

Meeting Date: November 20, 2023
Department: Engineering & Public Works
Report No.: EPW-2023-72
Submitted by: Jake Straus, Director of Engineering and Public Works
Approved by: Trisha McKibbin, Chief Administrative Officer
SUBJECT: **Train Whistle Cessation Feasibility**

RECOMMENDATION: THAT: Council receive report EPW-2023-72 for information.

BACKGROUND:

At the October 3, 2023 Council meeting, the following motion was made:

Moved by Councillor Derbyshire
Seconded by Councillor Willsie

THAT: Council direct staff to consult with CN Rail to determine if it is feasible to stop train whistling at rail crossings from Victoria Street to Amiens Road.

Carried

Council discussions during the motion asked:

- Are there fees to consult with CN?
- Is hiring a third party engineer optional?
- Are there any insurance changes if we removed the train whistle?

The Municipality currently has existing Train Whistle Cessations in place from the hours of 23:00 to 06:00 within the urban area of Strathroy which ranges between mile 18.69 (Carroll Street E) and mile 21.2 (Eastman Ave).

COMMENTS:

Initial Consultation With CN Regarding Fees and Process:

Staff have engaged CN in multiple conversations (email/phone calls) regarding railway crossings, general safety, maintenance and train whistle cessation. These initial consultations with Canadian National (CN) authorities, did not have any cost associated with it. During the initial consultation, the Municipality reviewed the required infrastructure for train whistle cessation. It appears that the current infrastructure at the crossings (gates, lights, bells, etc) meets the regulatory requirements.

The following process is a high level summary provided from the initial consultation with CN:

Under the Railway Safety Act requirements, the Canadian National Railway (CN) requires the Municipality to undertake the following process in order to obtain a train whistle cessation at any specific crossing.

- 1) The Municipality of Strathroy-Caradoc must submit a detailed crossing safety assessment by a qualified external professional engineer evaluating the conditions at the crossing and within the crossing area. CN remains available to collaborate with the Municipality of Strathroy-Caradoc for the completion of the study.
- 2) CN will review the crossing safety assessment for compliance with current engineering and regulatory requirements and provide comments and feedback. Costs associated with CN's review and any costs incurred by CN in support of this assessment are tracked and charged back to the Municipality of Strathroy-Caradoc.
- 3) The Municipality of Strathroy-Caradoc must notify relevant associations and organizations as well as give public notice of its intent to pass a resolution declaring that it agrees that whistles should not be used at the crossing.
- 4) Any mitigation measures identified by the safety assessment must be undertaken at the sole cost and expense of the Municipality of Strathroy-Caradoc. Typically this includes a minimum of lights and gates at the crossing.
- 5) Once it is determined that safety will not be compromised and that the crossing meets the prescribed conditions of Transport Canada pursuant to section 104 of the Grade Crossings Regulations and Appendix D of the Grade Crossing Standards, the Municipality must then pass a resolution declaring that it agrees that whistles should not be used at the crossing.
- 6) Upon receipt of the resolution, CN will issue special instructions to train crews advising them that whistle cessation is in effect and will install anti-whistling railway posts.

The detailed process can be found at:

<https://tc.canada.ca/en/rail-transportation/grade-crossings/apply-stop-train-whistling-public-grade-crossing>

Third Party Engineer:

The Crossing Safety Assessment identifies a number of concerns and puts forward recommendations to rectify in-order to ensure the crossings are compliant with Grade Crossings Regulations (GCR)/ Grade Crossings Standards (GCS) set out by Transport Canada, but also go beyond the minimal safety threshold to be eligible for whistle cessation.

In discussions with CN regarding the process for Train Whistle Cessations, CN confirms that the Municipality would need to obtain crossing safety assessments for each crossing that is under review for whistle cessation. The report needs to be signed and sealed by a qualified external professional engineer, with the recommendation of ceasing a federally regulated safety measure. It should be noted this does come with its own liability issues.

Council must be aware is that by seeking an exemption from a rule that is ultimately in place to save lives and increase safety there is a liability that is assumed by the Municipality. Asking to remove the measures put in place for safety will require extensive review of the affected area and coordination with the railways on the findings and recommendations. Having a third party engineer perform the assessments is in the Municipality's best interest to possibly reduce the Municipality's liability.

Insurance:

If the train whistle cessation was to be in force, initially our insurance premiums would remain the same, however, the Municipality could be held negligent from a liability standpoint and as a result this could affect premiums if there was a claim.

In order to maintain whistle cessation, the crossing and surrounding area will have to continue to conform to Transport Canada Standards and Regulations. The implementation of whistle cessation does not preclude any circumstance where train whistling may be required such as emergency situations, work near the track or when a railway safety inspector orders its use.

Whistling is an effective additional safety measure to alert that there is a train approaching and the restriction of this tool could have a negative overall impact on the safety of crossing.

CONSULTATION:

The Train Whistle Cessation process was reviewed by:

- CN Senior Public Works Officer
- Municipal Insurance Agent
- Manager of Public Works

FINANCIAL IMPLICATIONS:

A single railway crossing assessment from an external engineer is estimated to be \$15,000 - \$25,000.

STRATEGIC PLAN ALIGNMENT:

This matter is in accord with the following strategic priorities:

N/A

ATTACHMENTS:

None.