

Committee of the Whole (2) Report

DATE: Tuesday, September 22, 2020

WARD(S): ALL

**TITLE: UPDATES TO THE PROCEDURE BY-LAW IN RESPONSE TO
BILL 197, COVID-19 ECONOMIC RECOVERY ACT, 2020 AND
OTHER MINOR AMENDMENTS**

FROM:

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

ACTION: DECISION

Purpose

To recommend changes to the Procedure By-law 07-2011, as amended, to implement provisions for electronic meeting participation by members of City Council, Committee and Local Boards and count towards quorum outside of a declared Provincial and/or Municipal emergency, based on the provisions contained within Bill 197. The report also addresses some general revisions to the Procedure By-law.

Report Highlights

- Bill 197, *COVID-19 Economic Recovery Act, 2020*, permits a municipality to permanently implement electronic meetings outside of a declared emergency.
- The Procedure By-law requires some minor amendments to address long-standing issues to improve clarity and understanding for the public and staff.

Recommendation

1. That amendment to the Procedure By-law 7-2011, as amended, to facilitate electronic participation in Council, Committee of the Whole, statutory, ad hoc and sub-committee meetings, in accordance with Bill 197, *COVID-19 Economic Recovery Act, 2020*, and other minor amendments, be approved.

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”).

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 was enacted by the provincial government, which provides for greater extent of electronic participation than previously permitted, when an emergency is declared either at the Provincial or municipal level.

On March 30, 2020, Council approved further amendments to the Procedure By-law 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. By-law 033-2020 was passed to make the appropriate amendments to Procedure By-law 7-2011.

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

Bill 197, the COVID-19 Economic Recovery Act, 2020

On July 8, 2020 the Province of Ontario introduced Bill 197, the *COVID-19 Economic Recovery Act, 2020*. The bill received Royal Assent on July 21, 2020 and came into effect on July 24, 2020. A component of Bill 197 amends the *Municipal Act, 2001* to permit electronic meetings of Council and Committees beyond the scope of a declared emergency at either the provincial or municipal level. An amendment to the Procedure By-law is required to allow for electronic participation meetings outside of a declared emergency.

In addition, Bill 197 has introduced a further amendment to the *Municipal Act* which would allow a member of Council to appoint another member of Council to act as proxy in their place when they are absent from a Council meeting. It is not recommended that proxy voting be considered at this time, as electronic participation will allow a Member of Council to virtually attend any Committee or Council meeting from wherever they are at the time, whether it be a foreign country or at home due to illness, or absent for some other reason.

Current state of Electronic Meetings

Electronic meetings have proven to be a viable method of conducting meetings during the COVID-19 pandemic. Staff have made continuous improvements to the electronic meeting process through the adoption of Microsoft Teams. A recent hardware and programming upgrade to the Council Chamber audio/visual system now allows for speakers to make video presentations to Members of Council, whether they are in the Chambers or participating electronically.

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

When are Electronic Meetings permitted?

Electronic Meetings will be permitted during any time outside of when an emergency has been declared. Electronic meetings will become the typical type of meeting.

Extending current practices during COVID-19 emergency to beyond the emergency:

Quorum

The Procedure By-law 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 of a Committee of the Whole or Council meeting 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 (i.e. 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.

The Chair of a statutory, ad hoc or sub-committee meeting will be permitted to participate in a meeting electronically. This contrasts with the Chair of a Committee of the Whole or Council meeting, as those Chairs are required to be physically present at the meeting location (Council Chamber) in order to effectively guide the meeting.

Most Members of the statutory, ad hoc and sub-committees are residents who volunteer their time and expertise to sit on these committees, therefore any measures that can be taken to encourage their participation should be considered.

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, Speakers 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.

The public shall be permitted to speak to any item on a Committee agenda, either in-person or through electronic means. At the current time, in-person deputations are not permitted due to the closure of City Hall to the public until January 4, 2021, at the earliest. In these instances, written communications will be encouraged, although addressing Committee through electronic means is possible by contacting the Office of the City Clerk.

Deputations to items not on the agenda and Ceremonial Presentations will be permitted, either through electronic means or in-person, when permitted. The Procedure By-law will also be amended to permit these during a declared emergency subject to approval by the City Clerk.

Closed Meetings

Electronic participation in closed meetings is permitted by Bill 197, the *COVID-19 Economic Recovery 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 have already been added to Procedure By-law 7-2011 for the COVID-19 emergency and will facilitate electronic meetings:

ELECTRONIC PARTICIPATION - A Member who participates in a Committee, Council, or statutory, ad hoc or sub-committee 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 Members.

Interruptions to Connection

Should a 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 Member who is physically present leaves the room.

Public Participation

Electronic meetings held outside of a declared emergency will allow for both in-person and electronic participation by the public. In-person participation is not currently an option as City Hall is closed to public until at least January 4, 2021.

The ability for the public to participate electronically will contribute to greater accessibility. Persons who may be unable to attend a Committee of the Whole meeting to make a presentation due to childcare needs, disability, lack of transportation, or other reason, will now be able to fully participate.

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. When a recorded vote is requested by a Member, or is otherwise required, the City Clerk will call the vote in random order following the name of the Member who requested the recorded vote. The City Clerk will record the name and vote of every Member on the question.

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

Public Hearings

Committee of the Whole (Public Hearing) meetings are commonly referred to as “Public Hearings”. Feedback from the public has shown that the term “hearing” has caused confusion. A common definition of “Hearing” is “to listen to and judge”. This leads to the misconception that decisions on a development application are being made at the Committee of the Whole (Public Hearing) meeting. Additionally, the *Statutory Powers Procedure Act* includes a definition of “hearing”, which brings with it specific requirements and procedures that would not apply to the statutory meeting under the *Planning Act*.

To address this issue, it is recommended that the term “Public Hearing” be changed to “Public Meeting”. This is in keeping with the terminology used in the *Planning Act*, where it is required that a “public meeting is held for the purpose of giving the public an opportunity to make representations”. Other municipalities, such as the City of Markham and City of Richmond Hill, also use “Public Meeting”.

Deputations and Deputants

The Procedure By-law currently includes the define term “deputant”, meaning “An oral submission made by and at the request of a member of the public which may be supported by written material.” There are two types of deputations:

1. Deputations made with respect to an item on a Committee of the Whole agenda; and,
2. Deputations that are made with respect to a topic that is NOT listed on an agenda.

The first type of deputation takes place when an agenda item is called for discussion at a Committee of the Whole meeting and members of the public are permitted to speak to the item. The second type of deputation takes place at the beginning of an agenda, under the “Deputations and Presentations” section of the agenda. Members of the public must submit a deputation request to speak to the Committee in order to be listed on an agenda.

Using the same term to describe two distinct types of presentations to Committee leads to confusion, not just for the public, but staff as well. To address this is, the following is recommended:

1. That the term “Speaker” be added to the Procedure By-law that would apply to members of the public who wish to speak to an item on an agenda; and,
2. That persons wishing to address Committee regarding a matter not on an agenda be referred to as “Presenters”, and they will make “Presentations” to the Committee.

The terms “Deputant” and “Deputation” will be replaced with “Speaker” and “Presentation” to more clearly represent the different actions that can take place.

Financial Impact

Immediate costs associated with implementing the technology to allow electronic participation will be within existing budgets. Most expenditures have already taken place.

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 for the Committee, Council, statutory, ad hoc and sub-committees, in response to Bill 197, *COVID-19 Economic Recovery Act*, 2020, outside of a declared emergency. These revisions essentially take the current meeting protocol during a declared emergency and make them permanent. The other minor amendments address some long-standing issues that will aid in the application and understanding of the Procedure By-law.

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

Attachment

1. Proposed Amendments to Procedure By-law 7-2011 to Implement Bill 197, the COVID-19 Economic Recovery Act, 2020 and other minor amendments.

Prepared by

Todd Coles, City Clerk, extn. 8281

Approved by



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

Reviewed by



Jim Harnum, City Manager