Agenda – Council – October 28, 2021

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – October 12, 2021

Item No. 4 Train Engine Whistle Cessation at Notre Dame Street Crossing Mile 2.56 and Provencher Boulevard Crossing Mile 2.42 of the Sprague Subdivision of the Canadian National Railway

STANDING COMMITTEE RECOMMENDATION:

On October 20, 2021, 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 the crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision as well as Provencher Boulevard and mile 2.42 CN Sprague 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 a by-law be enacted to prohibit the sounding of engine whistles at the crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision as well as Provencher Boulevard and mile 2.42 CN Sprague 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 – October 12, 2021

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 20, 2021, 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 October 12, 2021, 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.

On September 15, 2021, the Standing Policy Committee on Infrastructure Renewal and Public Works laid the matter over to its meeting on October 12, 2021.

ADMINISTRATIVE REPORT

Title: Train Engine Whistle Cessation at Notre Dame Street Crossing Mile 2.56 and Provencher Boulevard Crossing Mile 2.42 of the Sprague Subdivision of the Canadian National Railway

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

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Patman, P. Eng.	R. Topolniski, acting for J. Berezowsky	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

Winnipeg Public Service is recommending that the City of Winnipeg and the Canadian National Railway (CN) enter into an agreement to cease whistling at the crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision, as well as Provencher Boulevard and mile 2.42 CN Sprague Subdivision. To cease whistling at a railway crossing, a by-law must be passed by Council in accordance with section 23.1 of the Railway Safety Act, section 104 of the Railway Safety Act Grade Crossing Regulations, and Appendix D of Transport Canada's Grade Crossing Standards. Eliminating whistling at this crossing will result in a one-time cost of approximately $1,620 for advertising; this cost will be charged to the Transportation Division, Traffic Engineering Improvement – Various Locations (TEIP) program. Annual costs for the insurance of the crossing will be approximately $500, and will be paid from the Streets Maintenance Division, as with other anti-whistling crossings.

In order to facilitate whistle cessation at these crossings, required safety improvements include; the installation of a warning system at the Notre Dame Street and mile 2.56 CN Sprague Subdivision crossing, and the installation of a permanent fence along the CN Sprague Subdivision in the vicinity of the Notre Dame Street and Provencher Boulevard crossings. The contract for the warning system has been awarded in the amount of $388,937.00. The contract amount for the supply and installation of the fence is dependant on the final requirements as determined by the ongoing planning and design. It is estimated that the contract costs will not exceed $140,000.00 (for a combined total estimated cost of $528,937). The cost of installing the warning system and the permanent fence will be charged to the Traffic Engineering Improvement – Various Locations (TEIP) program.

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 the crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision as well as Provencher Boulevard and mile 2.42 CN Sprague 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 the crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision as well as Provencher Boulevard and mile 2.42 CN Sprague 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 section 23.1 of the Railway Safety Act, section 104 of the Railway Safety Act Grade Crossing Regulations and Appendix D of Transport Canada’s Grade Crossing Standards.

IMPLICATIONS OF THE RECOMMENDATIONS

Whistling cessation will be in effect at the crossing.

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

The 2021 Capital Budget adopted by Council on December 16, 2021, includes funding for the Traffic Engineering Improvement - Various Locations (TEIP) program in the amount of $2,248,000.

A one-time advertising cost of approximately $1,620 will be funded by the 2021 Traffic Engineering Improvement program.

The crossing safety improvements required to facilitate the whistle cessation, including the warning system and safety fencing, the total estimated contract amount of $528,937 will be funded by the 2021 Traffic Engineering Improvement Program. For clarity, the contract for the warning system has already been awarded. The costs are included in this report to highlight the estimated costs to facilitate the whistle cessation.

The annual insurance costs of $500 will be funded by the Streets Maintenance Division annual operating budget.

HISTORY/DISCUSSION

Pursuit of whistle cessation was prompted by requests for whistle cessation at the Notre Dame Street and mile 2.56 CN Sprague Subdivision crossing. It was initially determined that the passive crossing control at the Notre Dame Street crossing was incompatible with whistle cessation and consequently, the crossing was closed as a temporary measure to eliminate the need for whistling. The study was expanded to also include the crossing at Provencher Boulevard and mile 2.42 CN Sprague Subdivision. These locations are shown in Figure 1 (next page).

The Public Service is recommending that the City of Winnipeg take the necessary steps to eliminate train engine whistling at the crossing. Train engine whistle requirements are controlled through the Canadian Rail Operating Rules (CROR). Rule 14(I)(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.

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 crossing of Notre Dame Street and mile 2.56 CN Sprague Subdivision as well as at the crossing of Provencher Boulevard and mile 2.42 CN Sprague Subdivision.

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 crossings was completed on behalf of the City in 2021 by a qualified consultant. Canadian National Railway (CN) has reviewed the safety assessment and provided comments on the whistle cessation recommendations. Installation of a warning system at the Notre Dame Street and mile 2.56 CN Sprague Subdivision crossing is anticipated to occur in late summer or fall 2021. The contract for this work has previously been awarded with in a contract amount of $388,937.00. Planning and design for the installation of a permanent fence along the CN Sprague Subdivision in the vicinity of the Notre Dame Street and Provencher Boulevard crossings is underway and is anticipated to occur in fall 2021. The contract amount for the supply and installation of the fence is dependant on the final requirements as determined by the ongoing planning and design, it is estimated that the contract costs will not be in excess of $140,000.00. The cost of the warning system installation and the installation of the permanent fence will be charged to the Transportation Division, Traffic Engineering Improvement Program budget.

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 crossing. The cost of advertising in the local newspapers has been estimated as approximately $1,620. This cost will be charge to the Transportation Division, Traffic Engineering Improvement Program budget. The additional insurance for whistling cessation is typically $500 annually. The Streets Maintenance Division has confirmed that there are sufficient funds to accommodate the annual liability insurance for this crossing.



Figure 1: Railway Crossing Location

Image Source: Whistle Cessation and Safety Review CN Sprague Subdivision, MORR Transportation (2021)

FINANCIAL IMPACT

Financial Impact Statement **Date:** August 19, 2021

Project Name: **First Year of Program** **2021**

Train Engine Whistle Cessation at Notre Dame Street Crossing Mile 2.56 and Provencher Boulevard Crossing Mile 2.42 of the Sprague Subdivision of the Canadian National Railway

	2021	2022	2023	2024	2025
Capital					
Capital Expenditures Required	$ 562,337	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	562,337	-	-	-	-
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	$ 10,691	$ 22,598	$ 22,598	$ 22,598	$ 22,598
Less: Incremental Revenue/Recovery	31,780	-	-	-	-
Net Cost/(Benefit)	$ (21,089)	$ 22,598	$ 22,598	$ 22,598	$ 22,598
Less: Existing Budget Amounts	(21,089)	22,598	22,598	22,598	22,598
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital costs represent the estimated costs required to the facilitate the whistle cessation in the amount of $562,337.13 and will be funded by the 2021 Traffic Engineering Improvement Program (Public Works Capital Project #1831000521 - Railway Crossing Protection). This amount is comprised of: The previously awarded contract amount for the rail warning system in the amount of $388,937.00, the estimated contract costs for the installation of the safety fence in the amount of $140,000.00, estimated advertising costs of $1,620, and estimated corporate and departmental overheads. Direct costs represent: estimated annual insurance for whistling cessation in the amount of $500, estimated annual fence maintenance costs of $500, and estimated debt and finance costs on external debt funding. Direct costs will be managed through the annual Public Works Department operating budget. Incremental Revenue/Recovery represents estimated departmental, corporate admin and corporate interest overheads.

"signed by J. Ruby, CPA, CA"

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

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

The Sustainable Transportation Direction Strategy developed as part of OurWinnipeg forms the policy framework for the Transportation Master Plan (TMP). Sustainable Transportation identified a vision and five Key Strategic Goals which are critical to achieving a balanced and sustainable transportation system for Winnipeg. These goals form the basis for the TMP and the directions and strategies contained within it:

1. A transportation system that is dynamically integrated with land use;
2. A transportation system that supports active, accessible and healthy lifestyle options;
3. A safe, efficient and equitable transportation system for people, goods and services;
4. Transportation infrastructure that is well maintained
5. A transportation system that is financially sustainable

The recommendations within this report are consistent with the Key Strategic Goals.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

n/a

SUBMITTED BY

Department: Public Works
Division: Transportation
Prepared by: Keenan Patmore, M.Sc., P.Eng., Regional Traffic Engineer
Date: August 19, 2021

Attachments: Schedule A – Draft Anti-Whistling By-law

SCHEDULE A

THE CITY OF WINNIPEG

BY-LAW NO. /2021

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 Rail Operating Rules, in respect of the following railway crossings within the limits of the City of Winnipeg, is hereby prohibited:

Canadian National Railway Sprague Subdivision

Street	**Mileage**
Provencher Boulevard	2.42
Notre Dame Street	2.56

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 , 2021.

_____
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