2013
Ward 1

Recommendation

The Commissioner of Engineering and Public Works recommends:

1. That the deputation by Dan Tersigni be received, and
2. That staff prepare a report for a future Finance and Administration Committee, in order that the issue of train whistle cessation may be considered as part of the 2014 Budget Deliberations.

Background - Analysis and Options

The Huntington Road, Kirby Road and Cold Creek Road rail crossings are all on the Canadian Pacific (CP) Mactier Subdivision, as shown in Attachment 1. These three crossings are all at grade crossings.

The procedures for requesting train whistling cessation are outlined within the September 22, 2008 Committee of the Whole Report (Item 15, Report No. 44). Refer to Attachment No. 2.

There are currently no agreements in place for train whistle cessation at any at grade crossings. Any consideration to cease train whistling at a particular railway crossing, will require additional safety improvements including, but not limited to, a detailed safety assessment/review, new safety measures (such as flashing lights and gates) as well as additional insurance premium costs. Costs associated with this work can approach \$350,000 per location.

In view of the above, staff will review the issues raised by the deputant and bring forward a report to a future Finance and Administration Committee, given the significant financial requirements associated with these initiatives.

Attachments

1. Location Map
2. Extract from Council Meeting Minutes of September 22, 2008, Item 15, Report No. 44, of the Committee of the Whole

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Paul Jankowski'.

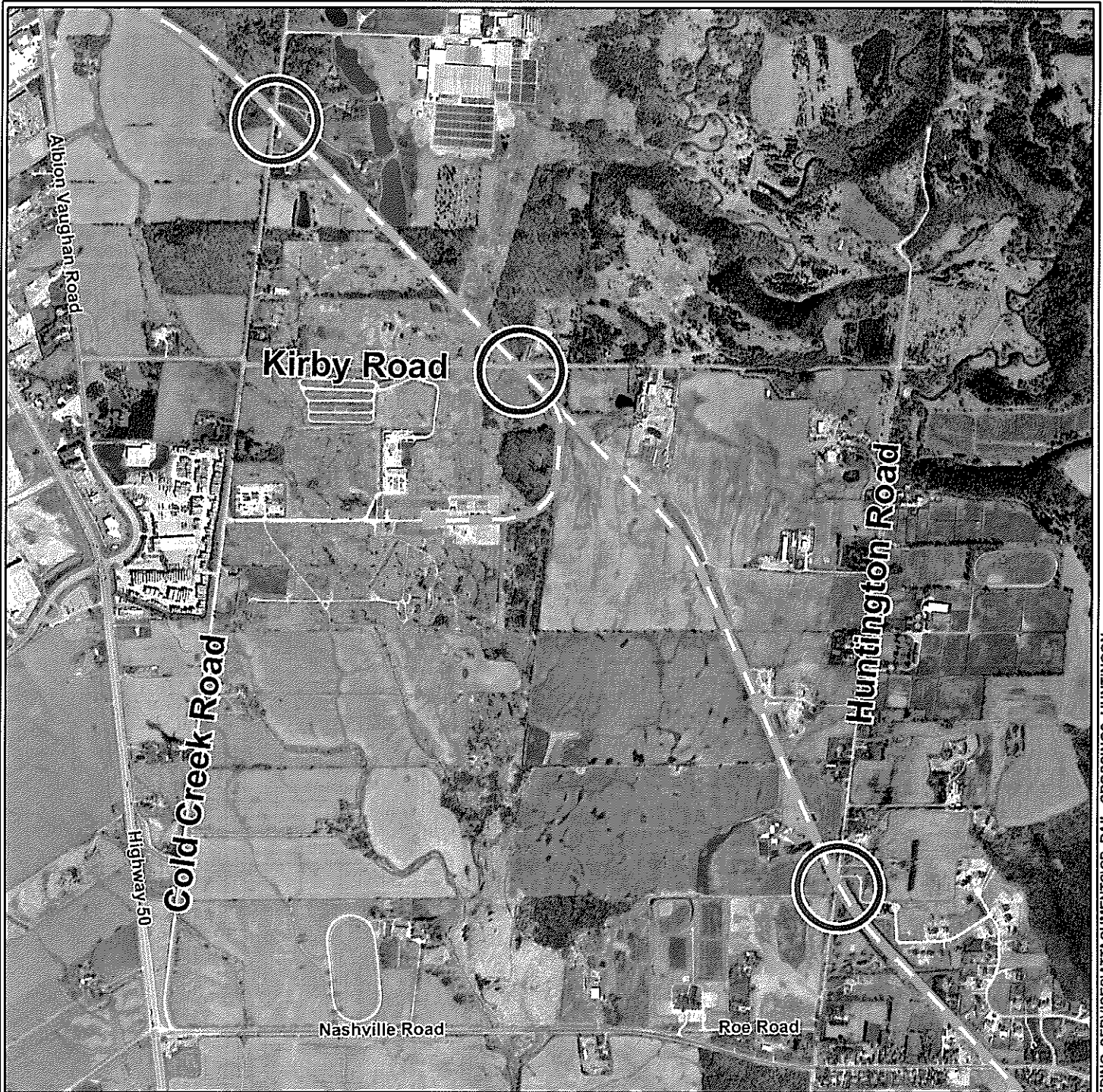
Paul Jankowski, P. Eng.
Commissioner of Engineering and Public Works

A handwritten signature in black ink, appearing to be 'Jack Graziosi'.

Jack Graziosi, P. Eng.
Director of Engineering Services

Copy: MaryLee Farrugia, Commissioner of Legal & Administrative Services/City Solicitor

ATTACHMENT No. 1



LOCATION MAP

CP Railway Crossings at Cold Creek Road, Kirby Road, and Huntington Road

LEGEND

— Railway

○ CP Railway Crossing

Note: Aerial photography acquired in spring, 2012



NOT TO SCALE

F:\Common\ENGINEERING SERVICES\ATTACHMENTS\CP_RAIL_CROSSINGS_HUNTINGTON

ATTACHMENT NO. 2

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 22, 2008

Item 15, Report No. 44, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on September 22, 2008.

15

TRAIN WHISTLING CESSATION

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Commissioner of Legal and Administrative Services and City Solicitor, dated September 15, 2008, be approved; and
- 2) That staff contact Mr. Paul Mantella of the Nashville Area Ratepayers' Association to advise of the requirements of the report and that the Region of York also be so advised.

Recommendation

The Commissioner of Legal and Administrative Services and City Solicitor recommends:

1. That this Report be received for information;
2. That should Council wish to request train whistling cessation at railway crossings, Staff recommend commencing the process for such a request as outlined in this Report;

Economic Impact

Should Council wish to request a cessation of train whistling at particular railway crossings, all costs associated with such an endeavor would be borne by the City. These would include railway safety consultant costs, costs of new safety measures such as flashing lights and gates, and insurance premium costs. York Region estimates that the costs for these safety measures can range from \$60,000 to \$100,000 for pedestrian gates, and potentially more for vehicular gates. York Region also estimates that the cost of a railway safety consultant is \$3,000, and that the costs to create an education program range from \$2,000 to \$5,000. Pursuant to Council direction of December 10, 2007, the Engineering Department is preparing a Report to be brought forward with the 2008 Capital Budget respecting costs.

Communications Plan

Should Council wish to request a train whistling cessation at a particular railway crossing, the City would be required to notify the general public of such a proposed prohibition. Furthermore, the City would be required to notify all railway trade unions, pursuant to Canadian Rail Operating Rules.

Purpose

The purpose of this Report is to provide Council with an outline of the process for requesting a train whistling cessation at grade railway crossings in the City.

Background - Analysis and Options

There have been complaints in relation to train whistling at various railway crossings throughout the City, including railway crossings along Nashville and Coldcreek Roads, as well as the railway crossing near Steeles Avenue and Conley Street. Attached are the lists of railway crossings in the City. Canadian Pacific Railway has advised where train whistling cessation is already in place. The City is awaiting this information from Canadian National Railways. The following

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procedures apply to requests for train whistling cessation. It should be noted that train whistling cessations would only apply to railway crossings at grade, and not railway overpasses or underpasses. Furthermore, the train operator would still have residual discretion to use the train whistle in emergency situations and to warn workers who are performing maintenance on tracks.

- Canadian Railway Operating Rules

Train Whistling requirements are controlled through the Canadian Rail Operating Rules (hereinafter the "CROR"). Rule 14(L)(ii) requires train whistling for all public crossings "except as may be prescribed in special instructions". The relevant railway company can initiate an exception by issuing a special instruction to its locomotive engineers, which eliminates the application of Rule 14(L)(ii).

Transport Canada sets out the guidelines that must be followed in order for a special instruction to be issued. First, the municipality must contact the relevant railway company to discuss the matter. In the case where the municipality is not the responsible road authority, the responsible road authority must also be contacted. It is also incumbent upon the municipality to contact the various trade unions representing railway employees, as well as to notify the general public about the proposed whistling cessation. Once these parties have been contacted, the municipality, Railway Company, and road authority (if applicable) are to conduct a detailed safety assessment of the rail crossing.

The safety assessment will be conducted by a railway safety consultant, who will determine whether the safety measures in place satisfy Transport Canada requirements for whistle cessation. Depending on the character of the railway crossing, Transport Canada may require safety measures such as flashing lights, bells, gates, and signs. Factors such as the train speed limit and the number of tracks dictate the requisite safety measure. In addition, the railway safety consultant will look at traffic density, sight lines, adjacent public buildings, evidence of trespassing problems in determining whether the railway crossing qualifies for whistle cessation.

Once the safety assessment is concluded, the railway company may agree to have the whistling discontinued at the relevant railway crossing. The railway company may also request that a Transport Canada inspector inspect the railway crossing to confirm that it meets the requirements of the guideline.

- York Region Requirements

It is necessary to contact York Region in order to have whistling cessation at railway crossings on Regional Roads. On February 21, 2008, York Regional Council adopted a policy for the cessation train whistling at railway crossings of Regional Roads. York Region would consider supporting train whistle cessation if the following conditions are satisfied and all costs are incurred by the local municipality requesting the train whistle cessation:

1. A safety audit is completed by a specialized safety consultant (railway safety consultant)
2. The safety audit is approved by Transport Canada
3. If there are pedestrians in the area of the crossing, pedestrian gates must be installed
4. An education program is developed for the affected area
5. The whistling prohibition is implemented only between the hours of 10:00 p.m. and 6:00 a.m.

Some of these requirements mirror those in the CROR. However, the education program and the time frame requirements are unique to York Region.

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It should be noted that the Town of Richmond Hill passed a Resolution requesting that all costs for implementing train whistling cessation affecting Regional Roads remain the responsibility of the York Region. It is not clear what effect, if any, this Resolution has.

- **Canadian National Railway Requirements**

Canadian National Railways (hereinafter "CN") requires that the safety assessment be sent to Transport Canada for review and comment, even though the CROC guidelines do not require Transport Canada consultation. If Transport Canada agrees that whistle cessation is appropriate, CN requires that the municipality pass a by-law prohibiting whistling at the location under review. When the by-law is passed and any additional safety measures have been put into place, Transport Canada will issue a letter to the railroad exempting it from compliance with the whistling regulations at the particular location. Once CN receives this letter, CN will instruct their train crews to cease whistling at that location. Any costs in relation to the safety assessment and the installation of additional safety measures are to be borne by the municipality.

- **Canadian Pacific Railway Requirements**

Canadian Pacific Railways (hereinafter "CP") also requires Transport Canada involvement after the safety assessment has been conducted. Once Transport Canada completes their review and approves the whistling cessation, CP requires that the municipality enter into an insurance agreement with CP, rather than passing a by-law prohibiting train whistling. Costs of the insurance premiums are shared with the municipality. CP will issue special instructions to their train crews to cease trains whistling at the particular location, once the insurance agreement is executed. Any costs in relation to the safety assessment and the installation of additional safety measures are to be borne by the municipality.

Relationship to Vaughan Vision 2020

This report is in keeping with the Vaughan Vision in that it speaks to enhancing and ensuring community safety, health and wellness. The necessary resources have not been allocated.

Regional Implications

The City would need to contact York Region for train whistling cessation in relation to any railway crossings that are situated on Regional Roads. The City would also need to comply with York Region's policy for train whistling cessation, as outlined above.

Conclusion

There have been complaints in relation to train whistling at various locations throughout the City. If these railway crossings are at grade, the City can engage in a process whereby train whistling can be ceased. This process can potentially alleviate neighbourhood concerns regarding noise, while addressing public safety. A Report on costs is being brought forward for the 2008 Capital Budget.

Attachments

1. List of CP railway crossings in the City
2. List of CN railway crossings in the City

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Report prepared by:

Chris G. Bendick
Solicitor

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)