

5

NOISE POLICY UPDATE MITIGATION OF TRAFFIC NOISE ON REGIONAL ROADS

The Transportation and Works Committee recommends:

- 1. The presentation by Daniel Kostopoulos, Manager of Engineering – Roads be received; and**
- 2. The recommendations contained in the following report, February 16, 2006, from the Commissioner of Transportation and Works be adopted:**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council adopt a new Noise Policy for the mitigation of traffic noise on Regional roads as identified in this report at a estimated additional cost of \$22 Million; an amount which is already included in the approved 2006 10-Year Roads Construction Program (*see Attachment 1*).
2. The Regional Clerk forward this report to the Clerks of all York Region local municipalities for information.

2. PURPOSE

The purpose of this report is to recommend that Committee and Regional Council adopt of a new updated Noise Policy for the mitigation of traffic noise on regional roads.

Note: Throughout this report the term “new Noise Policy” refers to the updated policy recommended for adoption in this report entitled “York Region Traffic Noise Mitigation Policy for Regional Roads”.

3. BACKGROUND

In May 2005 Committee and Regional Council received a new Draft Noise Policy and directed staff to forward copies of the new draft policy and council report to local municipalities, representatives of the development community (UDI) and other stakeholders for final comments (*see Attachment 2 - Noise Policy Update Report - May 2005 – Clause 6 of Report No. 5*).

Upon receipt of comments from all stakeholders staff was directed to finalize the new policy and report back to Committee and Regional Council with recommendations for formal adoption of a new Noise Policy for mitigation of traffic noise on regional roads.

3.1 Roll-out of Draft Noise Policy

The May 2005 Committee/Council report requested that comments from local municipalities and other stakeholders be submitted by July 22, 2005 in an attempt for regional staff to finalize the Noise Policy and submit a report for formal adoption in late 2005. However, staff from several local municipalities requested more time be provided to allow time for submission of reports to their Committees/Council to obtain formal endorsement. Some municipalities requested that Region staff make formal presentations to Town Council. In response, York staff extended the comment period by three months into Autumn 2005 and agreed to make formal presentations where requested.

The following is a summary of meetings and points of contact organized by York Region staff to formally present the new Draft Noise Policy and receive comments, answer questions, and provide additional clarification as required from the various stakeholders.

- May 25, 2005 – Meeting with York Region local area municipalities. All York Region area municipalities were invited and staff from Vaughan, Markham, Richmond Hill, Aurora and East Gwillimbury attended the meeting and provided comments.
- June 8, 2005 – Meeting with representatives of the Urban Development Institute/Ontario (UDI).
- June 21, 2005 – Formal presentation to The Town of Aurora General Committee.
- August 16, 2005 – Town of Aurora Council Report in support of the Draft Noise Policy and endorsing adoption by Regional Council.
- By November 2005 several municipalities still had not provided comments. To ensure all comments were received prior to finalization of the new policy, a presentation was made on December 2, 2005 at the Transportation & Works Municipal Liaison Committee meeting consisting of senior management staff from York Region and all nine area local municipalities Engineering/Works Departments. An additional request came from Markham for a further time extension and presentation to the January 10, 2006 Development Committee. A further follow-up meeting with representatives of the Urban Development Institute/Ontario was also held on January 23, 2006.

Throughout the entire period numerous inquiries were also received from members of the public, engineering consultant firms, and others, who were provided copies of the May 2005 Council Report and Draft Noise Policy documents as well as further clarifications and explanations where requested. As a result, stakeholders have been provided extensive opportunities to request clarifications and provide comments.

3.2 Stakeholder Feedback on Draft Noise Policy

The following is a summary of the major comments and feedback received from various stakeholders on the Draft Noise Policy.

3.2.1 Local Municipalities

The Draft Noise Policy was well received and supported by local municipalities. Major feedback from local municipal staff includes requests for clarification on the following:

- Location of future York Region built noise barriers.
- Which York Region Roads Capital projects will the new criteria be applied to (i.e. will grandfathering of existing projects be permitted)?
- Clarification of the local municipalities' role/involvement in implementation of the new Noise Policy.
- Where tree removal is required to construct new noise barriers will there be compensation provided or alternative solutions considered?
- On capital projects where noise mitigation is warranted but is not implemented due to the inability to effectively reduce noise levels will any other compensation be provided?
- On capital projects where privately owned noise barriers already exist along reverse frontage properties will new noise mitigation be provided?
- There were also numerous other clarifications, explanations, and questions of a technical nature.

3.2.2 Development Community

UDI provided written comments on the Draft Noise Policy which indicated the following:

- UDI is not in favour of York Region establishing a reserve fund that requires developments who propose the use of noise barriers in future subdivisions to contribute funding for their future maintenance and replacement. UDI recommends that the Region and local municipalities continue to require affected property owners to repair or replace deteriorated noise barriers as part of the responsibility the homeowners knowingly took on as part of their home purchase. These homes were likely sold for a lower price to compensate for the obligation of having and maintaining a noise barrier as part of the property.
- UDI states that the proposed reserve fund would create a financial double hit to the development industry and further suggests that the existing practice of transferring future maintenance and replacement obligations to home purchasers should continue with more explicit warning clauses to ensure purchasers of new homes are better informed of these obligations.
- UDI is generally not opposed to the Region discouraging the use of noise barriers in subdivision design by requiring single loaded roads, landscape berms, etc. or to the Region imposing a noise wall standard/material that would increase the life expectancy and lessen maintenance and replacement frequency. Current policies already minimize the use of noise barriers along Regional roads and growth of the past problem has been adequately addressed by these requirements.

3.2.3 Other Stakeholders

The numerous inquiries received from members of the public and other stakeholders were mainly clarifications and information requests. All comments received from residents who were provided access to the May 2005 Council Report and Draft Noise Policy documents expressed strong support for the proposed policy changes in the Draft Noise Policy. This was emphatically reinforced in the positive feedback received from residents who live east of Bathurst Street in Aurora and Newmarket who attended the presentation at the Town of Aurora's General Committee. These residents are the original requestors who lobbied to have York Region undertake the update to the Noise Policy prior to construction of the Bathurst Street road widening.

All comments received are addressed in section 4 of this report and in the attached final version of the new Noise Policy and Standard Operating Procedures (*Attachment 1*).

3.3 Bathurst Street Widening – Commitments to Residents

Formal objections to the existing 1995 Noise Policy started in 2002 during the class Environmental Assessment (EA) for the widening of Bathurst Street through Aurora and Newmarket, whereby Regional Council directed staff to undertake a review/update of the existing policy, with a commitment to update the existing policy prior to implementing the road widening.

Following receipt of the updated Draft Noise Policy in May 2005, in June 2005 Committee and Regional Council authorized staff to tender the combined Bathurst Street road widening/watermain contract between King Road and Wellington Street prior to finalization of the updated noise policy with a further commitment to apply the new policy criteria to the Bathurst Street widening upon formal adoption of the updated Noise Policy.

In October 2005, staff retained an acoustical engineering consultant to undertake a revised noise study along Bathurst Street based on the new criteria contained in the Draft Noise Policy. The study is nearing completion and it is anticipated that some residents will qualify for noise mitigation, which is planned to be constructed as part of the subsequent Bathurst Street widening construction contracts planned for construction in 2007 and 2008 between Wellington Street and Highway 9.

In November 2005, staff tendered the combined Bathurst Street road widening/watermain construction contract between King/Vaughan Townline and Wellington Street. The contract was awarded by Council on February 16, 2006.

4. ANALYSIS AND OPTIONS

In finalizing the updated Noise Policy staff has addressed the inquiries, questions and concerns raised during consultation with all stakeholders. Responses to the major issues identified in Section 3.2 of this report are provided below:

4.1 Local Municipalities

Future York Region built noise barriers will be constructed along the property line at the extreme outer edge of the road right-of-way.

In preparation and roll out of the Draft Noise Policy staff recommended that all new noise assessments on current or upcoming EA studies would be completed in accordance with the criteria in the new Noise Policy. It was not intended to revisit projects where the noise assessment was complete as part of an approved EA or to delay upcoming or ongoing construction projects. As requested by local municipalities staff further reviewed the issue and recommend that upon adoption of the new Noise Policy the new criteria be applied to all new road construction contracts as follows:

- All new noise studies conducted as part of ongoing or future EA's be conducted in accordance with the new Noise Policy. For ongoing projects for which the EA study has been completed and tendering for construction is not scheduled for 2006, these projects shall also have the noise assessments revisited to have the new criteria applied prior to tendering.
- For ongoing projects for which the EA study has been completed and tendering for construction is scheduled for 2006 there is insufficient time to undertake revised noise studies and incorporate changes prior to tendering contracts for construction. For upcoming 2006 road construction contracts, it is proposed to tender these contracts on schedule as designed (in accordance with the requirements of the existing 1995 noise policy) and revisit these projects to update the noise studies based on the new policy. Where required, noise mitigation will be constructed as a future separate contract.

Local municipalities' requested clarification of their role/involvement in implementation of the new Noise Policy. In the replacement category, where privately owned noise barriers are severely deteriorated or collapsing and pose a threat to public safety within the road right-of-way, the local municipality will be requested to assist the Region (through the use of it's property standards by-law) to either force owners to carry out the required repairs or to provide access to the properties to facilitate removal of collapsing sections by external forces. The local municipality will also be requested to assist in recovery of costs incurred via the owner's property taxes.

In the retrofit category local municipalities are requested to provide assistance to administer the requirements of the Municipal Act (former Local Improvement Act). In the development category local municipalities are requested to assist in ensuring new development applications which are adjacent to Regional roads are in compliance with the requirements of the updated Noise Policy prior to approval.

Tree removal will be avoided wherever possible. However, tree removal will be required in many instances where trees are located on or close to the property line. Compensation will be provided where privately owned trees are removed in the form of either replacement trees or financial compensation. Where removal is required for trees within the public right-of-way landscaping will be provided on the public side of the new noise barrier.

On capital road projects where noise mitigation is warranted it will only be implemented where it will be effective. In situations where noise levels warrant mitigation but it is not implemented due to the inability for it to noticeably reduce noise levels (i.e. inability to protect the outdoor living area due to changing topography), it is recommended that staff be authorized to provide additional tree planting on the public right-of-way where space permits to assist in providing visual screening from the road. The type and location of trees to be planted will be at the discretion of region roads capital delivery and forestry staff.

On capital projects where privately owned noise barriers already exist along reverse frontage properties new noise mitigation will not be provided. At the time when those developments were approved it was identified that noise levels warranted noise mitigation due to traffic on the Regional road. Purchasers of these homes knowingly assumed the responsibility of maintaining the noise barriers provided by the developer as part of their home purchase. In addition to development approval records, as part of the noise policy update study a complete inventory of the types and condition of privately owned noise barriers along Regional roads was completed. Attempts by private owners to remove existing noise fences in order to qualify for new noise barriers as part of a York Region capital project will be denied and these owners will be required to reinstate the noise barrier through enforcement of municipal property standards by-laws.

All requests for clarifications, explanations or additional technical information were responded to by regional staff in a timely fashion.

4.2 Development Community

Growth of noise related concerns expressed by residents during EA studies for capital road projects are a direct result of past developments that were approved with side and reverse frontage lots adjacent to regional roads without providing noise mitigation. In some instances, past development provided noise barriers as mitigation for these lots, but in certain locations their design was deficient in that some types of barriers deteriorated prematurely. In many of these locations the prematurely deteriorated barriers were constructed from concrete and homeowners were unable to effectively perform the maintenance/replacement obligations which they assumed when the homes were purchased without requiring heavy equipment and external contractors. These residents are looking to municipalities to relieve them of this responsibility.

Current planning policies endeavour to achieve community plans that are pedestrian and transit friendly environments with safe access to the street from the community. As noise

barriers are not compatible with these objectives current policies already discourage their use. Current development approval policies mitigate future growth of the problem on proposed developments by discouraging the use of noise barriers adjacent to Regional roads through the use of alternative subdivision design concepts (i.e. single loaded access roads, landscaped berms, etc).

UDI indicated that the magnitude of the problem has been dramatically diminished as a direct result of the above noted policies. In an effort to evaluate the current rate of growth staff reviewed all new development applications received since 2004. The review identified that a total of 5,181 linear meters of noise barriers were proposed along a total length of 30,781 linear meters of new development frontage on Regional roads - approximately 17% of the total length. In past years prior to adoption of current policies almost the entire length of development abutting the Regional road required noise barriers. This represents a dramatic reduction of about 75% in the amount of noise barriers that are being proposed along Regional roads as part of new development.

Additionally, during the noise policy update study it was identified that the most common cause of premature failure is a direct result of poor or inadequate foundation design. The most common causes of premature deterioration was related to poorly fabricated precast concrete components and to inadequate connection details. To address these deficiencies staff have developed design standards for noise barriers that ensure robust designs for foundations, materials and connections are provided in all future installations along Regional roads. Implementing these improvements will dramatically reduce the number of occurrences of noise barriers that prematurely deteriorate or collapse.

The May 2005 Draft Noise Policy report recommended establishing a developer funded reserve to provide for the future maintenance/replacement of future developer constructed noise barriers. However, upon further staff review it appears that the significant reduction in the amount of noise barriers proposed on new developments due to current planning policies in conjunction with the implementation of new noise barrier standards to address premature deterioration and failures on future installations may adequately address the earlier historic problem. As a result, Regional staff has now revisited it's original recommendation in this regard. Staff now propose that the new Noise Policy require that Regional and local municipal staff work together to continue discouraging the use of noise barriers by enforcement of current planning policies in the approval of future development applications.

In addition, as recommended by the UDI, staff support the addition of developers providing enhanced warning clauses to home purchasers that include specific maintenance obligations related to noise barriers and clearly spell out the municipality's recourse to take corrective action should the homeowner fail to perform upkeep on their property and maintain noise barriers in a state of good repair.

4.3 Other Stakeholders

All inquiries from members of the public and other stakeholders were addressed by providing clarifications or additional information. All comments received were supportive of the Draft Noise Policy with no major issues identified.

5. FINANCIAL IMPLICATIONS

No additional costs have been identified over and above the costs identified in the Draft Noise Policy of May 2005. New cost implications resulting from adoption of this updated Noise Policy requires an additional \$22 Million for capital road projects included in future 10-Year Roads Construction Programs (funded \$16 Million from Development Charges and \$6 Million from Tax Levy). These required funds have already been incorporated into the 2006 Roads Capital Budget.

As in the existing 1995 Noise Policy, the Retrofit category continues to have potential cost implications of up to \$10 Million (100% Tax Levy). The new Noise Policy provides a screening process for qualified retrofit applications to be prioritised, ranked and priced. Under the updated Noise Policy, Regional Council will have the ability to review the number of qualified retrofit applications and the associated cost impacts and allocate funding on a yearly basis through the annual budget process. Retrofit applications will then be implemented in order of priority ranking to the limit of the current year's funding. The estimated operating cost to administer the process is approximately \$200,000 per year depending on the number of retrofit applications submitted.

6. LOCAL MUNICIPAL IMPACT

In the Noise Policy Update Study engaging local municipalities was critical to the success of developing a revised policy. Throughout the study and development of the updated policy key consultations with local municipal staff identified the nature and extent of the problems and provided the necessary direction to ensure that the proposed changes effectively address the problems identified.

Key local municipal concerns addressed include that the new Noise Policy:

1. Conforms to broader policy objectives at all levels of government (PPS, EPA and the York Region OP).
2. Responds to resident concerns by making improvements that meet or exceed MOE standards and best practices.
3. Responds to concerns raised by local municipalities related to making technical/process improvements to the current methodology for better accuracy of noise assessments on future projects.
4. Effectively responds to the needs and concerns of local municipalities regarding ownership and maintenance of existing noise walls.

Upon roll-out of the Draft Noise Policy in May 2005 there has been extensive additional consultation with local municipalities and other stakeholders to ensure the proposed changes are well understood and supported. This is reinforced by the fact that only minor revisions were required in finalizing the Noise Policy to address all comments received based on the May 2005 Draft Noise Policy. Based on feedback received from residents and local municipalities, the updated Noise Policy is responsive to the concerns of residents and formal adoption of the updated Noise Policy is well supported.

7. CONCLUSION

The changes proposed in the updated York Region Traffic Noise Mitigation Policy for Regional Roads are responsive to the concerns raised by residents and local municipal staff. This policy meets or exceeds provincial and municipal requirements and will promote recognition of York Region as a leader in best practices involving noise mitigation.

Specifically, this policy provides enhancements including:

- Improvements to how MOE modelling tools are used to improve noise prediction accuracy and credibility.
- Seamless noise evaluation criteria and accountability across all categories.
- Conformance to broader policies at all levels of government.
- Recognizing best practices by addressing all fourteen best practice improvements identified during the study.
- Demonstrating leadership in exceeding provincial standards in several areas.
- Financial responsibility that can be accommodated in the Region's 10 year Capital Budget.

Therefore, it is recommended that Regional Council formally adopt the updated York Region Traffic Noise Mitigation Policy for Regional Roads as identified in this Report.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are attached to this report.)