



## Staff Report

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<b>Report To:</b>	General Government Committee	
<b>Date of Meeting:</b>	June 22, 2020	<b>Report Number:</b> EGD-013-20
<b>Submitted By:</b>	Ron Albright, Acting Director of Engineering Services Andrew C. Allison,	
<b>Reviewed By:</b>	CAO	<b>Resolution#:</b> GG-212-20, C-349-20
<b>File Number:</b>	RR.60.42	<b>By-law Number:</b>
<b>Report Subject:</b>	Whistle Cessation Update - Cobbledick Rd and Bennett Rd	

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### Recommendations:

1. That Report EGD-013-20 be received;
2. That, should Council wish to proceed with the upgrades required for whistle cessation given the updated cost estimate, staff continue to Step 3 of Transport Canada's Procedure for the Elimination of Train Whistling and costs be included in a future Clarington Budget; and
3. That all interested parties listed in Report EGD-013-20 and any delegations be advised of Council's decision.

## Report Overview

This report will serve as an update to Council on the progress of the Municipality's request put forth to CN Rail for the elimination of train whistling at the Cobble Dick Road (CN Mileage 287.26) and Bennett Road (CN Mileage 289.08) grade level crossings.

### 1. Background

- 1.1 Further to Council's directive at the Special General Government Committee meeting on February 19, 2019 to move forward with the request to seek the elimination of train whistles at the Cobble Dick Road (CN Mileage 287.26) and Bennett Road (CN Mileage 289.08) grade level crossings, Engineering Services contacted CN Rail to initiate the process for the review of the elimination of train whistling, thereby triggering Step 2 of Transport Canada's Procedure for the Elimination of Train Whistling:

#### ***Step 2 – Municipality Consults with Railway Company***

*The Municipality consults with the railway company that operates the relevant line of railway to assess the feasibility of the whistling cessation request.*

- 1.2 The purpose of this step was to review the feasibility of upgrading the grade level crossings to bring them into compliance with current Transport Canada standards to be eligible for whistle cessation and provide a cost estimation of the works that would be involved.
- 1.3 Unfortunately, during the past year CN underwent a corporate restructuring and experienced a strike which caused significant delays to the review process of this request, however Engineering Services has recently had several discussions with CN and has received the estimation of costs outlined below.

#### **Bennett Road Crossing**

- 1.4 The Lakebreeze subdivision currently being developed by the Kaitlin Corporation requires the upgrade of Bennett Road to an enhanced and improved rural road as mandated by the Conditions of Draft Approval. These road improvements will require CN to upgrade the grade level crossing warning system which would make this crossing compliant with the current standards to permit whistle cessation at this location. No further road upgrades should be required to support anti-whistling, however at the conclusion of the planned works the Municipality and CN will be required to inspect the crossing to ensure the as-built conditions meet standards and no deficiencies are present.

- 1.5 The road improvements, associated watermain installation to service the subdivision, and hydro pole relocations have received the required approvals from CN and the Municipality and are currently pending construction beginning in Summer 2020.

### **Cobbledick Road Crossing**

- 1.6 CN has advised that the current warning system does not meet Transport Canada's requirements to permit whistle cessation at this crossing and therefore the warning system must be upgraded to permit whistle cessation. Key items of consideration that would require upgrades are the warning system, inclusion of a cantilevered warning structure for the southbound road approach obstructed by the Hwy. 401 overpass, specific warning system and protections for the Service Road approach located 30m from the crossing, as well as warning system detection extensions via communication upgrades due to the close proximity and overlap with the Bennett Road crossing.

### **Total Cost Estimate**

- 1.7 It is important to note that in addition to the costs noted above for the warning system upgrades, **both** Bennett Road and Cobbledick Road are likely to be subject to further improvements that would ultimately be required by Transport Canada including rail corridor fencing, pedestrian warnings, etc. as outlined in the *Train Whistle Cessation Study Report – CN Rail Crossing on Bennett Road and Cobbledick Road – February 2018* that WSP had undertaken for the Municipality.
- 1.8 The Cost Estimate that was presented in Report EGD-004-18 - *Bennett Road & Cobbledick Road Grade Level Crossings Train Whistle Cessation Study* has been updated with the above information. Considering the works that were recommended in WSP's Report and the estimate provided by CN, staff have estimated a cost of approximately **\$160,000** for the Bennett Road level crossing, and approximately **\$1,174,000**, for the Cobbledick Road level crossing, for a total cost of approximately **\$1,334,000**. The details of this estimate can be found in Attachment 1. It may be possible to have a portion of this cost funded through Canada's Level Crossing Improvement Program for items that meet the program's criteria. Staff can submit an application prior to August 1, 2020, however applicants will not be notified of the results until after March 31, 2021.

## **2. Whistle Cessation Next Steps**

- 2.1 The next steps (Steps 3 & 4) of Transport Canada's Procedure for the Elimination of Train Whistling are as follows:

***Step 3 - Municipality issues notifications and public notice.***

*The municipality notifies all relevant associations or organizations and issues a public notice of its intention to pass a resolution declaring that it agrees that whistles should not be used at a specific area (crossing or multiple crossings) along a railway corridor.*

**Step 4 - Municipality and railway assess the crossing(s) against the prescribed requirements in the Grade Crossings Regulations and Grade Crossings Standards.**

*The municipality and the railway company assess whether or not the area (crossing or multiple crossings) meets the whistling cessation requirements specified in section 104 of the Grade Crossings Regulations and Appendix D of the Grade Crossings Standards. This may be done by engaging a professional engineer to determine if the area complies with the conditions in the regulations.*

- 2.2 Given the magnitude of the associated costs to pursue whistle cessation at Bennett Road and Cobble Dick Road, Engineering Services will await Council's direction on the allocation of funding to pursue advancing works for either or both crossings to detailed design.
- 2.3 As a reminder from report EGD-004-18, the following is the balance of the eight-step process required to complete the whistle cessation process:

**Step 5 - Municipality and railway agree that the crossing(s) meets the prescribed requirements of the Grade Crossings Regulations and Standards.**

*If the municipality and the railway company do not mutually agree that the crossing(s) meets the prescribed requirements, they should try to resolve the conflict.*

**Step 5A - (Optional) Municipality and railway request a final decision from Transport Canada.**

*If disagreement between the municipality and the railway persists, the supporting documentation should be provided to Transport Canada (railsafety@tc.gc.ca) for further assessment. Transport Canada's decision on the issue is final.*

**Step 6 - Municipality passes a resolution declaring that it agrees that whistles should not be used in that area, thereby prohibiting train whistling.**

*Once it is deemed that the provisions of the Grade Crossings Regulations and Standards are satisfied, the municipality must declare, by resolution, that it*

*agrees that train whistles should not be used at the prescribed crossing(s). A copy of the resolution should be sent to the railway company and all relevant associations or organizations, including the head quarters of Transport Canada's Rail Safety Directorate (railsafety@tc.gc.ca).*

**Step 7 - Railway Company notifies Transport Canada and informs the municipality within 30 days that it has arranged to have whistling ceased at the crossing(s).**

*Upon receipt of the resolution, the railway company issues its special instructions, as per CROR 14(l)(iv), eliminating the application of CROR 14(l)(i), while providing for CROR 14(f). The railway company notifies the headquarters of Transport Canada's Rail Safety Directorate (railsafety@tc.gc.ca) of the effective date of whistling cessation at the crossing(s), and provides a copy of its special instructions. The railway company notifies the municipality and/or the road authorities in writing of the whistling cessation not later than 30 days after the day whistling is ceased.*

**Step 8 - Municipality and railway share the responsibility for monitoring and maintaining the conditions that support the cessation of train whistling at the crossing(s).**

*A Transport Canada Railway Safety Inspector may order the reinstatement of whistling at the crossing(s) should the responsible authorities fail to maintain the area in a manner that meets the prescribed requirements of the Grade Crossings Regulations and section 23.1 of the Railway Safety Act.*

### **3. Concurrence**

Not Applicable.

### **4. Conclusion**

Staff respectfully request Council's direction on the future allocation of funding prior to proceeding to Step 3 of Transport Canada's Procedure for the Elimination of Train Whistling.

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Staff Contact: Ron Albright, Acting Director, Engineering Services, 905-623-3379 x2302 or ralbright@clarington.net.

Attachment:

Attachment 1 - Detailed Cost Estimate

Interested Parties:

List of Interested Parties available from Department.

<b>Summary of Recommendations For Initial Action by Road Authority to Move Forward with Pursuit of Whistle Cessation</b>	
<b>Bennett Road</b>	
<b>Suggested Action From Study</b>	<b>Estimated Cost</b>
Replace crossing planks / reconstruct crossing surface (2 Sets of Tracks)	These costs are being completed as part of the Subdivision Development to the west - \$124,000 est. cost
Road resurfacing	
Signage improvements	
Pavement Markings	
Fencing Along Rail Corridor ***	\$ 120,000.00
<b>Total Estimated Initial Improvement Cost</b>	<b>\$ 120,000.00</b>
Engineering Costs (Detailed Design and Contract Administration @ 15%	\$ 18,000.00
Contingencies @ 10%	\$ 12,000.00
Reassessment of Level Crossing Conditions for Whistle Cessation after Improvements	\$ 6,000.00
Flagging for Reassessment of Level Crossing Conditions for Whistle Cessation	\$ 1,250.00
net HST @ 1.76%	\$ 2,767.60
<b>Net Cost For Initial Actions</b>	<b>\$ 160,017.60</b>
<b>Rounded Total</b>	<b>\$ 160,000.00</b>

<b>Cobbledick Road</b>	
<b>Suggested Action From Study</b>	<b>Estimated Cost</b>
Replace crossing planks / reconstruct crossing surface (3 Sets of Tracks)	\$ 105,000.00
Repaving of Approaches and Areas between Tracks	\$ 15,000.00
Monitor and trim vegetation to improve visibility of warning system	\$ 1,400.00
Signage improvements	\$ 3,500.00
Pavement Markings	\$ 5,250.00
Grade crossing warning system and associated rail corridor improvements	\$ 800,000.00
Fencing Along Rail Corridor ***	\$ -
<b>Total Estimated Initial Improvement Cost</b>	<b>\$ 930,150.00</b>
Engineering Costs (Detailed Design and Contract Administration @ 15%	\$ 139,500.00
Contingencies @ 10%	\$ 93,000.00
Reassessment of Level Crossing Conditions for Whistle Cessation after Improvements	\$ 6,000.00
Flagging for Reassessment of Level Crossing Conditions for Whistle Cessation	\$ 1,250.00
net HST @ 1.76%	\$ 4,219.60
<b>Net Cost For Initial Actions</b>	<b>\$ 1,174,119.60</b>
<b>Rounded Total</b>	<b>\$ 1,174,000.00</b>

<b>Grand Total Both Level Crossings for Initial Actions for Whistle Cessation</b>	<b>\$ 1,334,000.00</b>
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\*\*\* Note that although rail corridor trespass has not been identified as an issue during this initial review the development that is proposed in the area may change this condition at which time fencing may be required to remedy any future trespass issues. Typically this comes from Transport Canada during their review.