

Special Committee of the Whole (1) Report

DATE: Monday, March 30, 2020

WARD(S): ALL

TITLE: BILL 187, MUNICIPAL EMERGENCY ACT, 2020 AND UPDATES TO THE PROCEDURE BY-LAW

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek Committee's approval for amendments to Procedure By-law 7-2011, as amended, to allow for electronic participation in Committee of the Whole and Council meetings for Council members, in response to Bill 187, *Municipal Emergency Act, 2020*, during the Novel Coronavirus (COVID-19) pandemic.

Report Highlights

- The 2019 Novel Coronavirus (COVID-19) pandemic may result in Members of Council being unable to physically attend Committee and Council meetings.
- The Province enacted Bill 187, *Municipal Emergency Act, 2020*, which now permits meetings of Committee and Council to be conducted via electronic means during an emergency.
- Electronic participation would allow Members to contribute to both open and closed meetings.

Recommendations

1. That the amendments to Procedure By-law 7-2011, substantially in the form listed in Attachment #1, to facilitate electronic participation at Committee of the Whole and Council meetings, in accordance with Bill 187, *Municipal Emergency Act, 2020*, be approved,
2. That the necessary amending by-law be enacted.

Background

Declaration of Emergency

On March 17, 2020, Mayor Bevilacqua declared a state of Local emergency in accordance with the *Emergency Management and Civil Protection Act, R.S.O. 1990, c E.9 s.4.(1)* (“EMCPA”) in response to the 2019 Novel Coronavirus (COVID-19) pandemic to support municipal response and continuity of critical services.

On March 17, 2020, due to the growing public health concerns surrounding the 2019 Novel Coronavirus (COVID-19), the Province declared a province-wide emergency under section 7.0.1 of the *Emergency Management and Civil Protection Act* (“EMCPA”). Since then, the Province has issued various orders that mandated the closure of all recreation facilities, public libraries, child-care centres, and bars and restaurants providing public accommodations in all municipalities across Ontario, and prohibited all organized events with attendance of more than 50 people, in an effort to contain the spread of COVID-19. Effective March 28, 2020, a new emergency order further prohibits organized public events and social gatherings of more than five people.

City of Vaughan Procedure By-law 7-2011, as amended

The Procedure By-law establishes the principles and rules to be used for meetings of Council and its Committees. The Procedure By-law enhances stakeholder participation, community involvement and opportunities for valuable input from the public, other stakeholders and relevant experts on matters that come before Council. The amendments proposed in this report continue to build upon the governance model established by the Procedure By-law.

Previous Amendments to the Procedure By-law

On March 17, 2020, Council approved amendments to Procedure By-law 7-2011, to facilitate electronic participation at Committee of the Whole and Council meetings on a trial basis. This was done as a proactive measure to allow electronic participation at Committee and Council meetings to the extent possible under the *Municipal Act*, at that time. Since then, Bill 187 has been enacted by the provincial government, which provides for greater extent of electronic participation than previously permitted.

Previous Reports/Authority

[UPDATES TO PROCEDURE BY-LAW FOR ELECTRONIC MEETING PARTICIPATION \(Special Committee of the Whole Report No.13, Item #4, Approved by Council on March 17, 2020\)](#)

Analysis and Options

What is Bill 187, the *Municipal Emergency Act, 2020*?

On March 19, 2020, the Legislative Assembly of Ontario enacted the *Municipal Emergency Act, 2020* (Bill 187). It permits meetings of Council to be conducted through electronic means during declared emergencies. In particular, it states that Section 238 of the *Municipal Act, 2001* is amended by adding the following subsections;

“Electronic participation, emergencies

(3.3) The applicable procedure by-law may provide that, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*,

- (a) despite subsection (3.1), a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and
- (b) despite subsection (3.2), a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is closed to the public.

Same, procedure by-law

(3.4) A municipality or local board may hold a special meeting to amend an applicable procedure by-law for the purposes of subsection (3.3) during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* and despite subsection (3.1), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting.”

What changes with Bill 187, the *Municipal Emergency Act, 2020*?

The *Municipal Emergency Act, 2020* (Bill 187) made changes to the *Municipal Act, 2001* to permit municipalities to amend their Procedure By-law to allow Council members to participate electronically and count towards quorum in both open and closed session meetings, but only during a period of provincial or municipal emergency declared under the EMCPA.

The *Municipal Act, 2001*, prior to Bill 187, only permitted municipalities through their Procedure By-law, to authorize and establish rules for electronic participation in open

meetings, provided that members participating electronically would not be counted towards quorum. Electronic participation in closed meetings was prohibited.

The *Municipal Act, 2001* now allows:

- an electronic meeting to take place regardless of the number of members who wish to participate electronically – there is no longer an “in-person” quorum requirement – when an emergency has been declared under the EMCPA (s. 238(3.3)(a));
- during a declared emergency, a closed session meeting may take place electronically (s. 238(3.3)(b)); and
- authority has been granted for full participation of Council by electronic means for a Special Council meeting to amend its Procedure By-law in order to establish the authority to hold meetings electronically during an emergency (s. 238(3.4));

What are the next steps to implement Bill 187, the *Municipal Emergency Act, 2020*?

This report addresses the necessary steps to implement Bill 187 and Staff recommend that Committee adopt the staff recommendations in this report, including enacting a by-law to amend the Procedure By-law 7-2011 to facilitate the continued operation of Committee of the Whole and Council meetings during the on-going COVID-19 emergency.

What changes to Procedure By-law 7-2011 are being proposed?

When are Electronic Meetings permitted?

Electronic Meetings will be permitted during any period of time when an emergency has been declared for all or part of a municipality by the Head of Council or the Province under sections 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, Chapter E. 9, as amended.

Quorum

The Procedure By-law, upon amendment, will allow a Member participating electronically in a meeting to be counted in determining whether or not a quorum of Members is present at any time during the meeting (both open and closed sessions).

Rights and Responsibilities of a Council Member

A Council Member who participates electronically shall have the same rights and responsibilities as if they were in physical attendance, including the right to vote.

Meeting Chair

The Chair will not be permitted to participate in a meeting electronically for practical reasons. The Chair is required to be physically present at the meeting location (Council Chamber) in order to effectively guide the meeting. If the Chair is unable to physically attend the meeting, the Mayor or his/her substitute determined in accordance with Section 3.2 (1) of the Procedure By-law shall act as Chair.

Roll Call

After calling the meeting to order, the Chair shall direct the City Clerk to conduct a roll call to identify the Council Members who are participating electronically in the meeting, and to ensure that a quorum is present. Should a Council Member join the Electronic Meeting at any time during the meeting, they shall announce themselves to the Chair and City Clerk. Also, should a Council Member need to leave the meeting, they will also announce this to the Chair and City Clerk.

Communications, Deputations and Ceremonial Presentations

Written communications related to an item on an agenda, for an Electronic Meeting, shall be received in accordance with Section 2.1(9) Communications/Written Submissions (Agenda Item) of Procedure By-law 7-2011, as amended. Written communications should be submitted via email to clerks@vaughan.ca. Deputations to items not on the agenda and Ceremonial Presentations shall not be permitted.

Deputations by the public, for items listed on the meeting agenda, shall be permitted where and when practical. At the current time, in-person deputations are not practical due to restrictions of maximum gathering size, social distancing requirements and the closure of City Hall to the public. In these instances, written communications will be encouraged. Deadlines for Communications under Sections 2.1 (9)(c) and (d) may be suspended at the discretion of the City Clerk. Written communications will be distributed to all Members in the most practicable way possible, including before, during or after an Electronic Meeting.

Closed Meetings

Electronic participation in closed meetings is permitted by Bill 187, the *Municipal Emergency Act, 2020*. As part of the Closed Session, Council Members participating electronically will be required to make a verbal declaration indicating that they will maintain the confidentiality of the meeting while participating in the Closed Session via electronic participation. Council Members will be required to participate from a location that offers them privacy to ensure the confidentiality of the meeting.

Definitions

The following definitions will be added to Procedure By-law 7-2011:

ELECTRONIC PARTICIPATION - A Council Member who participates in a Committee or Council meeting remotely via electronic means (e.g. video or audio teleconference), has the same rights and responsibilities as if he or she were in physical attendance, including the right to vote. They shall count towards a quorum of members and shall be permitted to participate in any portion of a meeting which is open or closed to the public.

ELECTRONIC MEETING - A meeting called and held in full or in part via electronic means (including, but not limited to, audio teleconference, video teleconference, or via means of the internet), and with or without in-person attendance, allowing for Electronic Participation by Council Members.

Interruptions to connection

Should a Council member participating electronically in a meeting become disconnected during the meeting, efforts will be made by Staff, where possible, to reconnect with the member. The Chair may decide on a short recess to determine whether or not the communication connection can be re-established, with no more than two attempts being made. Alternatively, the Chair may decide to continue the meeting and treat the interruption as if the Council Member who is physically present leaves the room.

What changes to meeting procedures will be required?

Voting on a Motion

When a motion is a call for a vote, the Chair will ask the Council Members, one at a time, to verbally indicate their vote on the motion. The order for asking the Council Members to indicate their vote shall be, first those Members attending in-person, and then those participating electronically. For each group, the following order shall be followed:

1. Mayor
2. Deputy Mayor
3. Local and Regional Councillor with the second most votes in the last general municipal election
4. Local and Regional Councillor with the third most votes in the last general municipal election
5. Ward 1 Local Councillor
6. Ward 2 Local Councillor
7. Ward 3 Local Councillor

8. Ward 4 Local Councillor
9. Ward 5 Local Councillor

Recorded Votes

Should a recorded vote be requested by a Council Member during a Council meeting, the vote shall be conducted in accordance with Section 4.5(6) Voting on Motions in Procedure By-law 7-2011, as amended.

Will Electronic Participation be permitted after the emergency?

Electronic participation by Council Members will only be permitted during the declaration of an emergency. The success of electronic participation will be reviewed by Staff in a future report to Committee of the Whole. The report will assess the viability and appropriateness of allowing electronic participation, in accordance with the requirements of the *Municipal Act*, for regular Committee of the Whole and Council meetings.

Previous Amendments to the Procedure By-law

Amendments to Procedure By-law 7-2011, approved by Council at the meeting of March 17, 2020, were made without the benefit of the *Municipal Emergency Act, 2020*. The authority granted by the *Municipal Emergency Act, 2020*, exceeds what was considered at the March 17, 2020 meeting. For that reason, it is recommended that the amendments outlined in Attachment #1 be approved and the prior changes to the bylaw be reversed.

Using remote meeting tools for electronic meetings

In order to make use of these new legislative amendments, staff is actively working on a useable, simple technology solution. Council Members participating electronically should do so through a corporate device, to ensure the security of the communication.

The solution may change as Council and staff gain experience with electronic meetings. The experience of other municipalities has been, and will continue to be, reviewed to ensure best practices are being applied at the City of Vaughan.

Electronic meeting systems rely on the quality of the users' internet connection to achieve an optimal experience. Council and staff will need to be flexible as we move forward with this new meeting technology.

Financial Impact

Immediate costs associated with implementing the technology to allow electronic

participation will be within existing budgets.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

The proposed amendments to the City of Vaughan Procedure By-law 7-2011, as amended, will allow for electronic participation in Committee of the Whole and Council meetings for Council members, in response to Bill 187, *Municipal Emergency Act, 2020*, during the Novel Coronavirus (COVID-19) pandemic.

For more information, please contact: Todd Coles, City Clerk, x8281

Attachments

1. Proposed Amendments to Procedure By-law 7-2011 to Implement Bill 187, the *Municipal Emergency Act, 2020*.

Prepared by

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