



TOWN OF NEWMARKET

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Town Clerk
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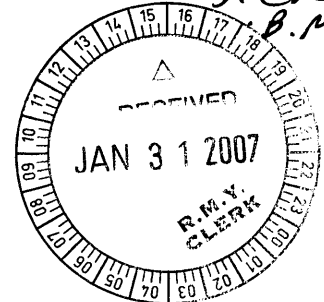
CLERK'S OFFICE

REGION OF YORK
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FILE No. -

pol

→ Chair
B. Macgregor



January 24, 2007

Mr. Denis Kelly, Clerk
The Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 4V9

Dear Mr. Kelly :

**RE: Community Services Report PWES 2007-01
Resolution R1-2007
Fluorescent Yellow Green School Signs**

I am writing to advise that the above referenced report was considered by Council at the regular meeting held on Monday, January 22, 2007 and the following recommendations were adopted:

1. **THAT the current signs on Lorne Avenue be maintained until the Ministry of Transportation makes a final decision on the School sign colour;**
2. **AND THAT all current local school signage be maintained in accordance with the *Highway Traffic Act* until such time as the Ministry of Transportation provides a final decision on this matter;**
3. **AND THAT the Ministry of Transportation be requested to provide a formal response on the expected timing of the final decision on this matter;**
4. **AND THAT the Ministry of Transportation consider making a final decision on this matter prior to the summer of 2007 to ensure that municipalities have sufficient time to make signage changes, as necessary, prior to the 2007/2008 school year;**
5. **AND THAT a copy of Community Services Report PWES 2007-01 be forwarded to the Honourable Donna Cansfield, Minister of Transportation, Bruce Macgregor, Commissioner of Transportation and Works Department York Region, Chief Armand La Barge, York Region Police and the area municipalities;**
6. **AND THAT staff report to Council in May of 2007 regarding the response of the Ministry of Transportation;**
7. **AND THAT Stuart Scott Public School as well as the School's parent council be provided with a copy of Community Services Report – PWES 2007-01;**
8. **AND THAT the Region of York, through Regional Councillor Taylor, be engaged in lobbying the Provincial Government in this regard;**

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9. **AND THAT a resolution seeking support of all municipalities in Ontario be electronically circulated through the Association of Municipalities of Ontario (AMO).**

Resolution R1-2007 was subsequently enacted.

I enclose a copy of the report and Resolution R1-2007 for your review and action as necessary.

Yours sincerely,


Anita Moore
Town Clerk

AM:lm

Enclosures (2)

copy: Honourable Donna Cansfield, Minister of Transportation
Ms. Julia Munro, MPP
Association of Municipalities of Ontario
Chief A. La Barge York Regional Police
Town of Markham
Town of Aurora
Town of East Gwillimbury
Town of Georgina
Township of King
Town of Richmond Hill
Town of Whitchurch-Stouffville
City of Vaughan

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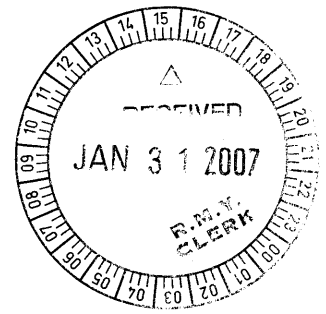
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TOWN OF NEWMARKET

Community Services
Public Works and Environmental Services Department
905-953-5300 ext. 2500
publicworks@newmarket.ca

YORK
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January 2, 2007

File No. -

COMMUNITY SERVICES PUBLIC WORKS AND ENVIRONMENTAL SERVICES DEPARTMENT REPORT 2007-01

TO: Committee of the Whole

SUBJECT: Fluorescent Yellow Green School Signs
Lorne Avenue Pilot Project – Status Update
File No.: T.30 Lorne

ORIGIN: J. G. Koutroubis, B.Eng., P.Eng.
Director of Public Works & Environmental Services

RECOMMENDATIONS

THAT Community Services Report - PWES 2007-01, dated January 2, 2007 regarding Fluorescent Yellow Green School Signs – Lorne Avenue Pilot Project, be received and that Council adopt the following recommendations;

1. THAT the current signs on Lorne Avenue be maintained until the Ministry of Transportation makes a final decision on the School sign colour;
2. AND THAT all current local school signage be maintained in accordance with the Highway Traffic Act until such time as the Ministry of Transportation provides a final decision on this matter;
3. AND THAT the Ministry of Transportation be requested to provide a formal response on the expected timing of the final decision on this matter;
4. AND THAT the Ministry of Transportation consider making a final decision on this matter prior to the summer of 2007 to ensure that municipalities have sufficient time to make signage changes, as necessary, prior to the 2007/2008 school year;
5. AND THAT a copy of Community Services Report PWES 2007-01 be forwarded to the Honourable Donna Cansfield, Minister of Transportation, Bruce Macgregor, Commissioner of Transportation and Works Department York Region, Chief Armand La Barge, York Region Police and the area municipalities.
6. AND THAT staff report to Council in May of 2007 regarding the response of the Ministry of Transportation.

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BACKGROUND

At the regular meeting of Town Council on December 15, 2003, Town Council adopted the recommendations to install the fluorescent yellow green (FYG) school signs as a pilot project on Lorne Avenue for a one-year basis while the Ministry of Transportation determines the colour of the school signs. Town Council issued resolution R16-2003 requesting the Ministry of Transportation to review this issue and seek support from the area municipalities.

Since that time, Public Works staff have been monitoring the pilot project. The Ontario Traffic Conference (OTC) has updated the 1992 School Crossing Guard Guide and released the updated version in January 2006. This recent guide update is silent on the issue of the FYG colour for school signs.

At the regular meeting of Town Council on December 18, 2006, Town Council deferred the recommendations in the Community Services Report PWES 2006-93 for further information on how other municipalities implemented the FYG signage particularly in terms of liability.

COMMENTS

On February 16, 2004, FYG signs were installed on Lorne Avenue at the mid-block school crossing locations and for the school. At this time, the use of the FYG signs was becoming practice for many municipal and regional governments even though the Ministry of Transportation had not approved the colour for this use.

At the regular meeting on June 28, 2004, Town Council considered Public Works Report 2004-39 which was an information report on the use of the FYG signs in other municipalities. At this time, the report examined Toronto, Durham Region, Pickering, Bradford, Barrie and York Region. A copy of Public Works Report 2004-39 is attached in Appendix "A" of this report.

As noted in Public Works Report PWES2006-93, as of August 1, 2006, the following table illustrates the reported and/or obtained FYG sign usage information in York Region.

Municipality	Locations	Comments
Aurora	None	waiting for MTO decision
Markham	None	waiting for MTO decision
Vaughan	2	recently installed due to high collision rates
Whitchurch-Stouffville	None	waiting for MTO decision
East Gwillimbury	2 or 3	installed a few years ago
Richmond Hill	All Local	installed in 2004 on local roads only
Georgina	Several	Council approved them at certain local road locations
York Region	None	waiting for MTO decision
Newmarket	1	installed in 2004 on local road - pilot project
King	None	waiting for MTO decision

The City of Vaughan has installed the FYG signs at two locations. This was done at a staff level in attempts to reduce a high number of collisions around school zones. There are no staff or Council reports made available that we have been made aware of.

The Town of East Gwillimbury has a few locations that were installed as part of a sign replacement program. This was done at a staff level. There are no staff or Council reports made available that we have been made aware of.

The Town of Richmond Hill has replaced all their signs on their local roads. The signs on the Regional roads traversing through the Town of Richmond Hill have remained the Highway Traffic Act approved standard blue and white colour. The Town staff prepared a report in support of the change to FYG signage. The staff report does not mention liability and is supportive of the change to FYG signage because other municipalities were changing. The conclusion to the staff report as noted in the Richmond Hill Committee of the Whole Report of July 5, 2004 (item #31) is as follows:

“Even though the Province has not officially allowed the use of the yellow/green fluorescent sheeting for school zone signs, sixty seven Ontario municipalities have already adopted the use of this material given its increase visibility, specifically in lower light conditions. Although the Region of York has recently decided not to proceed with the installation of the yellow green fluorescent school zone signs without the prior approval of the Province, other municipalities have changed including most notably the City of Toronto. There is merit in supporting the adoption of this type of school zone signs to improve driver awareness.”

The Town of Georgina has several locations with the FYG signage. At Georgina Town Council in September 2004, Georgina Council considered a staff report that supported the Town of Newmarket's position and was requesting endorsement from the Province. Georgina Town Council also recommended that legal opinion be sought on the issue. In a letter dated October 4, 2004 by the law firm Cassels Brock, legal options were reviewed and the following conclusions were made:

“Based on the above discussion, I would recommend supporting the Town of Newmarket in lobbying the Ministry of Transportation for a change to the regulation dictating the colour of school zone signs, but until such time as regulations are changed, the school zone signs erected by the Town should be in compliance with the regulations to avoid exposing the Town to any additional liability”

It should be noted that despite external legal opinion and staff recommendations, the Town of Georgina has installed FYG signage at specific locations.

DISCUSSION

The option of implementing FYG signs has been dealt with in different ways in different municipalities.

In some municipalities staff has implemented FYG signs and have not reported to their Council on the issue and therefore the Council has not considered the issues of consistency or liability.

In other municipalities the Council has considered the matter and in the interest of ensuring consistency for the public and to protect the community with respect to liability, the preferred route is to have the MTO establish clear standards across the province for the implementation of school safety signs.

In other municipalities the Council has reviewed the issues and has decided that the FYG signs provide a level of improved visibility which outweighs the concerns regarding consistency and liability.

There are precedents with respect to municipalities implementing practices and policies that are innovative. The Town of Newmarket has established a modified standard for warrants for stop signs which takes into consideration the pedestrian traffic in addition to vehicular traffic. Our standard therefore creates stop sign controls in more situations than the Highway Traffic Act or the Ontario Traffic Manual Book 5 would warrant. Another innovation by the Town of Newmarket is the pedestrian island on William Roe Boulevard at the Quaker Hill Plaza.

Our Legal department has advised that there are issues concerning the Town's ability to enforce highway standards that are different from those contained in the Highway Traffic Act and regulations. The Town would not be able to lay charges under the Highway Traffic Act for failure to abide by a school zone speed limit sign that is different in colour from the prescribed sign in the Act.

There is also an issue regarding what liability, if any, the Town could incur for accident or injury in the event that motorists fail to comply with a sign that is different from the standards contained in the Highway Traffic Act. Under the highway non-repair provisions of the *Municipal Act, 2001*, a municipality is entitled to adopt maintenance standards established by the Minister of Transportation. In doing so, the municipality will not be held liable for failing to repair or maintain a highway as long as those standards are followed. Road signage has always been an implicit part of the repair obligation of municipalities and road authorities.

Where a municipality adopts standards that are different from those established by the Minister of Transportation, the municipality must ensure that the standard is reasonable in all of the circumstances. There is a growing source of court decisions dealing with liability against municipalities and road authorities for posting warning signs that, by virtue of their size, location or content, fail to accomplish their purpose of providing timely warning of a hazard. The determination of whether the sign is adequate or not often turns on expert testimony concerning whether the sign conformed with provincial or other industry standards in light of the section of the highway in question.

We understand that other court decisions have examined whether warning signs were misleading about the nature of the hazard to be encountered. We are advised that the basic common law duty of municipalities is to use reasonable care to keep their highways in a reasonably safe condition for ordinary travel by persons. The issue of whether a municipality used reasonable care will depend on a number of factors including: an assessment of the hazard; the particular characteristics of the road in question; the type of signage that will effectively communicate the hazard to the traveling public; the size and location of the proposed signage and the maintenance of the signs.

Although the recommendations shown on page one of this report are endorsed by Staff, we have also provided the following alternate and appropriately worded recommendations to assist Town Council in making recommendations based upon their own judgement with respect to weighing all the issues on this matter, if Council wishes to go this route and install the FYG signs on all local Town roads.

1. **THAT Town Council request staff to replace all current blue and white school signs on all Town roads with the Fluorescent Yellow Green School signs;**
2. **AND THAT placement of the new signs be in accordance with the recent School Crossing Guard Guide, January 2006, produced by the Ontario Traffic Conference;**
3. **AND THAT new sign installations be undertaken during July and August 2007 and be completed prior to the start of the 2007/2008 school year;**
4. **AND THAT all current blue and white school signs on all Regional Roads within the Town be left in place until such time as the Region makes a final decision on this matter.**

PUBLIC CONSULTATION

There was no direct public consultation with the preparation of this report. Due to the vacation period the School Boards and local School Parent Councils could not be contacted to provide input in the timeframe provided. Staff will attempt to contact them the week of January 8th, 2007.

This PWES Department supports the use of FYG school signs within the regulatory process requiring the Ministry of Transportation to make a final decision on this matter.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

Living Well

- Provide efficient, effective and environmentally sound maintenance services at an appropriate level that achieves Council and/or Provincially mandated service levels, which meet public health and safety requirements and enhances quality of life while ensuring that system capital assets retain their value and are managed and funded according to sustainable, lifecycle based principles and practices.

IMPACT ON PUBLIC HEALTH AND SAFETY

There are no direct impacts to health and safety with the original recommendations on page one of this report. With respect to the alternate recommendations, there may be potential safety and liability issues due to the use of unapproved H.T.A. signage and confusion with signage on Regional Roads. As well, there have been no conclusive study results that indicate the FYG signage increases safety.

IMPACT ON BUDGET

The exact budget dollar figure will depend upon the exact number of signs to be replaced. Based on the number of school crossings and school zones within the Town, it is estimated that the cost of changing all the signs including on all Regional Roads would be in the order of approximately \$20,000.00. Given the nature of the sign change and to maintain consistency, it would be prudent to change all signs in the same school year.

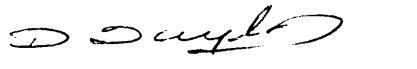
Town Council's approval of the original recommendations shown on page one of this report will require PWES Staff to increase their proposed draft 2007 FYG School Signage Program Capital Budget by approximately \$10,000.00 prior to final 2007 Capital Budget approvals by Town Council. Staff would also carryover the existing and unexpended 2006 FYG School Signage Capital Budget in the amount of \$10,000.00 into the 2007 Capital Budget providing for a total of approximately \$20,000.00. This will ensure that the necessary funds are made available if the Ministry of Transportation should make a final decision on the approved use of FYG School signs after the 2007 Capital Budget has been approved.

If Town Council approves the alternate report recommendations, then the 2006 Capital Budget in the amount of \$10,000.00 will be carried over to the 2007 Capital Budget for implementing the new school signs and upon any final decision by the MTO supporting the use of FYG school signs, a subsequent PWES report with potential budget implications and/or proposed diversion of capital funds from other available signage programs will be prepared and submitted to Council for their decision and approvals.

Prepared by:



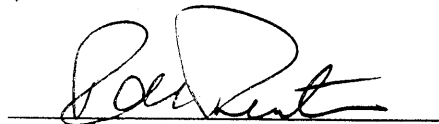
M. Kryzanowski, M.C.T.P., R.P.P.
Senior Transportation Coordinator



D. Taylor, C.E.T.
Manager of Engineering



J. G. Koutroubis, B.Eng., P.Eng.
Director of Public Works & Environmental Services



R. Prentice
Commissioner of Community Services

APPENDIX A

From Report PWES 2004-39

Municipalities with FSYG Signs

Municipality	Staff Reports	Decision	Staff Support	Main Reason	Liability	Contact
Toronto	Yes	Council	Yes	Enhance safety	None - more than minimum standards	Myles Currie, Manager, Traffic Signal/Pavement Markings
Durham	Yes	Council	No	Directed by Council	Noted by Legal	Stuart McAllister, Traffic Studies & Field Services Coordinator
Pickering	No	Council	No	Maintain consistency with Durham	Assumes risk	Steve Forsey, Supervisor Roads
Bradford	No	Department	Yes	Enhance safety	Assumes risk	Rob Kneeshaw, Superintendent of Public Works
Barrie	No	Department	Yes	Enhance safety	Assumes risk	George Kaveckas, Traffic, Transit and Parking Manager
York Region	Yes See attached	Pending	Yes	NOT changed	Concerns	Attached report



January 22, 2007

Moved by: Councillor Blight

Seconded by: Councillor Kerwin

RESOLUTION R1-2007

WHEREAS the Town of Newmarket issued Resolution R16-2003 on December 15, 2003 regarding the use of Fluorescent Yellow Green School signs to the Province, Region and local municipalities;

AND WHEREAS R16-2003 requested that the Province of Ontario review the *Highway Traffic Act* and associated regulations, provide early approval for the use of school related signage on a trial basis and amend existing legislation to allow the use of fluorescent strong yellow-green signs in local municipalities;

AND WHEREAS the Province has not made a final decision on the use of Fluorescent Yellow Green School signs on Ontario Roads;

AND WHEREAS the lack of a final decision to date by the Province has created inconsistent use throughout the Region of York and the Province of Ontario;

AND WHEREAS the continued inconsistent use could potentially create safety issues and potentially increase exposure to public liability for local municipalities;

THEREFORE BE IT RESOLVED by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1. **THAT the Town of Newmarket request the Province of Ontario to:**
 - a) **Review and amend the *Highway Traffic Act* and associated regulations and standards as required regarding school area and school crossing zone signage;**
 - b) **Provide approval for the use of Fluorescent Yellow Green school signage;**
 - c) **Provide a formal decision on this matter prior to the start of the 2007/2008 school year;**
2. **AND THAT the Town of Newmarket forward this resolution to the Honourable Donna Cansfield, Minister of Transportation; Julia Munro, MPP; the Region of York, the Association of Municipalities of Ontario and all municipalities within York Region requesting support of this initiative.**

Tony Van Bynen, Mayor