

MEMORANDUM

To: Mayor and Council

From: Jason MacDonald, Deputy CAO

Date: December 17, 2018

Subject: Erncliff Railway Crossing Update

The purpose of this memo is to provide further information and clarity to the options available to Council regarding the proposed safety improvements to the Erncliff railway crossing. Please refer to the November 19, 2018 Council Direction Request (attached) for background information and recommendation.

CURRENT SITUATION: The cost to install the new safety gates at the Erncliff crossing is \$423,012 of which Transport Canada will pay up to 50%. Under the Railway Safety Act the Road Authority (Town) is required to pay 12.5% of the project cost which is \$52,877. In order to qualify for the Transport Canada grant, the work has to be complete by March 31, 2019. **In order to ensure that the work can be completed on time, a decision of Council is required by December 17, 2018**

In June of this year CN sent the Town agreements to be signed regarding the installation of the gates and the cost sharing structure. CN was advised at that time that until Town Council made a decision and the agreements were signed CN could not assume that the Town would participate in the cost of the project. Staff provided Council with an update on the issue at the June meeting of Committee of the Whole.

In November of this year CN commenced work on the installation of the new infrastructure in order to ensure that inground work was undertaken before winter. We are advised that about 25% of the work has been completed to date.

DISCUSSION: CN has recently provided clarifying information on this issue and staff have looked at these crossings in more detail in preparation for the 2019/20 capital budget. The following are the details of the work to be completed at the various crossings:

Crossing	Cost (Town)	Detail
Erncliff St.	\$52,877	Addition of safety gates
Industrial Park Dr.	\$54,785	Addition of safety gates and warning light for Tantramar Cr.
Victoria St.	\$2,856	Extra sets of warning lights on South-East and South-West quadrants
Chamberlain St.	\$1,493	Extra set of warning lights for entrance on North-East quadrant. Also, a reduction of the speed limit from the south approach is required to avoid additional pre-warning lights.
Total Cost (Town)	\$112,011	

There is really no alternative to the addition of the gates on Industrial Park Drive as this is a main entrance to our industrial park and there is no alternative street access to the South Albion Street / Robert Angus Drive area. The Victoria Street and Chamberlain Street projects are relatively inexpensive and significant financial savings are not possible on these projects.

The only opportunity to significantly reduce the financial impact of this issue is the closing of Erncliff Street or the reinstatement of the train whistle on the approach to the crossing.

Regarding the potential for the street closure, Erncliff Street is designated as a local street within the Municipal Planning Strategy and as such its main purpose is to provide direct access to private property. The closing of this street at the rail line will not impact access to private property. Minor adjustments to snow clearing operations would have to be undertaken however these changes can be readily accommodated. Fire Chief Greg Jones and Acting Police Chief Dwayne Pike have indicated that their respective operations will not be significantly impacted by the street closure.

Regarding the potential for the reinstatement of the train whistle, this was discontinued in the 1970's. Should Council decide to not install the safety gates and leave Erncliff Street open, the re-instatement of the train whistle will be mandatory. As the use of the train whistle on the approach to the Erncliff crossing (from both directions) will have the most impact on the greatest number of people in the Town, and the fact that it is the least safe of the three options, the re-instatement of the whistle is not being recommended.

SAFETY: The use of the trail whistle is considered the least safe of the three options. The addition of the safety gates would be safer than the use of the whistle. The safest option of all would be the closing of the street and removal of the crossing.

FINANCIAL IMPLICATIONS: CN is only looking for a decision on the Erncliff Street project at this time. The total cost of this project is \$52,877. This amount can be funded from reserves, savings in various capital projects or be included in the 2019/20 Capital Budget.

It should be noted that should Council decide not to participate in the funding of the gates at this time, and reverse its decision at a later date, the Town may face a significant increase in costs for the gates as the Transport Canada funding in the amount of \$211,506 may be lost.

There is an application-based incentive from Transport Canada for the closing of street rail crossings. The Town could apply for up to \$26,000 should Council decide to close Erncliff Street. A portion of this money could be used to install the proper fencing and signage.

PUBLIC CONSULTATION: Prior to making a decision to close a public street Council must hold a public hearing on the issue which provides the public the opportunity to voice their concerns either in favor or opposed to the street closure. This hearing could take place in time for a motion to close the street at the January 2018 Council session.

ALTERNATIVES: The following are alternatives available to the Town regarding the Erncliffe project, as articulated by CN:

Option 1 - Amherst confirms participation of 12.5% cost at December 17th council meeting (estimated \$52.877\$)

Result : CN proceeds with work to put in service gates before March 31st 2019. The crossing will become in compliance with the new *Grade Crossing Regulations* article 105 (correct type of warning system for non-whistling zone). CN could submit the invoice to Amherst anytime between March 2019 and end of December 2019;

Option 2 - Amherst confirms that it wants to reinstate train whistle at the crossing at the December 17th council meeting

Result : Since the addition of gates at the Erncliffe street crossing is only required if Amherst intends to maintain the whistle-free zone, CN will stop the work related to the installation of gates. Whistling will be reinstated for train at the approach of Erncliffe street. Due to the proximity and overlap of the whistle territory at Victoria Street crossing, reinstating the train whistle will be required at both crossings. Note : some nearby residents may consider the new requirement to whistle a nuisance and this may generate complaints. Part of the town of Amherst's role may be to explain this decision to some residents.

Option 3 - Amherst confirms that it wants to close crossing at the December 17th council meeting

Result : An agreement would signed between CN and Amherst to confirm closure and filed to the Canadian Transportation Agency. Amherst may apply for funding up to 26 000\$ from Transport Canada. Transport Canada may agree to reprofile the 50%, 211 506.00\$ amount that has already been secured for the addition of gates as part of it's 2018-2019 Rail Safety Improvement Program. CN would be responsible to dismantle the warning system and crossing surface at it's own cost. Amherst would be responsible to dismantle the road approaches at it's own cost. Fencing would be required to ensure pedestrians do not continue to use the dismantled crossing. This cost would likely be shared in equal parts between both parties.

Option 4 - Amherst council cannot reach consensus at December 17th council meeting

Result : CN will halt work and reinstate train whistling to be compliant with the new requirements of Transport Canada's Grade Crossing Regulations article 105. Funding of up to 211 506.00\$ may be forfeited from Transport Canada. If Town of Amherst is to decide in the future that it wants to maintain whistle-free conditions, CN asserts that it would be the Town of Amherst's responsibly to also assume Transport Canada's forfeited 50% portion which could bring the cost apportionment to 62.5% (estimated at 264 383\$). Staff are of the opinion that the assumption of the foregone grant by the Town of Amherst is posturing on the part of CN and may not be legally enforceable.



COMMITTEE OF THE WHOLE

CDR# 2018146

Date: November 19, 2018

TO: Mayor Kogon and Members of Amherst Town Council

SUBMITTED BY: Jason MacDonald, Deputy Chief Administrative Officer

DATE: November 19, 2018

SUBJECT: Enrcliff Railway Crossing Upgrades

ORIGIN: May 15, 2018 Letter from Canadian National Railways.

LEGISLATIVE AUTHORITY: Municipal Government Act Section 65; The council may expend money required by the municipality for (aa) streets. Railway Safety Act.

RECOMMENDATION: That Council forward approval of \$52,877 to be allocated in the current (2018/19) Capital Budget for the Town's contribution to the installation of new warning gates at the Enrcliff Avenue railway crossing and that the Mayor and CAO be authorized to sign the attached Crossing Warning System Modification Agreement, to the November 26, 2018 regular meeting of Amherst Town Council.

BACKGROUND: In May of this year staff were made aware that CN and the Town were required to make upgrades to 4 railway crossings within the Town. On June 8, 2018 staff met with CN representatives to provide information to the Town on the changes made by Transport Canada which affect safety regulations at all CN street crossings across Canada. The street crossings impacted include Industrial Park Drive, Chamberlain Street, Victoria Street and Enrcliff Avenue.

DISCUSSION: Since that meeting CN has made an application to Transport Canada to help fund the cost of the new gates. The application was successful and under the Railway Safety Act the Road Authority (Town) is required to pay 12.5% of the project cost. In this case the project includes the installation of new gates and warning system at a total project cost of \$423,012. The Town's portion would be \$52,877. In order to qualify for the grant, the work has to be complete by March 31, 2019.

FINANCIAL IMPLICATIONS: The current capital budget does not include funding for this project. However, we are proposing to reallocate funds and fund this project within existing capital budgeting funding as follows:

- a) gas tax cannot be used to fund the railway project thus we are proposing to reallocate gas tax. Discussions with DMA have confirmed this is allowable with a motion from council.
- b) the Victoria Street sidewalk project was completed in-house thus the total project cost will be approximately \$35,000 rather than \$100,000 saving \$65,000 in gas tax.



- c) the unused gas tax from the Victoria Street sidewalk will be used to fund the portion of the Robert Angus Drive sidewalk that was to be funded from the Operating Reserve (\$32,220) and the Capital Reserve (\$12,500).
- d) This provides funding of \$44,720 to be used for the Erncliff project from Operating and Capital Reserves leaving a balance of gas tax of \$20,280 to be used.
- e) Funding for the Racetrack Road project will be adjusted to use the remainder of the gas tax (\$20,280) and the operating reserve amount will be decreased.
- f) The remainder of the cost (\$8,157) can be taken from the funding for the Racetrack Road project that was coming from the operating reserve (this will decrease because of the gas tax).

This is summarized in the table below:

<u>Project</u>	<u>Current Funding</u>	<u>Proposed Funding</u>	<u>Reallocation Tally of Remaining Funding</u>
Victoria Street Sidewalk	\$100,000 Gas Tax	\$35,000 Gas Tax	\$65,000 Gas Tax
Robert Angus Drive Trail	\$17,780 Gas Tax \$12,500 Capital Reserve \$32,220 Operating Reserve	\$62,500 Gas Tax	\$12,500 Capital Reserve \$32,220 Operating Reserve \$20,280 Gas Tax (65,000–12,500-32,220)
Racetrack Road Pumping Station	\$35,000 Operating Reserve \$15,000 Sewer Operating	\$20,280 Gas Tax \$14,720 Operating Reserve \$15,000 Sewer Operating	\$12,500 Capital Reserve \$52,500 Operating Reserve \$0 Gas Tax
Erncliff Rail Gates	-	\$12,500 Capital Reserve \$40,377 Operating Reserve	\$0 Capital Reserve \$12,123 Operating Reserve \$0 Gas Tax

<u>Funding</u>	<u>Current Capital Budget</u>	<u>Proposed</u>	<u>Difference</u>
Gas Tax	\$117,780	\$117,780	0
Capital Reserve	\$12,500	\$12,500	0
Operating Reserve	\$67,220	\$55,097	\$12,123
	\$197,500	\$185,377	\$12,123

COMMUNITY ENGAGEMENT: No community engagement has been undertaken for this project. The project will be administered by CN. A communications plan (including traffic detours) will be developed prior to construction being undertaken.

ENVIRONMENTAL IMPLICATIONS: There are no environmental implications to the addition of the new traffic gates and warning system.

ALTERNATIVES:

- (a) Close Erncliff Avenue. Closing the street on both sides of the rail line will not impact access to private property but it will make snow plowing operations cumbersome. In addition, residents of this area of Town would have to use Copp or Russell streets to exit this area of Town, causing somewhat of an inconvenience. As there are still two exists, emergency vehicles will still have access at all times.
- (b) Request that the ban on train whistles approaching this crossing be lifted, as allowing the whistle will remove the requirement for the gates.

ATTACHMENTS: None

Report prepared by: Jason MacDonald, Deputy CAO

Report and Financial approved by:

MEMORANDUM

To: Mayor Kogon and Members of Amherst Town Council
From: Jason MacDonald, Deputy CAO
Date: June 18, 2018
Subject: CN Crossing Safety Changes

On June 8, 2018 staff met with representatives from Canadian National Railways at their request. The purpose of the meeting was to provide information to the Town on the changes made by Transport Canada which affect safety regulations at all CN street crossings across Canada.

The street crossings impacted include Industrial Park Drive, Chamberlain Street, Victoria Street and Erncliff Street.

While staff do not necessarily agree with the need for the changes, we are told by CN that Transport Canada has mandated that all crossings meet the new regulations. Furthermore, CN informs us that there is a cost sharing formula included in the legislation which will require the Town to pay for some of the improvements.

Generally, the required changes include the addition of new flashing signal lights, or possibly the reduction of vehicle approach speeds. The largest cost item would likely be the requirement to add gates to the Erncliff Street crossing. This project would cost \$423,012 with the Town being required to pay 12.5% or \$52,877. Other options for this crossing include the closing of the street or the use of the train whistle on the approach. (This is the only project for which we have detailed costs and options.).

At the meeting staff did not provide much feedback on the proposed changes, as it was evident that the changes are required by Transport Canada and there is little to no opportunity to have the requirements changed. We did however state the following:

1. Council has to make the final decision on all capital projects;
2. Our 2018/19 Capital Budget was just approved and there is no provision for these items;
3. These changes will not be advocated for by Town staff, our role is to provide advice to Town Council;
4. We require a copy of the legislation / regulations which clearly state that these changes are required, including the mandated funding formula; and
5. We require a detailed breakdown of all required changes, including options and costs.

This memo is intended for information purposes only. Once we receive all of the requested information, the issue will be brought back to Council for a decision.