

COMMON COUNCIL REPORT

M&C No.	2024-333
Report Date	December 03, 2024
Meeting Date	December 09, 2024
Service Area	Public Works and Transportation Services

Her Worship Mayor Donna Noade Reardon and Members of Common Council

SUBJECT: Chesley Drive Rail Crossing Closure After Action Review

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	Chief Administrative Officer
Tim O'Reilly	Michael Hugenholtz	J. Brent McGovern

RECOMMENDATIONS

Your Chief Administrative Officer recommends Common Council endorses:

1. The five “actions to mitigate future instances” identified in M&C 2024 – 333, and
2. Refer this After Action Review (M&C 2024 – 333) to the Fundy Regional Services Commission Rail Working Group for consideration.

EXECUTIVE SUMMARY

During the morning rush hours of May 27, 2024, four of the six lanes normally available to move local and regional traffic between the east and west sides of Saint John were not available. This significant (66%) reduction in lane capacity led to an unacceptable level of delay experienced by city residents and others. Impacts ranged from late attendance to work or school to missed medical appointments and surgeries, among other impacts.

Loss of the third and fourth travel lanes that morning were due to a delay in completing maintenance of a rail crossing that spanned the complete width of Chesley Drive. The resultant serious community impacts and lack of answers available for the community during the delay led to the city immediately committing to an After Action Review (AAR) to establish root causes, accountability, and measures to prevent future similar instances. Participation levels in this AAR demonstrated that the internal and external stakeholders involved understood the seriousness of the impacts and openness to avoid a repeated event. This report represents the finalized After Action Review, complete with five actions to reduce risk of a re-occurrence.

PREVIOUS RESOLUTION

N/A

REPORT

Maintenance of a rail crossing on Chesley Drive just east of Douglas Avenue occurred on May 26 and May 27, 2024, hereinafter referred to as the “Work”. The Work required the entire width of Chesley Drive to be closed to vehicular traffic. Completion of the Work was delayed and the full road closure continued unplanned through the rush hours of Monday morning, May 27. Closure into the morning rush hours caused significant delays to city residents and others. The city immediately committed to an After Action Review (AAR) given the level of impact.

This AAR was conducted by city staff. Multiple city departments (Public Works, Growth & Community Services, General Counsel Office, and External Relations) participated in the AAR. In addition, external stakeholders openly participated, including New Brunswick Southern Railway, Ocean Steel and Construction Limited, NRB Construction, and the Provincial Department of Transportation & Infrastructure. It was clear to city staff, with great level of participation, that all internal and external partners involved understood the seriousness of the community impact and were motivated to assist in contributing to solutions to avoid similar future circumstances.

Contributing Factors

Through the interviews and investigation during the AAR, several contributing factors were identified that, together, led to the cause and impacts of what occurred on the morning of May 27. These included:

1. **Unawareness of Responsible Entity** – It was determined during the AAR that Ocean Steel and Construction Ltd had taken responsibility for the Work, including contracting other organizations including NBSR and NRB Construction. However, communications leading up to the Work were undertaken between the City and NBSR. The City emphasized the importance of the Work being completed before the morning rush hours of May 27 during these communications with NBSR. The importance of this deadline was not communicated by the City directly to the party that took responsibility for Work, Ocean Steel and Construction Limited as we were unaware of their involvement. In fact, Ocean Steel and Construction Ltd understood they were not permitted to start the work on the proceeding day (Saturday, May 25), and the communication lines prevented Ocean Steel and Construction and the City from discussing scheduling options, such as the comparative impacts between an earlier start date versus the risk of project delay into a rush hour.
2. **Lack of Communications Plan and Contacts** – In addition to the City being unaware of the responsible entity, the City did not have adequate communications contacts for the Work from the responsible entity that also prevented timely updates being provided to the public for the Work when it was delayed into the morning rush hours of May 27. Although

anecdotal, it appeared evident that there was also a general lack of public awareness that the Work was planned in the first place.

3. **Lack of Formal City Approval Process** – The City did not require formal written approval for the Work in advance. This prevented formalizing City approval conditions, such as the Work needing to finish before the May 27 morning rush hours, contributed to lack of City knowledge of the responsibly entity, did not permit direct dialogue between Ocean Steel and Construction Ltd and the City, impeded development of a communications plan, and impacted the ability for the City to impose penalties for delays beyond the planned completion date and time.
4. **Complicated Regulatory Environment** – The rights and responsibilities of the City as a road authority at rail crossings in Saint John continues to be challenging to understand for city staff. Both provincial and federal laws regulate rail lines in Saint John, including at rail crossings. The rail line and rail crossing where the Work was completed served a single interest (Ocean Steel and Construction Ltd); this complicated the AAR. Chesley Drive being considered a provincial highway also complicated the AAR.
5. **Harbour Bridge Lanes Closure** – The continued rehabilitation of the Harbour Bridge is causing one third of the lanes available to move traffic between the east and west sides of the city for over half a year. This reduced capacity limits the ability to compensate for other fluctuations in traffic flow demand or, in the case of the May 27 lanes closure on Chesley Drive, disruptions in capacity in other parts of the transportation network.

Actions to Mitigate Future Instances

Based on the lessons learned from the contributing factors that led to the cause and/or impacts of the morning of May 27, 2024, the following mitigating measures are recommended to reduce the risk of future similar instances:

1. **Recommend Amendments to Provincial or Federal Rail Laws** – Neither provincial nor federal railway laws define all of the rights, responsibilities, and penalties associated with rail crossing rehabilitations in Saint John in circumstances such as the Work. A Regional Rail Working Group is currently being formed by the Fundy Regional Services Commission to clarify rights, responsibilities, and roles of regional communities and railways and advocate for change at other levels of government, where concluded appropriate. Terms of reference are under development and being shared for feedback with Working group Members. City staff are recommending that Common Council endorse that this AAR be referred to this Working Group as a case study and motivation for change to better serve regional communities, including appropriate amendments to provincial and/or federal laws or regulations as appropriate.
2. **Require Use of Excavation Permits Immediately** – As it is expected amendments to provincial or federal law as appropriate will take some time to be completed, City staff recommending imposing an interim

requirement. In any case where railways must complete work at or near rail lines or crossings that will impact the movement of vehicular traffic or other transportation modes, the City of Saint John is requiring the associated railway or responsible entity to apply for and obtain an Excavation Permit. The Excavation Permit will accomplish several improvements learned through the AAR. The entity taking responsibility for a rail crossing rehabilitation, and terms of the Excavation Permit, will be clearly defined from the permit application. Requirements of the City, such as a required project finish date and time, will be clearly imposed in writing and understood by the entity taking responsibility for the project. A Communications Plan, complete with contacts from the railway, will be required. Penalties are defined and can be issued through non-compliance with the terms of an Excavation Permit. This mitigating measure is immediately being imposed, and in fact has been imposed already. NB Southern Rail has applied for and received Excavation Permits although they are of the view that Excavation Permits are not fully aligned with practices in other Canadian municipalities, they are amenable to their use on an interim basis.

3. **Collaborate on Public Communications** – For railway crossing rehabilitations with more significant impacts (or risks of) to vehicular traffic, it will be a requirement that communications staff from both the railway, or responsible party, and the City collaborate on issuing public service announcements in advance. The City tends to have a broader community following on social media and therefore messaging from the City is likely to reach more of the public. The awareness of contacts will also allow expedited updates to the public should unexpected delays occur. Rehabilitations with more significant impacts, or risk of, to vehicular traffic would include those crossing collector or arterial roads such as Chesley Drive or roads that provide singular access in or out of a neighbourhood.
4. **Continue Encouraging Province Expedite Harbour Bridge Rehabilitation** – Expedited completion of the Harbour Bridge rehabilitation project, at least the work that has required the closure of 2 of 4 lanes over the bridge, would further reduce the risk of future significant east-west traffic delays such as what occurred from the Work. The City should continue to advocate to the Province that all reasonable measures be taken to expedite completion of the project.
5. **Invite Railways to City Spring Pre-Construction Meetings** – Each year in the spring, City staff hold a meeting with agencies that tend to do work on or near roads in Saint John. These meetings allow a common understanding of planned projects for the upcoming construction season and identify projects for further review that may compound to cause more significant traffic flow delays. The railways will be invited and strongly encouraged to attend these meetings so that planned rail line and crossing rehabilitation work is considered in this broader planning context.

STRATEGIC ALIGNMENT

This report best aligns with the following priorities of Common Council:

- **MOVE:** This After Action Review is intended to improve safe and accessible travel options for the movement of people and goods, and
- **PERFORM:** This After Action Review establishes continuous improvement opportunities to reduce risk of travel impacts during future rail crossing rehabilitation projects.

SERVICE AND FINANCIAL OUTCOMES

The anticipated risk of significant community impacts from future rail crossing rehabilitation projects is expected to reduce with the future actions defined in this AAR.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The following additional City departments contributed to this After Action Review:

- City's General Counsel Office
- City's Growth & Community Services Department
- City's External Relations and Communications Departments

The following external stakeholders contributed to this After Action Review through meetings and other communications, and as detailed herein:

- Provincial Department of Transportation & Infrastructure has indicated support for the AAR.
- New Brunswick Southern Railway has indicated doubt there is a need for provincial or federal law reform. They have also indicated concern with the city's plan to require Excavation Permits for work at rail crossings, citing potential impact to rail operations between applying for and receiving permits, among other concerns. NBSR has indicated agreement on the other three actions of the AAR.
- Ocean Steal and Construction Ltd has provided comments on a draft of the AAR, which have been incorporated into this final document.
- NRB Construction has indicated they have no additional comments.

ATTACHMENTS

City staff presentation