

# **PUBLIC WORKS COMMITTEE AGENDA**

**Thursday, March 1, 2012, 7:00 a.m.  
Operations Centre, Primrose**

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Declarations of Pecuniary Interest by Members

## **REPORTS**

**1. PUBLIC WORKS COMMITTEE – March 1, 2012 – ITEM #1  
Stanton Intersection Traffic Calming**

A report from the Director of Public Works, dated March 1, 2012 with respect to provide information on various traffic calming methods that could be provided at the intersection of Airport Road and 5 Sideroad in Mulmur.

*Recommendation:*

*THAT Report PW-2012-01-03 Stanton Traffic Calming from the Director of Public Works dated March 1, 2012 be received;*

*AND THAT Bylaw 2005-32 be amended to include a Community Safety Zone on Airport Road in Stanton;*

*AND THAT Vehicle Activate Traffic Calming Signs be installed on either side of Stanton.*

**2. PUBLIC WORKS COMMITTEE – March 1, 2012 – ITEM #2  
County Road 5 Construction Options**

A report from the Director of Public Works, dated March 1, 2012 with respect to provide information on various construction/reconstruction methods that can be utilized for Road #5.

*Recommendation:*

*For consideration of the Committee.*

## **CORRESPONDENCE**

**3. PUBLIC WORKS COMMITTEE – March 1, 2012 – ITEM #3  
Ontario Good Roads Association – Alert**

An Alert from the Ontario Good Roads Association with respect to the impact on minimum maintenance standards after a recent decision by the Court of Appeal of Ontario.

*Recommendation:*

*THAT the Alert from the Ontario Good Roads Association with respect to the impact on minimum maintenance standards after a recent decision by the Court of Appeal of Ontario be received for information.*

**OTHER BUSINESS**

**Next Meeting:**     March 28, 2012  
                          Operations Centre, Primrose

# THE CORPORATION OF THE COUNTY OF DUFFERIN



## REPORT PW-2012-03-01 Stanton Traffic Calming TO PUBLIC WORKS COMMITTEE



**To:** Chair McGhee and Members of the Committee

**From:** Trevor D. Lewis, P.Eng. Director of Public Works

**Date:** March 1, 2012

**Subject:** **Stanton Intersection Traffic Calming**

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### **Purpose**

The purpose of this report is to provide information on various traffic calming methods that could be provided at the intersection of Airport Road and 5 Sideroad in Mulmur.

### **Background & Discussion**

At the last Public Works Committee meeting, the Director was asked to come back to Committee with some recommendations for traffic calming in Stanton.

The Consolidated Traffic Bylaw 2005-32 includes a provision for Community Safety Zones. A section of Airport Road could be designated as a Community Safety Zone and traffic fines would be doubled. This method could reduce the incidence of speeding.

In order to install traffic signals, there is a traffic warrant that must be met. Without doing the warrant, staff highly doubts that this intersection would meet the warrants. Different factors that are taken into account are the delays to cross traffic, the ratio of traffic on the major and minor roads and accidents that can be prevented utilizing a traffic signal. As well, the traffic signal would create more accidents than there have been at the intersection. Staff would not recommend the installation of a traffic signal.

Staff have previously reported on a new type of sign called Vehicle Activated Traffic Calming Signs (VATCS). These signs are radar activated and illuminate if a vehicle passes at a rate of speed higher than the posted speed. They can be installed on either side of Stanton to warn those drivers who are exceeding the speed limit. They are different than the signs that have been previously used by some local municipalities and referred to as “trophy signs”. (This is how fast you were going and here is the speed limit.)

Typical VATCS Installation



There was a request for speed reduction to 60 kph. The Highway Traffic Act allows for built-up areas to have speeds reduced. The built-up area is defined as “not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches”. In this case the distance from the south end of the buildings on the east side to the north end of the buildings on the west side is 138 metres. Therefore the intersection would not be considered a built-up area.

### Recommendation

**THAT** Report PW-2012-01-03 Stanton Traffic Calming from the Director of Public Works dated March 1, 2012 be received;

**AND THAT** Bylaw 2005-32 be amended to include a Community Safety Zone on Airport Road in Stanton;

**AND THAT** Vehicle Activate Traffic Calming Signs be installed on either side of Stanton.

Respectfully submitted by

*Original signed by,*

Trevor D. Lewis, P. Eng.  
Director of Public Works  
and County Engineer

# THE CORPORATION OF THE COUNTY OF DUFFERIN



## REPORT PW-2012-03-01 Road #5 Options TO PUBLIC WORKS COMMITTEE



**To:** Chair McGhee and Members of the Committee  
**From:** Trevor D. Lewis, P.Eng. Director of Public Works  
**Date:** March 1, 2012  
**Subject:** Road #5 Construction Options

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### Purpose

The purpose of this report is to provide information on various construction/reconstruction methods that can be utilized for Road #5.

### Background & Discussion

At the last Public Works Committee meeting, the Director was asked to provide the costs for various construction/re-construction methods for Road #5.

Staff have identified three different re-construction scenarios to investigate for the proposed work on Road #5, 1) 80 kph posted curve, 2) 60 kph posted curve and 3) no curve. Scenario 1 would require the most land and “new” road construction, Scenario 2 would require less land and have a shorter “new” road construction and Scenario 3 would require no land and no “new” road.

The various costs associated with the three scenarios are shown in the table below:

Scenario	Description	Construction costs	Resurfacing costs	Total
1	80 kph	\$630,000	\$360,300	\$990,300
2	60 kph	\$350,000	\$448,800	\$798,800
3	No curve	0	\$550,600	\$550,600

The 2012 capital budget includes \$935,000 for this proposed work for 2.5 kilometres. The cost to resurface Road #5 to the Townline (4.5 km) is \$953,000.

## **Recommendation**

**THAT** Report PW-2012-01-03 Road #5 Construction Options from the Director of Public Works dated March 1, 2012 be received for consideration.

Respectfully submitted by

*Original signed by,*

Trevor D. Lewis, P. Eng.  
Director of Public Works  
and County Engineer



# Heads UP



keeping members informed.

February 9, 2012

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## Impact on Minimum Maintenance Standards: *Giuliani v. Region of Halton et. al*

### Did you know?

A recent decision by the Court of Appeal for Ontario, *Giuliani v. Region of Halton et. al* [2011] ONCA 812 (CanLII), has severely undermined the defence afforded municipalities in winter road maintenance cases with regard to section 4 and 5 of Ontario Regulation 239/02 - Minimum Maintenance Standards for Municipal Highways ("MMS"). In short, sections 4 and 5 of the MMS have been gutted by the limited interpretation given to them by the Court of Appeal, and these sections are now largely meaningless as a defence.

### Why municipalities should be concerned with this decision

Section 44(1) of the *Municipal Act, 2001* states that a "municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge". Section 44(3) provides a defence for municipalities should the minimum standards established under subsection (4) be met and section 44(4) gives the Minister of Transportation the authorization to establish minimum standards. Regulation 239/02 was written in the context that a road is in a state of repair until the target in section 4 (Snow Accumulation) or the response time in section 5 (Icy Roadways) have been exceeded. The decision of the Court of Appeal for Ontario in *Giuliani* essentially renders these parts of the MMS meaningless by stating "In summary, I am of the view that the MMS did not establish a minimum standard to address the accumulation of less than five centimeters of snow on a class 2 highway, nor did it establish a minimum standard for the treatment of a highway before ice is formed and becomes an icy roadway"<sup>1</sup>. This decision indicates that a road is **NOT** deemed to be in a state of repair even though the trigger depth for action in the table under section 4 of the MMS (Snow Accumulation) has not been reached, nor does section 5 (Icy Roadways) apply as this section has been found by the Court of Appeal to be directed only at the situation when the roadway has already become icy and the municipality is aware of that fact, and not before. Therefore the old case law, which was intended to be replaced by the MMS, applies once again to most if not every winter road maintenance claim involving the presence of snow or ice on the road. Even worse, this decision goes beyond the old case law and appears to impose liability for failing to **PREVENT** the formation of ice, suggesting that, whenever it snows, no matter what the depth of accumulation municipalities now must take steps to prevent the formation of ice.

### What should municipalities do now?

Many municipalities have Level of Service Policies (LOS) that exceeds the MMS. Those municipalities should make reasonable efforts to continue to provide service in accordance with their LOS. For municipalities that have included the MMS in their policy, or as their policy, they should continue their efforts to provide service that is reasonable in the circumstances and document everything, but realize now that just because the trigger depth under the table to section 4 of the MMS has not been reached, there could be liability if that snow turns into ice, and reasonable steps to prevent that from happening have not been taken. In addition, all municipalities must now understand that section 5 of the MMS only applies as a defence **AFTER** the ice has formed, and **NOT** beforehand. The emphasis now, by every

<sup>1</sup> Decision Justice O'Connor – *Giuliani v Halton/Milton*, December 21, 2011



Plaintiff's counsel, will be to attack the steps taken by the municipality before the ice even formed, and this includes monitoring of weather conditions, patrolling, and steps taken to prevent ice when it reasonably could have been anticipated.

Good record keeping with or without the MMS is your best defence. Document everything, including:

- winter maintenance training given to staff and contractors;
- weather forecast records;
- winter patrol records and what variation may have been made to the patrol of representative roads in response to an approaching winter event;
- record the response made to a winter event;
  - time the response began;
  - treatment applied,
  - outcome achieved and when

#### What is OGRA doing on our membership's behalf?

OMEX, the insurer for the Town of Milton in this case, has sought leave to appeal this ruling to the Supreme Court of Canada. OGRA may request intervener status should the Supreme Court decide to hear this case. Unless the Supreme Court of Canada overturns this ruling by the Court of Appeal for Ontario, the only recourse will be for municipalities to lobby the Provincial Government for amendments to the MMS and perhaps to s.44 itself.

OGRA will be meeting with the Minister of Transportation and members of the Liberal Caucus at the ROMA/OGRA Conference later this month. We will be putting the Minister "on notice" of the *Giuliani* decision by the Court of Appeal, and advise them that there may likely be a request that the MMS be amended. We may also ask the Minister of Municipal Affairs and Housing to consider amendments to section 44(1) of the *Municipal Act, 2001*.

OGRA is also preparing a Guideline for Preparing for and Decommissioning Winter Operations. This document supplements the best practice released with the revised MMS which recommends that a municipality should have a contingency plan dealing with the pre and post winter season. The guideline will be circulated to our membership before this winter season expires.

For more information contact Brian Anderson of OGRA at 289-291- OGRA (6472) or by email at [brian@ogra.org](mailto:brian@ogra.org)

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### Saviez-vous que... ?

Une récente décision de la Cour d'appel de l'Ontario dans la cause opposant Giuliani à la municipalité de Halton *et al.* (2011 ONCA 812 CanLII), a gravement compromis la défense des municipalités en matière d'entretien des routes en hiver en vertu des articles 4 et 5 du règlement de l'Ontario 239/02– Normes minimales d'entretien (NME) des routes municipales. En bref, ces normes ont été dénuées de leur sens original par l'interprétation restreinte qu'en a donnée la Cour d'appel, de sorte que les articles 4 et 5 sont maintenant sans valeur pour la défense.

### Pourquoi les municipalités doivent-elles être préoccupées par cette décision ?

L'article 44(1) de la *Loi de 2001 sur les municipalités* stipule qu'une « municipalité qui a compétence sur une voie publique ou un pont doit en assurer l'entretien raisonnable dans les circonstances, y compris le caractère et l'emplacement ». L'article 44(3) protège les municipalités dans le cas où les NME stipulées au paragraphe (4) ont été respectées et l'article 44(4) autorise le ministère des Transports à définir ces normes. Le règlement 239/02 a été rédigé dans le contexte où une voie publique est dans un état de réparation jusqu'à ce que l'objectif visé par l'article 4 (accumulation de neige) ou le délai d'intervention à l'article 5 (voies publiques glacées) ont été dépassés. Le juge O'Connor de la Cour d'appel a invalidé cette partie des NME en déclarant : « En résumé, je suis d'avis que les NME ne concernent pas les accumulations de neige inférieures à cinq centimètres sur les voies publiques de catégorie 2 ni l'entretien de ces voies avant que la glace se forme et que la chaussée devienne glacée »<sup>2</sup>. Cette décision signifie que la route n'est **PAS** réputée être dans un état de réparation, même si les limites définies à l'article 4 des NME (accumulation de neige) n'ont pas été atteintes. De même, l'article 5 (voies publiques glacées) est remis en cause puisque la Cour d'appel a jugé que cet article s'applique uniquement lorsque la chaussée est glissante et que la municipalité en est consciente, et pas avant. Par conséquent, l'ancienne jurisprudence, qui devait remplacer les nouvelles NME, s'applique à nouveau à la plupart, sinon à toutes les demandes d'entretien hivernal des routes impliquant la présence de neige ou de glace. Pire encore, cette décision va au-delà de l'ancienne jurisprudence et semble imposer la responsabilité de ne pas avoir pu **EMPÊCHER** la formation de glace, suggérant ainsi que, chaque fois qu'il y a de la neige, peu importe l'accumulation, les municipalités devront prendre des mesures pour empêcher la formation de glace.

### Que doivent maintenant faire les municipalités ?

Plusieurs municipalités sont dotées d'un niveau de politiques de services supérieur aux NME. Ces municipalités devraient faire un effort raisonnable pour continuer d'offrir des services conformes à leur politique. Quant aux municipalités qui ont opté pour les NME, elles devraient continuer à offrir et documenter un service raisonnable dans les circonstances tout en étant conscientes du fait que, même si les limites définies à l'article 4 des NME ne sont pas atteintes, elles pourraient être tenues responsables si la neige se transforme en glace et qu'elles n'ont pas pris des mesures raisonnables pour empêcher que cela se produise. De plus, toutes les municipalités doivent maintenant comprendre que l'article 5 des NME s'applique uniquement comme moyen de défense **APRÈS** que la glace se soit formée et **PAS** avant. Désormais, les conseillers juridiques des demandeurs attaqueront les mesures prises par les municipalités avant que la glace se forme, ce qui se traduira par la surveillance des conditions météorologiques, des patrouilles et des mesures prises pour empêcher la glace de se former quand il sera possible de l'anticiper de manière raisonnable.

Que vous optiez ou non pour les NME, des dossiers bien documentés sont votre meilleure défense.

Documentez tout ce que vous faites, incluant :

- la formation relative à l'entretien hivernal donnée au personnel et aux entrepreneurs;
- des dossiers sur les conditions météorologiques;

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<sup>2</sup> Décision du juge O'Connor – Giuliani v Halton/Milton, 21 décembre 2011

- les patrouilles hivernales et les modifications apportées à ces patrouilles en réponse à un événement particulier;
- des dossiers sur les réponses à un événement particulier;
  - o à quel moment l'intervention a débuté;
  - o les mesures prises,
  - o les résultats obtenus et à quel moment

#### Que fait l'OGRA pour ses membres ?

L'assureur de la ville de Milton, OMEX, a demandé l'autorisation d'interjeter appel de cette décision devant la Cour suprême du Canada. Advenant le cas où cette instance décidait d'entendre la cause, l'OGRA pourrait demander un statut d'intervenant. À moins que la Cour suprême décide de renverser la décision de la Cour d'appel de l'Ontario, le seul recours pour les municipalités sera de faire pression auprès du gouvernement provincial pour qu'il modifie les NME et peut être même l'article 44.

L'OGRA rencontrera le ministre des Transports et des membres du caucus libéral lors de la conférence conjointe ROMA/OGRA plus tard en février. Nous allons aviser le ministre de la décision de la Cour d'appel dans l'affaire *Giuliani*, et l'informer du fait que les municipalités pourraient demander de modifier les NME. L'association pourrait également demander au ministre des Affaires municipales et du logement d'amender l'article 44(1) de la *Loi de 2001 sur les affaires municipales*.

L'OGRA prépare aussi un Guide relatif à la mise en œuvre et la mise hors de service des opérations hivernales. Ce document complète les meilleures pratiques publiées avec la version révisée des NME qui recommandent aux municipalités d'avoir un plan d'urgence portant sur les activités pré et post hivernales. Le guide sera distribué à nos membres avant la fin de l'hiver.

Pour plus d'information : Brian Anderson, OGRA au (289) 291- OGRA (6472) ou par courriel à [brian@ogra.org](mailto:brian@ogra.org)