Agenda – Council – July 19, 2017

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – June 27, 2017

Item No. 5 The Sounding of Engine Whistles at Waverley Street Crossing Mile 3.94 of the Rivers Subdivision of the Canadian National Railway

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the following to Council:

1. That the City enter into, execute and deliver an Anti-Whistling Agreement with the Canadian National Railway to prohibit the sounding of engine whistles at Waverley Street Crossing of Mile 3.94 Canadian National Railway Rivers Subdivision, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Anti-Whistling Agreement and the Ancillary Agreements in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

3. That Council enact a by-law to prohibit the sounding of engine whistles at Waverley Street Crossing of Mile 3.94 Canadian National Railway Rivers Subdivision (draft by-law is attached as Schedule "A").

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – June 27, 2017

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 5, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 27, 2017, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: The Sounding of Engine Whistles at Waverley Street Crossing Mile 3.94 of the Rivers Subdivision of the Canadian National Railway in the City of Winnipeg

Critical Path: Standing Policy Committee on Infrastructure Renewal and Public Works

AUTHORIZATION

Author	Department Head	CFO	CAO
L. Escobar, P. Eng., PTOE	J. Berezowsky Acting Director of Public Works	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

In 2017, the construction of the Waverley Street underpass has necessitated the construction of both a road detour (being constructed 75 metres west of the current location of Waverley Street) and a railway detour (shoe-fly) (being constructed immediately south of the current Canadian National Railway Rivers subdivision), which creates a temporary roadway crossing of the Canadian National Railway Rivers Subdivision, mile 3.94 (the “temporary crossing”).

The Winnipeg Public Service is recommending that the City of Winnipeg and the Canadian National Railway enter into an agreement to cease whistling at the Waverley Street temporary crossing. Pursuant to a current agreement with Canadian National Railway, the sounding of any engine whistle is prohibited at the existing railway crossing of Waverley Street. The current agreement does not extend to the temporary roadway crossing. To cease whistling at a railway crossing, a by-law must be passed by Council in accordance with the Railway Safety Act. The proposed by-law will maintain the current whistle cessation for the benefit of residents and businesses near the Waverley Street crossing.

Eliminating whistling at this crossing will result in a one-time cost of approximately $1,600 for advertising; this cost will be included in the Waverley Street Underpass Construction Project.

RECOMMENDATIONS

1. That the City enter into, execute and deliver an Anti-Whistling Agreement with the Canadian National Railway to prohibit the sounding of engine whistles at Waverley Street Crossing of Mile 3.94 Canadian National Railway Rivers Subdivision, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”).

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Anti-Whistling Agreement and the Ancillary Agreements in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City

3. That Council enact a by-law to prohibit the sounding of engine whistles at Waverley Street Crossing of Mile 3.94 Canadian National Railway Rivers Subdivision (draft by-law is attached as Schedule "A").

4. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

REASON FOR THE REPORT

To cease whistling at a railway crossing, a by-law must be passed by Council in accordance with the Railway Safety Act and Appendix D of the Grade Crossing Standards.

IMPLICATIONS OF THE RECOMMENDATIONS

- The City of Winnipeg will enter into, execute and deliver an Anti-Whistling Agreement with the Canadian National Railway.

- Whistling cessation will be in effect at the temporary crossing for the duration of the construction of the Waverley Street Underpass.

HISTORY/DISCUSSION

In 2017, as part of the construction of the Waverley Street underpass the project has necessitated the construction of both a road detour (being constructed 75 metres west of the current location of Waverley Street) and a railway detour (shoe-fly) (being constructed immediately south of the current Canadian National Railway Rivers subdivision), which creates a temporary roadway crossing of the Canadian National Railway Rivers Subdivision, mile 3.94 (the "temporary crossing").

Pursuant to a current agreement with Canadian National Railway, the sounding of any engine whistle is prohibited at the existing railway crossing of Waverley Street at mile 3.89 of the Canadian National Railway Rivers Subdivision. The current agreement does not extend to the temporary roadway crossing.

The Public Service is recommending that the City of Winnipeg (the "City") take the necessary steps to eliminate train engine whistling at the temporary crossing. The Public Service anticipates roughly 40 trains will pass through the temporary crossing each day, which would lead to a large number of complaints from local residents who do not, currently, hear whistle sounding. The proposed by-law discussed in this report will maintain the current whistle cessation for the Waverley Street crossing.

Train engine whistle requirements are controlled through the Canadian Rail Operating Rules (CROR). Rule 14(L)(iv) of the CROR ("Rule 14") requires whistling for public crossings at grade, but that "special instructions will govern when such signal is prohibited in whole or in part." Appendix D of Transport Canada's *Grade Crossing Standards* provides standards for obtaining cessation of whistling agreements under CROR Rule 14. Table D – 1 of Appendix D indicates that motor vehicle crossings containing two or more sets of tracks and a sidewalk, path or trail with a maximum train speed of 16 – 50 mph must be equipped with a warning

system consisting of flashing lights, bells and gates to be considered for cessation of train whistling under Rule 14. The temporary crossing will be equipped with flashing lights, bells and gates at the roadway and the multi-use pathway, which conforms to Appendix D. The temporary crossing will also contain two sets of railway tracks and a multi-use pathway with a maximum railway operating speed of 35 mph.

As part of the process for eliminating train whistling at a crossing, section 23.1 of the *Railway Safety Act* states that a municipality must pass a by-law prohibiting whistling at the crossing in question. The Public Service recommends that the City enact a by-law to prohibit the sounding of train engine whistles at the Waverley Street temporary crossing of Mile 003.94 Canadian National Railway Rivers Subdivision in the City of Winnipeg.

In addition to the enactment of a by-law, a detailed safety assessment of the grade crossing must be completed for the cessation of train whistling at a crossing. A safety assessment of the temporary crossing was completed on behalf of the City on February 2017 (see Schedule “B”). Canadian National Railway (CN) has reviewed the safety assessment and provided no comments. The City and CN will meet after construction of the temporary crossing to confirm the findings of the safety assessment prior to entering into the Anti-Whistling Agreement.

Under section 23.1 of *The Railway Safety Act*, the City must also notify the general public with a notice in the local newspapers and the railway unions of its intent to prohibit whistling at the temporary crossing. The cost of advertising in the local newspapers has been estimated as approximately $1,600.00. This would be paid by the City as part of the costs of the Waverley Street Underpass project.

The City is also required to pay 50% of the annual liability insurance premium once the train whistle is eliminated. As there is currently whistling cessation at the permanent crossing pursuant to By-law No. 3841/84, no change in insurance costs is anticipated.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 5, 2017

Project Name:

First Year of Program **2017**

The Sounding of Engine Whistles at Waverley Street Crossing Mile 3.94 of the Rivers Subdivision of the Canadian National Railway in the City of Winnipeg

	2017	2018	2019	2020	2021
Capital					
Capital Expenditures Required	$ 1,645	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	1,645	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ 38	$ 38	$ 38	$ 38
Less: Incremental Revenue/Recovery	45	-	-	-	-
Net Cost/(Benefit)	$ (45)	$ 38	$ 38	$ 38	$ 38
Less: Existing Budget Amounts	(45)	38	38	38	38
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Total Estimated Cost of $1,645 will be funded by Waverley Street at CN Mainline Project (Public Works Capital Project # 1805001413). Recoveries represent the Department Engineering Administration and Corporate Interest overheads. Direct Costs represent the Debt and Finance charges on External Debt funding.

"Original signed by J. Ruby, CPA, CA"

J. Ruby, CPA, CA
Manager of Finance and Administration

CONSULTATION

This Report has been prepared in consultation with: n/a

OURWINNIPEG POLICY ALIGNMENT

n/a

SUBMITTED BY

Department: Public Works
Division: Transportation
Prepared by: Colleen Flather, P.Eng., Community Traffic Engineer
Date: June 5, 2017

Attachments: Schedule “A” – draft anti-whistling by-law

Schedule "A" – draft anti-whistling by-law

THE CITY OF WINNIPEG

BY-LAW NO. /2017

A By-law of THE CITY OF WINNIPEG to prohibit the sounding of engine whistles at certain Canadian National Railway crossings within the City of Winnipeg.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1 The Sounding of any engine whistle in accordance with Rule 14(L) of the Canadian Railway Operating Rules, in respect of the following railway crossing within the limits of the City of Winnipeg, is hereby prohibited:

Canadian National Railway Rivers Subdivision

Street	Mileage
Waverley Street	3.94

2 This By-law shall come into force upon execution of an Anti-Whistling Agreement between The City of Winnipeg and the Canadian National Railway.

DONE AND PASSED, this day of , 2017.

Mayor

City Clerk

Approved as to content:

Director of Public Works

Legally reviewed and certified as to form:

For Director of Legal Services and City Solicitor

DRAFT