

5

CN BANNER SIGNS ON CN STRUCTURES OVER REGIONAL ROADS

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report dated April 27, 2009, from the Commissioner of Transportation Services.

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorize staff to negotiate an agreement with CN National Railway Company ("CN") to permit CN to occupy sections of Regional road rights-of-way for the purposes of installation and maintenance of banner signs on CN overpasses, subject to the following conditions:
 - a) The local municipality having an executed agreement with CN.
 - b) CN or its private sector partner being solely responsible for all costs of installation, repair and maintenance.
 - c) The content of the advertising complying with the Region's advertising policies, as currently applicable to street furniture and transit facilities.
 - d) The Region having the right to veto any unacceptable advertising.
 - e) The Region's logo appearing on the banners, if desired.
 - f) The term of the agreement ending November 30, 2011, with automatic five-year renewals, but with the option for the Region to terminate on 90-days notice at the end of any five-year term.
 - g) CN providing appropriate insurance coverage and indemnity provisions.
 - h) Any necessary permits such as road occupancy being granted by the Region on a case-by-case basis.
 - i) Any additional concerns identified by local municipalities being addressed in the Region's agreement.
 - j) Any other matter identified through negotiations being addressed in the Region's agreement.
2. The Commissioner of Transportation Services be authorized to execute the agreement on behalf of the Region, subject to the approval of the terms by the Commissioner and Legal Services as to form and content.
3. The Commissioner of Transportation Services be authorized to execute amending agreements from time-to-time to include additional locations approved in accordance with the conditions outlined in Recommendation 1.

2. PURPOSE

This report seeks Regional Council authorization in relation to ongoing staff discussions with representatives of Canadian National Rail (CN) regarding the use of Regional roads for the installation of banner signs on CN structures over Regional roads.

3. BACKGROUND

In April 2005, a private sector partner, contracted by CN, installed a banner sign on the CN bridge structure over Dufferin Street, north of Steeles Avenue. CN considered this a pilot exercise to see how banner signs can be used on CN structures over roads rather than repainting the conventional green coloured CN structures. This new banner gave CN and CN's private sector partner an opportunity to advertise third party messaging as well as local municipal messaging. Examples of this messaging are shown on *Attachment 1*.

In the spring of 2007, CN applied to the City of Vaughan for approval for its private sector partner to install eight additional banner signs at four additional locations totalling five locations with two banners at each location.

The locations include:

- Islington Avenue, north of Steeles Avenue
- Pine Valley Drive, north of Steeles Avenue
- Jane Street, north of Steeles Avenue
- Dufferin Street, north of Steeles Avenue
- Bathurst Street, north of Steeles Avenue

In September 2006, the Council of the City of Vaughan approved the installation of banner signs at these locations, subject to CN obtaining all necessary approvals from the Region and also subject to the City of Vaughan entering into acceptable arrangements with CN's private sector partner. The City of Vaughan has executed an agreement with CN incorporating these terms. The proposed signs are located on CN structures over Regional roads, neither the City of Vaughan's Sign By-law No.203-92, as amended, or the City of Vaughan Public Property Sign By-law No. 178-2003 apply to these signs (*Attachment 2*).

In September 2007, representatives from CN requested the Region enter into a formal agreement which would allow CN and its private sector partner to install banner signs on CN structures over Regional roads. There appears to be some interest in the installation of banner signs in other municipalities, therefore, Regional staff have been considering how to manage this issue consistently.

4. ANALYSIS AND OPTIONS

A CN agreement provides an opportunity for municipal and private advertising

CN's agreement with the local municipality allows for the installation of such banners by CN's private sector partner and provides for private and municipal advertising or messaging on the banners.

Relevant terms of the CN agreement with the City of Vaughan, which would govern the installations and maintenance of the banners, as follows:

- CN or its partner will be solely responsible for all costs of installation, repair and maintenance.
- The content of the advertising will comply with advertising policies in good taste.
- The City of Vaughan would have the right to veto any unacceptable advertising.
- The term of the agreement will be for a term ending November 30, 2011, with automatic five-year renewals, with the option for the City of Vaughan to terminate on 90-days notice at the end of any five-year term.
- City of Vaughan has rights to 50% of the advertising space on the banners
- CN provide appropriate insurance coverage and indemnity provisions.

Permits are not required for work on CN structures above Regional roads, unless to work on the structure CN or its contractor needs to occupy the Regional road allowance. Then a road occupancy permit is needed

Regional approvals are needed to allow CN or its private sector partner to access the banner signs from the Region's roadways.

The installation and maintenance of banner signs require road closures, lane closures or boulevard access on Regional roads through Road Occupancy Permits. Permit applications are reviewed and approved by staff in Transportation Services. The permits restrict the date and duration of the applicant's use of the Region's rights-of-way for banner sign installation and maintenance, ensure that the applicant has the required insurance and follows approved procedures for working on Regional roads. Since the April 2005 start of the CN banner program pilot, CN and its private sector partner have applied for Road Occupancy permits approximately two times per year.

According to the *Canada Transportation Act* section 95(1), a railway company may exercise its power for the purpose of constructing or operating its railway. If CN or contractors working for CN perform work on CN structures above the Regional roads and rights-of-way without any apparent effect on the Regional right-of-way or the rights-of-way operations, Regional approvals would not be required since these are federal undertakings.

Since the advertising banners are ancillary to railway operations, however, the Region would have jurisdiction to regulate their installation in accordance with road safety criteria.

The Region's Sign By-law only regulates the placement of signs within the Regional road rights-of-way, not on adjacent or private property

Regional Sign By-law No. R-1232-2000-074 does not currently address signing on structures over Regional roads and does not include restrictions on advertising content. The Regional By-law regulates the placement of signs within the Region's rights-of-way not on private property. Regulation of the CN banners could be achieved through amendments to the Regional by-law or, alternatively, through contract with CN.

CN has provided a draft agreement with proposed terms for installing the banner signs

CN has provided a proposed draft agreement which would govern the installations and maintenance of the banners as follows:

- CN or its private sector partner will be solely responsible for all costs of installation, repair and maintenance.
- The content of the advertising will comply with the Region's advertising policies, as currently applicable to street furniture and transit facilities.
- The Region would have the right to veto any unacceptable advertising.
- The term of the agreement will be for a term ending November 30, 2011, with automatic five-year renewals, but with the option for the Region to terminate on 90-days notice at the end of any five-year term.
- The Region's logo would appear on the banners, if desired.
- CN would provide appropriate insurance coverage and indemnity provisions.

The agreement is similar to the agreement entered into with the City of Vaughan, however, the City of Vaughan has rights to 50% of the advertising space on the banners for its own use: the Region has not been offered any space.

Regional staff have reviewed the agreement and are generally in agreement with its terms, however, it is recommended that the agreement be strengthened in some areas, particularly with respect to an indemnity from CN with respect to the activities of its private sector partner. It is also recommended that provisions be incorporated to address any concerns identified by local municipalities. In addition, a condition will be included requiring CN or its contractor to apply for a road occupancy permit.

Regional staff are of the opinion that permitting these banner signs generally has no negative impact and might be regarded by some as an improvement to the aesthetic of the

current visual appearance of these older railway bridges. Formerly, these structures were maintained by sandblasting and repainting the steel girders. This typically involved prolonged lane closures and potential environmental risks. Installing the banners provides for a less intrusive means of enhancing (masking) the appearance. Subject to additional amendments, Regional staff are of the opinion that the agreement can adequately address the Region's safety and liability concerns.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report. All costs associated for installation, maintenance, repair and required temporary lane closures will be borne by CN and its partners.

6. LOCAL MUNICIPAL IMPACT

CN banner signs could improve the aesthetic appearance of CN's overpass structures on the Regional road network. There would however be a potential impact to travellers on the Regional roads during road closures or lane restrictions required for installation or maintenance of such signs. It is proposed that Regional staff negotiate appropriate conditions to ensure such traffic impacts are minimal. Approval of the agreement with CN will support the position taken by the City of Vaughan on this issue. It is recommended that similar arrangements be made with other local municipalities where requested by local Councils. Locations of all CN overpass structures within York Region are shown (*see Attachment 3*).

7. CONCLUSION

It is proposed that Regional Council direct staff to negotiate an agreement with CN to permit CN to occupy sections of Regional road rights-of-way for the purposes of installation and maintenance of banner signs on CN overpasses, subject to the conditions set out in this report, and the Commissioner of Transportation Services be authorized to execute the agreement on behalf of the Region, subject to the approval of the terms by the Commissioner and Legal Services as to form and content.

For more information on this report, contact Paul Jankowski, General Manager, Roads at extension 5901 in the Transportation Services Department.

The Senior Management Group has reviewed this report.

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

Examples of third party and local municipal messaging



CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 11, 2006

Item 19, Report No. 40, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on September 11, 2006.

19

**PROPOSED SIGNAGE FOR CNR BRIDGES
RCC MEDIA INC. AND THE CANADIAN NATIONAL RAILWAY COMPANY**

The Committee of the Whole recommends that this matter be referred to the Committee of the Whole meeting of September 18, 2006, to provide an opportunity for staff to address the concerns raised by Members of Council.

Recommendation

The Commissioner of Economic/Technology Development and Communications in consultation with the Commissioner of Planning, and Legal Services Department recommends:

- 1) That the proposal by the Canadian National Railway Company ("CN") to erect, install and maintain signage on the CN overpasses be approved, subject to CN obtaining all necessary approvals from the Region of York, and CN's execution of a Licence Agreement with RCC Media Inc., which includes the terms and conditions set out in the Agreement to be entered between CN with the City of Vaughan;
- 2) That a By-law be enacted to authorize the Mayor and the Clerk to execute an Agreement between the Canadian National Railway Company and The Corporation of the City of Vaughan, satisfactory to the Commissioner of Economic/Technology Development and Communications and the Commissioner of Legal and Administrative Services & City Solicitor.

Economic Impact

There is no economic impact to the City. Any additional custom signs will require monies that will be budgeted through the City's annual budget process.

Purpose

To consider a proposal by the Canadian National Railway Company (hereafter referred to as "CN") and RCC Media Inc., to permit City of Vaughan Logo and Special Events Signage and Third Party Advertising Signage on overpasses owned by CN at certain locations in the City of Vaughan.

Background - Analysis and Options

Previously, Council received a deputation from RCC Media Inc. on behalf of CN proposing Third Party Advertising Signage on CN overpasses. Together with the Third Party Advertising, the proposal also included portions of the Signage which would be made available to the City of Vaughan for its own use. Negotiations with the involved parties have taken place and a Draft Agreement has been prepared and can be recommended for approval by Staff.

DETAILS OF THE PROPOSALLocation

The draft agreement proposes signage be placed on four (4) steel CN bridges located at the intersections of the main CN east/west rail line and Bathurst Street, Dufferin Street, Pine Valley Drive and Islington Avenue north of Steeles Avenue West.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 11, 2006

Item 19, CW Report No. 40 – Page 2

The agreement further provides for signage to be placed on a concrete bridge where approvals are pending from CN and CN engineering. This bridge is located at the intersection of the CN east/west rail line and Jane Street just north of Steeles Avenue West.

Attached to this report as Appendix 1, is a plan showing the location of the subject overpasses.

Proposed Signage

The proposed signs will be of the banner sign type, made from a fabric material to be suspended between mounting assemblies, which will be attached directly to the overpasses.

It is further proposed that on each side of the subject overpasses, one sign will be split into two halves.

One half of the sign face will be the "City's portion" and the other half will be the "Third-Party Advertising portion." Of the City's portion, one-third (1/3) would display the City's official logo, with a small CN logo appearing in the bottom left hand corner. The other two-thirds (2/3) will be used by the City of Vaughan to advertise upcoming City of Vaughan events. This portion will be changed up to three (3) times per year to remain current. Vaughan will provide the art work for the City's portion of the sign and the Licensee sign company will absorb all costs associated with preparation, installation and storage. The Agreement further proposes that additional signs may be purchased by the City without mark up or profit from the sign company.

On the other half of the sign face, the Licensee and CN will erect and maintain third-party advertising. The third-party advertising will be similar to advertising appearing on poster panels (Billboards) at various locations throughout the City. It should also be noted that any third-party advertising to appear on this portion of the sign face would be subject to CN's advertising policies and to prior review and approval by City officials, to ensure to the extent possible that the third-party advertising is in good taste.

Attached as Appendix 2 are enhanced photographs that illustrate typical examples of the proposed signage.

Compliance with City Sign By-laws and Other Approvals

As the proposed signs are to be located on CN property over Regional Roads, neither the City's Sign By-law 203-92, as amended, or the City's Public Property Sign By-law 178-2003 apply to these signs.

To ensure proper construction, the City will require the sign construction drawings to be submitted for approval. These drawings must be approved by a professional engineer and CN Engineering prior to being submitted to the Building Standards Department.

As the proposed signs are to be located on CN overpasses extending over Regional roads, the Region of York has been contacted by CN and RCC Media Inc. for their comments and conditions of approval.

Relationship to Vaughan Vision 2007

This report supports Vaughan's Vision Goal to Run our City with objectives that advance operational excellence of the operational process. This proposal is one vehicle in support of the Corporate Communications Strategy of ensuring the City communicates effectively by promoting and enhancing the City's image, and provide timely, accurate information to all stakeholders.

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 11, 2006

Item 19, CW Report No. 40 – Page 3

Conclusion

The proposal attempts to achieve a balance between the benefits of providing cost-effective advertising solutions with ensuring the City's communicates information to its citizens on upcoming community events.

Attachments

Appendix 1 Location Plan showing the location of each of the proposed overpasses
Appendix 2 Enhanced Photographs illustrating typical examples of the proposed signage

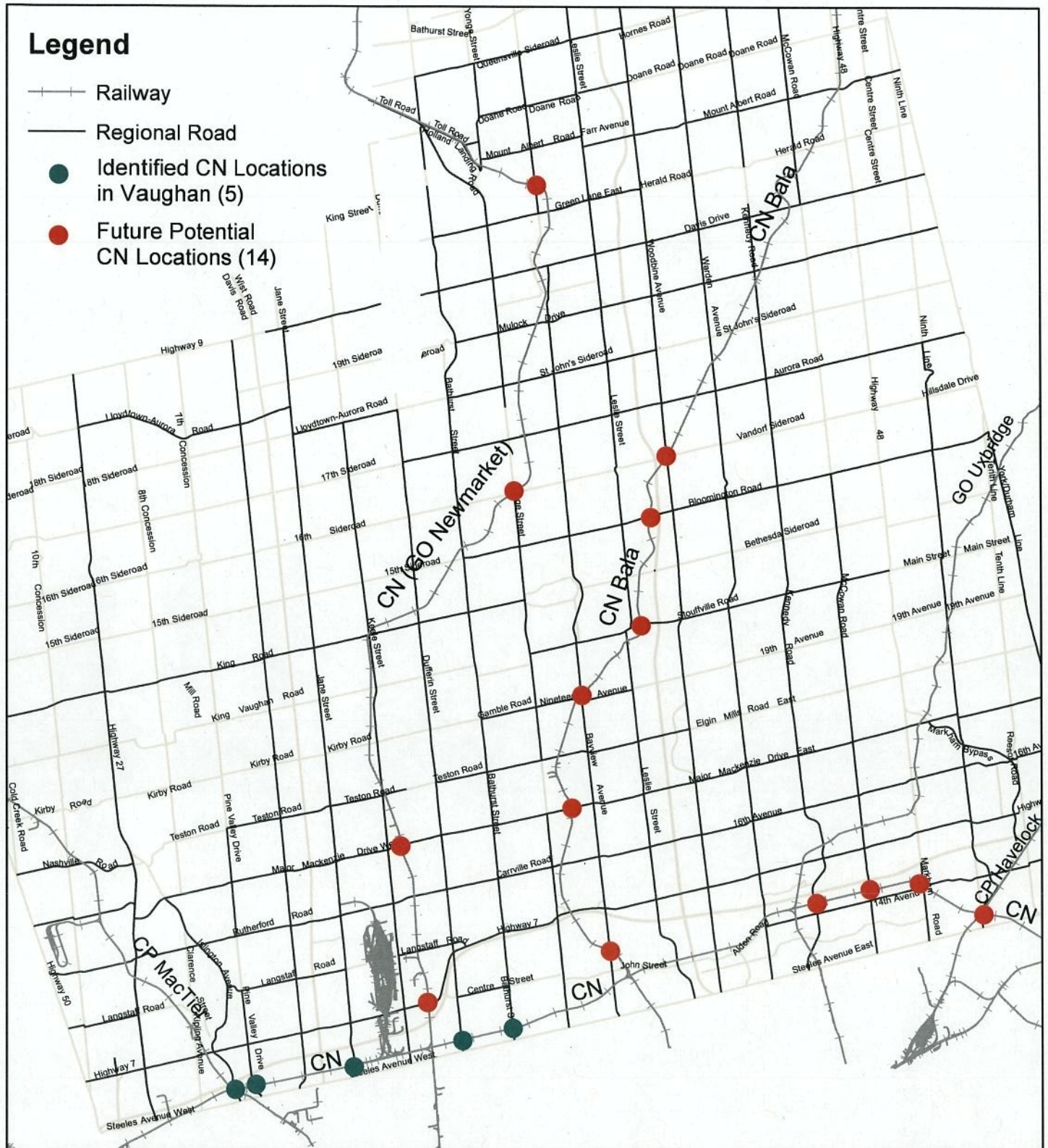
Report prepared by

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John Studdy, Manager of Customer and Admin. Services, Building Standard Department
Carolyn Stobo, Solicitor/Special Services, Legal Services Department

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

Legend

-  Railway
-  Regional Road
-  Identified CN Locations in Vaughan (5)
-  Future Potential CN Locations (14)



CN RAILWAY OVERPASSES OVER REGIONAL ROADS

April 2009



2 1 0 2 Km

TRANSPORTATION SERVICES

Note: No CN Overpasses
Over Regional Roads
Outside of Map Boundary

