

Adopted by Council at its meeting held November 16, 2015 [M469-2015]

/AC

Windsor, Ontario November 16, 2015

**REPORT NO. 311** of the  
**ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY**  
**STANDING COMMITTEE**  
of its meeting held October 21, 2015

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**Present:**                    **Councillor Fred Francis**  
                                  **Councillor Chris Holt**  
                                  **Councillor Hilary Payne (Vice Chair)**  
                                  **Councillor Paul Borrelli**

**Regrets:**                    **Councillor Bill Marra**

That the following recommendations of the Environment, Transportation and Public Safety Standing Committee **BE APPROVED:**

Moved by Councillor Francis, seconded by Councillor Holt,  
That the report of the City Engineer dated September 18, 2015 entitled "CQ25-2014: Overnight Shunting/Loading of Vehicles" **BE RECEIVED** for information.  
Carried.

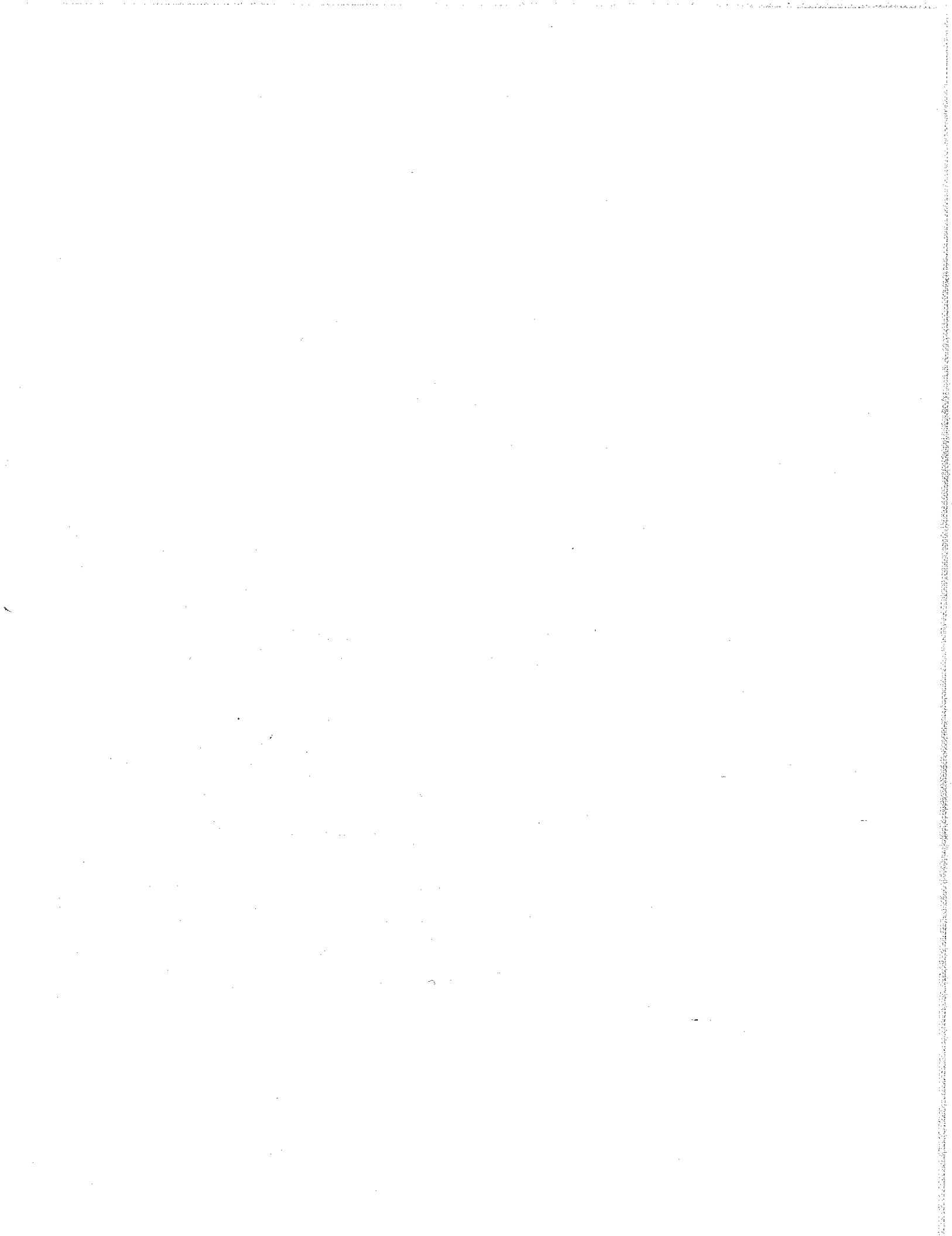
**LiveLink 17761 ST2015**

Clerk's Note: The report of the City Engineer dated September 18, 2015 entitled "CQ25-2014: Overnight Shunting/Loading of Vehicles" is attached as background information.

  
\_\_\_\_\_  
CHAIRPERSON

  
\_\_\_\_\_  
SUPERVISOR OF COUNCIL SERVICES

NOTIFICATION:	
NAME	CONTACT INFORMATION



**THE CORPORATION OF THE CITY OF WINDSOR**  
**Environment, Transportation & Public Safety Standing Committee –**  
**Admin Report - Operations**

**MISSION STATEMENT:**

*Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together.”*

<b>LiveLink REPORT #:</b> 17761 ST2015	<b>Report Date:</b> September 18, 2015 PW#4076-10/06/15:eb
<b>Author's Name:</b> Mark Winterton	<b>Date to Standing Committee:</b> October 21, 2015
<b>Author's Phone:</b> (519) 255-6247 ext. 6356	<b>Classification #:</b>
<b>Author's E-mail:</b> mwinterton@citywindsor.ca	

**To:** Environment, Transportation & Public Safety Standing Committee

**Subject:** CQ25-2014: Overnight Shunting/Loading of Vehicles

1. **RECOMMENDATION:** City Wide:  Ward(s): \_\_\_\_\_

To Council FOR INFORMATION.

**EXECUTIVE SUMMARY:**

N/A

2. **BACKGROUND:**

The following Council Question was recorded at the October 6, 2014 Council meeting:

**CQ25-2014** “Asks that Administration investigate the late night and overnight shunting/loading of vehicles that is taking place at 5500 EC Row Avenue East, immediately south of a Fountainbleau neighbourhood – Wachna Street”.

This report is provided in response to CQ25-2014.

3. **DISCUSSION:**

Many communities in Canada have railway operations, with shunting, coupling, decoupling and idling at high speeds. Accordingly, in many places, residents are affected by railway operations during evening hours and this sometimes affects their ability to get a good night's sleep.

Railways, specifically as it relates to noise and vibration, are governed by the Canada Transportation Act (1996, c. 10). As a result, the City's noise By-law 6716 only prohibits operations on property not owned or controlled by a railway governed by the Canada Transportation Act.

The applicable section of the Transportation Act is reproduced below:

**Noise and Vibration**

*95.1 When constructing or operating a railway, a railway company shall cause only such noise and vibration as is reasonable, taking into account*

*(a) its obligations under sections 113 and 114, if applicable;*

*(b) its operational requirements; and*

*(c) the area where the construction or operation takes place. 2007, c. 19, s. 29.*

**Private Member's Bill**

A Private member's bill has been introduced in Parliament which would prohibit railway companies from engaging in noisy rail yard activities during unreasonable hours in residential areas between the hours of 10pm and 8am. The bill was first introduced in October 27, 2010 as Bill C-587. As this Bill had not yet been passed by the time the federal election was called in the spring of 2011, it effectively "died on the order paper," and proceeded no further, as is the case with all Bills that do not make it completely through the parliamentary process prior to an election being called.

However, the Bill has been re-instated from Previous Session of Parliament and is now known as Bill C-393. It is reproduced below:

**Bill C-393**

***An Act to amend the Canada Transportation Act (railway noise and vibration control)***

*95.11 When constructing or operating a railway within 300 metres of any residential, institutional or commercial establishment, a railway company shall not shunt, couple or decouple cars or leave an engine with its motor idling*

*(a) at any time on a Saturday, Sunday, or legal holiday, and*

*(b) before 8:00 a.m. and after 10:00 p.m. on any other day, except as authorized by the Minister for a specific period during a national emergency declared under the Emergencies Act.*

It should be noted that Private member's bills don't often become law.

As the railways are legally entitled to make noise and vibration (as is reasonable) to conduct their operations, the only thing the municipality can do is to write a letter to the railway requesting that they make every effort to minimize the noise and vibration created during overnight railway operations in order to minimize the disruption caused to the sleep of nearby residents.

Such a letter has been sent to the Railway operating at 5500 EC Row Avenue East (See Appendix "A").

**4. RISK ANALYSIS:**

N/A

**5. FINANCIAL MATTERS:**


N/A


**6. CONSULTATIONS:**

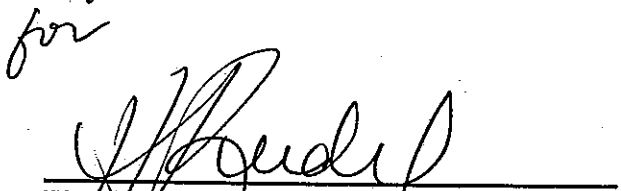
Legal

**7. CONCLUSION:**

The City has no authority to compel railways to cease noise generating activities as such activities are governed under the Canada Transportation Act (railway noise and vibration control). A letter has been sent to the railway noting concerns over noise generated through the late night shunting/loading of vehicles at 5500 EC Row Avenue East requesting that the railway make every effort to minimize the noise and vibration created during overnight railway operations in order to minimize the disruption to nearby residents.

  
MARK WINTERTON  
City Engineer and Corporate Leader,  
Environmental Protection and Transportation

  
SHELBY ASKIN-HAGER  
City Solicitor

for  
  
HELGA REIDEL  
Chief Administrative Officer

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**APPENDICES: Appendix A – Letter to CN**

**DEPARTMENTS/OTHERS CONSULTED:**

Name:

Phone #: 519 ext.

**NOTIFICATION :**

Name	Address	Email Address	Telephone	FAX



**THE CORPORATION OF THE CITY OF WINDSOR  
OFFICE OF THE CITY ENGINEER**

Mark Winterton, P. Eng.  
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mwinterton@citywindsor.ca

September 21, 2015

CN  
935 de La Gauchetière Street West  
Montreal, Quebec  
H3B 2M9

**Attention:** Mark Hallman Director Communications and Public Affairs

Dear:

**RE: Overnight Shunting and Loading of Cars**

I am writing with respect to your property located at 5500 EC Row Avenue East.

Nearby residents to your property have complained of noise and vibration from operations conducted overnight relating to the shunting and loading of rail cars.

I respectfully request that you make every effort to minimize the noise and vibration created during your overnight operations at the noted property in order to minimize the disruption caused to the sleep of nearby residents.

Your attention to this matter is appreciated.

Sincerely,

Mark Winterton, P. Eng.  
City Engineer  
City of Windsor

MW:rs