



## THE REGIONAL MUNICIPALITY OF NIAGARA SPECIAL COUNCIL AGENDA

CL 4-2020

Wednesday, March 18, 2020

4:00 p.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

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	Pages
1. <u>CALL TO ORDER</u>	
2. <u>ADOPTION OF AGENDA</u>	
2.1 <u>Changes in Order of Items</u>	
3. <u>DISCLOSURES OF PECUNIARY INTEREST</u>	
4. <u>CORRESPONDENCE</u>	
4.1 <u>PHD-C 1-2020</u> COVID-19 Situational Update  <i>This item was previously numbered CL-C 7-2020.</i>	3 - 6
4.2 <u>CL-C 8-2020</u> A memorandum from A.-M. Norio, Regional Clerk, dated March 18, 2020, respecting Appointment of an Acting Deputy Regional Clerk.	7
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## 6. CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)

- 6.1 CAO 9-2020 18 - 23  
Delegated Authority – Council Failure to Meet Quorum Requirements  
During COVID-19 (Novel Coronavirus) Pandemic

## 7. BY-LAWS

- 7.1 Bill 2020-11 24 - 25  
A by-law to amend By-law 120-2010, The Procedural By-law.  
*The preparation and consideration of this proposed by-law is dependent on Council's consideration of the proposed amendments in Report CLK 5-2020.*
- 7.2 Bill 2020-12 26  
A by-law to appoint an Acting Deputy Regional Clerk for The Regional Municipality of Niagara
- 7.3 Bill 2020-13 27  
A by-law to adopt, ratify and confirm the actions of Regional Council at its special meeting held on March 18, 2020.

## 8. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or [accessibility@niagararegion.ca](mailto:accessibility@niagararegion.ca) (email).

**MEMORANDUM**

PHD-C 01-2020

**Subject: COVID-19 Situational Update****Date: March 18, 2020****To: Regional Council****From: M. Mustafa Hirji, Medical Officer of Health & Commissioner (Acting)****Background to COVID-19**

COVID-19 is a respiratory infection caused by a novel coronavirus, first identified in December 2019, in the city of Wuhan, Hubei Province, China. COVID-19 causes a relatively mild infection in over 80% of people, i.e. illness that does not require hospital care. The remaining 20% of infections are more severe and typically require hospitalization, with up to 5% of all infections requiring intensive care.

A small percentage of COVID-19 cases result in death. This percentage has varied by part of the world, but is believed to be approximately 0.5% or lower in a country with a well-functioning health system.

**Statistics (Noon, March 18, 2020)**

<b>Geographic Unit</b>	<b># Infections</b>	<b># Deaths</b>	<b># Tests</b>
<b>Worldwide</b>	214,101	8,727	-
<b>United States</b>	7,663	115	-
<b>Canada</b>	657	8	-
<b>Ontario</b>	212	1	13,897
<b>Niagara region</b>	3	0	-
<b>Hamilton</b>	15	0	-
<b>Haldimand-Norfolk</b>	0	0	-
<b>Erie County &amp; Niagara County (US)</b>	7	0	-

85% of cases in Canada are in travelers or close contacts of travelers

100% of cases in Niagara are in travelers or close contacts of travelers

**Federal Response**

Given the strong travel association to most cases in Canada, the federal government has exercised its authority to restrict international travel. This includes

- Ban foreign nationals from all countries except the United States from entering Canada (exceptions: air crews, travelers on layovers to another country,

Canadian permanent residents, diplomats, immediate family of Canadian citizens)

- Restrict all non-essential travel across the US border
- Advising Canadians to avoid all non-essential travel outside of the country
- Requesting all returning international travelers to “self-isolate” for 14 days
- Barring ill persons, regardless of citizenship, from boarding international flights to Canada
- Screening all returning travelers for illness

The Public Health Agency of Canada is strongly encouraging Canadians to practice “social distancing” to protect themselves from anyone who might be carrying COVID-19 infection, and to lessen the spread of the infection within Canada.

The federal government is also investing in and support novel therapies and vaccine development efforts.

The federal government has also announced a \$82 billion aid package to help Canadians and businesses cope with disruption due to COVID-19.

### **Provincial Response**

The provincial government has declared a State of Emergency and enacted intensive social distancing measures to pre-emptively prevent the spread of infection. These include legally binding orders to

- Close until at least March 31:
  - all bars and restaurants, except to the extent that such facilities provide takeout and food delivery
  - all facilities providing indoor recreational programs
  - all public libraries
  - all private schools
  - all licensed child care centres
  - all movie cinemas
  - all theatres, including those offering live performances of music, dance and other art forms
  - all concert venues
- Prohibition of all organized public events of over 50 people, including religious worship until at least March 31

In addition, the province has also implemented the following social distancing measures:

- Closure of all public schools until at least April 5
- Closure, through the Ontario Lottery and Gaming Corporation, of all casinos for an indefinite period of time

Given its responsibility over the health care system, the Ontario government through its new agency Ontario Health, is intensively engaged in preparing the system for an expected surge of COVID-19 patients, and is building testing and treatment capacity, including through dedicated assessment centres (the first Niagara assessment centre opened in Niagara Falls on March 17, operated by Niagara Health).

The province, through Public Health Ontario, has also been working to ensure sufficient testing capacity in Ontario as well as summarize the best available science for use by health care and public health workers.

### **Local Response**

The local public health response has focused on three elements:

1. Intensive investigation of cases and contacts of cases. This ensures that anyone infected with COVID-19 is isolated and does not further spread the infection. As well, Public Health identifies who may be a contact of a case to ensure they do not spread the infection if they become ill, and to ensure they are tested if those persons do become ill.
2. Supporting the health care sector, particularly primary care. As a heavy burden is expected on the health care sector, Public Health is working closely with health care providers to help them maximize capacity to manage the COVID-19 outbreak when it hits. This includes facilitating outpatient testing and supporting the new assessment centre run by Niagara Health.
3. Reinforcing the advice of the provincial and federal governments. These include the messages around travel restrictions and social distancing.

In order to manage the intense workload during this time, Public Health has activated emergency operations and redeployed a large percentage of staff towards COVID-19 prevention.

### **Future Outlook**

While all infections in Niagara are currently travel-related (i.e. there is not yet evidence of local circulation of infection), there is increasing evidence of local circulation in other parts of Ontario, including in Toronto. Given the movement of people in Ontario, it is expected that local circulation of COVID-19 will soon present in Niagara.

Aggressive measures by the federal government to limit travel and by the provincial government to limit interaction between people are expected to delay the emergency of a local outbreak of COVID-19. Currently, it is not known what the provincial

government's intentions are with respect to extending such measures beyond March 31 or April 5, as relevant. Infectious disease experts advise that such measures must remain in place for several months to effectively blunt the impact and mortality from the outbreak. The provincial government will likely be considering what is sustainable over that period of time.

Respectfully submitted and signed by

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M. Mustafa Hirji, MD MPH FRCPC  
Medical Officer of Health & Commissioner (Acting)  
Public Health & Emergency Services

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## **MEMORANDUM**

**CL-C 8-2019**

**Subject: Appointment of Acting Deputy Regional Clerk**

**Date: March 18, 2020**

**To: Regional Council**

**From: Ann-Marie Norio, Regional Clerk**

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As per Section 228 (1) of the *Municipal Act, 2001* (the “Act”), a municipality shall appoint a Clerk, and subsequently as per Section 228 (2) of the Act, a municipality may appoint Deputy Clerks who have the same powers of the Clerk.

Given the current situation with respect to the COVID-19 (Novel Coronavirus) pandemic, and in order to ensure business continuity, a by-law to appoint Donna Gibbs, Director, Legal and Court Services, as an Acting Deputy Regional Clerk has been included on the agenda for the Special Council meeting being held on March 18, 2020 for Council’s consideration.

Respectfully submitted and signed by

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Ann-Marie Norio  
Regional Clerk

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**MEMORANDUM****CL-C 9-2020**

**Subject: Community Services – COVID-19 measures**  
**Date: March 18, 2020**  
**To: Regional Council**  
**From: Adrienne Jugley, Commissioner, Community Services**

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This memo serves to inform Council of the measures Community Services has taken to ensure continued delivery of essential services (further to our pandemic and business continuity plans), activities/services that have been cancelled in order to implement appropriate public health measures to protect our clients and community (and allow for the redeployment of staff), and some initial efforts to find alternative approaches to support the most vulnerable in Niagara.

**Long Term Care**

All of the Region's eight long-term care (LTC) homes (Deer Park Villa, Gilmore Lodge, Linhaven, Meadows of Dorchester, Northland Pointe, Rapelje Lodge, Upper Canada Lodge, Woodlands of Sunset) are delivering essential LTC care to residents and additionally working with the hospital to consider opportunities to temporarily increase LTC bed capacity in order to support hospital capacity in the weeks ahead. Staff are actively implementing all of the public health measures appropriate to long-term care further to the direction of the provincial Chief Medical Officer of Health, and the Ministries of Health and Long-Term Care. This includes active screening of staff and delivery services, closing the homes to visitors (except for those residents approaching end of life), discontinuation of volunteer supports, increased cleaning and more. Please know that our staff are working hard, and are committed to continue providing safe and quality care to our residents. All Adult Day Programs have been cancelled, as well as Healthy, Safe, and Strong community exercise classes, the South Niagara Health and Wellness Program, the Respite Companion Program and Wellness Supportive Living Program. Staff from these services are being redeployed to support long-term care or conduct regular phone support to clients who were previously served through home visiting. Staff are also actively working with residents and families to find alternative ways, as appropriate, for families to connect with residents (e.g. telephone, FaceTime). Business continuity plans are developed and being followed in accordance with the changing local conditions.



## **Homelessness Services & Community Engagement**

All of Niagara's funded homelessness shelters are operational. Staff are in regular communication with service providers to support, through guidance and financial support, the implementation of public health measures appropriate for this sector. Measures include appropriate screening of clients and staff, increased cleaning, adjustments to sleeping arrangements, continued encouragement of diversion efforts, and increased daytime options for those who have been using seasonal/Out of the Cold shelters. Particular attention in our planning has included shelter alternatives for individuals who are currently medically compromised (and should not be sleeping in congregate arrangements during this time) and for those individuals who may be identified in the future as having COVID-19 (and health and social supports to assist them). Additionally we are refining the role and directions for outreach staff as we anticipate increased movement by some to move to 'unsheltered' homelessness or 'sleeping rough' (this was also an experience in many communities during the H1N1 pandemic).

It should be noted that, while not a direct mandate for Community Services, it has been reported that food banks and other auxiliary community supports are seeing negative impacts of this emergency. Some food banks are reporting reduced supply at a time when those who are most vulnerable will be having greater difficulty coping. Additionally many agencies are seeing reductions in their volunteer complements due to self-isolation requirements after travel or the age of volunteers (many volunteers in Niagara are seniors). Depending on local resources, staff are actively exploring alternatives for certain essential programs.

## **Children's Services**

Further to the direction of the Chief Medical Officer of Ontario, all licensed child care centres (both directly operated and those operated by not-for profit and for-profit providers) and EarlyON Centres are now closed. Children's Services continues to support providers as they struggle with the financial impacts of these closures, and are leveraging whatever flexibility is available in our provincial funding to support them. All client services associated with our fee subsidy program are being provided over the phone or online. Children's Services is already investigating the possibility of providing child care services for emergency/health service staff (confirming local need, hours, and ministry permissions).

### **Social Assistance - Ontario Works**

Staff in Social Assistance - Ontario Works are working in all five offices, and supporting both current clients and accepting new applications. The offices are closed to walk in visitors but services are available by phone, and funds are being approved and provided as quickly as possible to respond to local need. Call volumes have increased for Ontario Works benefits and staff are being redeployed accordingly to meet this increased need. The Region has also acquired additional phone lines, to address both the increased call volumes in Public Health and Ontario Works. Plans are underway to support end of month cheque distribution for those not on direct deposit. (Further to requests from a number of municipalities, attached is specific information on how to access financial support through Ontario Works.)

### **Niagara Regional Housing**

Niagara Regional Housing continues to provide essential housing supports to its tenants and access to applications for those seeking affordable housing. Emergency repairs, and “make ready units” for new move-ins continues, and cleaning has been increased in seniors and multi-residential buildings. Any trades providing urgent maintenance to buildings will be screened before granted entry. Residents are being directed whenever possible to drop applications/renewal and rental payments (not in the form of cash) in drop boxes. Staff are developing a list of residents who are considered to be at risk during times of isolation, and these will be provided regular phone contact. All group programs/activities are temporarily postponed, and the board has a meeting this Friday via teleconference.

Respectfully submitted and signed by:

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Adrienne Jugley, MSW, RSW, CHE  
Commissioner

## **MEMORANDUM**

**Subject: Ontario Works Program**

**Date: March 18, 2020**

**From: Lori Watson, Director, Social Assistance - Ontario Works**

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Due to the evolving COVID-19 situation and in cooperation with provincial directives, Niagara Region is making changes to how we are interacting with residents and how services are being delivered to the community.

### **Ontario Works Program**

Social Assistance - Ontario Works offices are closed to the public until further notice. All services will be provided to individuals by telephone.

As we continue to deal with a high volume of calls during this time, Ontario Works clients are asked to follow a number of steps.

#### **New Applicants:**

Online application for Social Assistance - Ontario Works: [Online application](#)

Or by telephone:

Intake Line / application - Intake Line/Application: 905-641-9230  
1-866-627-1110 (West Niagara)

The intake process is two steps:

- First, you either complete the online application or call the intake line where you will have a telephone conversation. Basic information will be collected and can take up to 30 minutes.
- Second, a staff member will contact you within four business days to complete the application over the telephone.

#### **Ongoing clients contacting the office:**

Please be advised that all Social Assistance - Ontario Works offices are closed to the public until further notice. All service will be provided over the telephone.

**Local offices:**

St Catharines: 905-641-9960

Welland- Port Colborne: 905-734-7975

Niagara Falls – Fort Erie: 905-354-3561

**When leaving a message:**

Clients are asked to please leave their name, phone number and reason for the call. Every effort will be made to return your call as soon as possible.

**Status of your assistance:**

Information is available by calling the Interactive Voice Response (IVR) line at 1-800-808-2268; you will need to have your member ID ready.

**Correspondence / Documents:**

Mail: All correspondence/ documents can be forwarded by regular mail through Canada Post or dropped off in person and placed in the drop box located at each Social Assistance - Ontario Works office.

**Further information can be found at:**

Niagara Region website: [www.niagararegion.ca](http://www.niagararegion.ca)

Questions and concerns from MP's, MPP's and Mayors please contact:

Lori Watson, Director

Social Assistance & Employment Opportunities

Niagara Region, Community Services

905-980-6000 ext. 3810

Cell: 905-327-1904

[lori.watson@niagararegion.ca](mailto:lori.watson@niagararegion.ca)

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**Subject:** Procedural By-law Update for Electronic Meeting Participation

**Report to:** Regional Council

**Report date:** Wednesday, March 18, 2020

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## **Recommendations**

1. That given the extenuating circumstances of the COVID-19 (Novel Coronavirus), that Regional Council **WAIVE** the notice requirements required for amendments to the Niagara Region Procedural By-law 120-2010, as amended;
2. That the amendments to Niagara Region Procedural By-law 120-2010, as amended, as outlined in Appendix 1 to Report CLK 5-2020 to facilitate electronic participation during the COVID-19 (Novel Coronavirus) Pandemic, **BE APPROVED**; and
3. That the necessary by-law **BE PRESENTED** to Council for consideration.

## **Key Facts**

- The purpose of this report is to seek Council's approval to amend Niagara Region Procedural By-law 120-2010, as amended, to include electronic participation in meetings during the COVID-19 (Novel Coronavirus) pandemic.
- Niagara Region's Procedural By-law currently includes a provision that the requirement to give notice to amend the Procedural By-law shall not be waived.
- COVID-19 (Novel Coronavirus) pandemic may result in some members of Council being unable to physically attend Standing Committee or Council meetings.
- Electronic participation is permitted pursuant to the Municipal Act on a limited basis and would allow those members to contribute and vote during open meetings.
- Electronic participation in meetings would only be allowed during the COVID-19 (Novel Coronavirus) Pandemic.

## **Financial Considerations**

Immediate costs associated with enhancing the technology to allow electronic participation will be accommodated within existing budgets.

## **Analysis**

The Procedural By-law establishes the principles and rules to be used for meetings of Council and its Committees. The amendment proposed in this report continue to build upon the governance model established by the Procedural By-law.

Section 238(2) of the Municipal Act, 2001, provides that every Municipality shall pass a procedural by-law for governing the calling, place and proceedings of meetings. The current Procedural By-law 120-2010 was passed on September 24, 2010 to establish the principles and rules to be used for meetings of the Council, Committees of Council and local boards which have not adopted separate rules of procedures and has had several amendments

On November 16, 2016, Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017, was introduced in response to the Province's review of the Municipal Act, 2001 and Municipal Conflict of Interest Act, 1990. On May 30, 2017, Bill 68 received Royal Assent. One of the changes that Bill 68 introduced was a provision for electronic participation of members in a meeting open to the public. Pursuant to this change, Municipal Councils may provide for electronic participation by members at open meetings through their procedure by-laws, as long as any such members are not counted for quorum purposes. This quorum rule helps to ensure that in person meetings continue to occur. This means that a quorum of members needs to be physically present at the meeting in order to conduct business.

The Municipal Act provides that Councillors are only permitted to participate electronically in meetings that are open to the public. Participating in closed session meetings will remain limited to those Councillors who are participating in person. Additionally, the Chair shall not be permitted to participate in a meeting electronically, for practical reasons. The Chair is required to be physically present at the meeting in order to effectively guide the meeting.

It is recommended that members who wish to participate electronically at a meeting shall provide a minimum of 48 hours' notice to the City Clerk. This is to allow sufficient time for the necessary technology to be tested.

It is recommended that electronic participation be permitted only during the 2019 Novel Coronavirus (COVID-19) pandemic, as defined by the World Health Organization (WHO).

The 2019 Novel Coronavirus (COVID-19) pandemic has the potential to disrupt the meetings of Committee and Council. Members of Council may find themselves in self-isolation or quarantine for a variety of reasons. Those members may wish to participate in meetings of the Standing Committees and Council, however, would be unable to do so. Amendments to the Municipal Act permit electronic participation in Committee and Council meetings by the members, an option not previously recommended given the restrictions on its use. Given the current pandemic, electronic participation provides an opportunity for members to participate when they would otherwise be unable to do so for medical/health reasons.

Staff have recently been informed that the Province will be considering an amendment to the Act to enhance the provisions allowing for electronic participation by a member in light of the pandemic; however, staff is unaware of the particulars of the potential changes and the related impacts. Regardless of what this legislation may allow, Niagara Region's Procedural By-law would need to be updated to allow for electronic participation in meetings.

Given that the requirements to provide notice for an amendment to the Procedural By-law are being waived, staff are suggesting that given the uncertainty of the situation, the by-law amendments be approved immediately. Should the Regional Council scheduled for March 26, 2020 proceed as scheduled, the by-law amending the Procedural By-law will be included on that agenda also an additional measure reflecting the current procedural requirements.

The proposed amendments to Niagara Region Procedural By-law 120-2010, as amended, will update the bylaw to permit electronic participation on a temporary basis, to allow members of Council to participate in open Standing Committee and Council meetings when they would otherwise be unable to do so as a result of the 2019 Novel Coronavirus (COVID-19) pandemic.

### **Alternatives Reviewed**

Council could decline to approve the proposed by-law amendment and not allow for electronic participation in meetings during the COVID-19 (Novel Coronavirus) Pandemic.

## **Relationship to Council Strategic Priorities**

This report has been prepared as a response to the COVID-19 (Novel Coronavirus) pandemic; however, does align with Council's Strategic Priority of Sustainable and Engaging Government.

## **Other Pertinent Reports**

None.

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### **Prepared and Recommended by:**

Ann-Marie Norio  
Regional Clerk

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### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with D. Gibbs, Director, Legal and Court Services.*

## **Appendices**

Appendix 1 Proposed Amendments to Procedural By-law 120-2010 to allow Electronic Participation During the COVID-19 (Novel Coronavirus) Pandemic



**Proposed Amendments to Procedural By-law 120-2010  
To allow Electronic Participation During the COVID-19 (Novel Coronavirus)  
Pandemic**

That the following provisions be added to By-law 120-2010:

1. Definition of Electronic Participation: A Council member who participates in a Standing Committee or Council meeting remotely via electronic means (e.g. audio), will have the same rights and responsibilities as if he or she were in physical attendance, including the right to vote, with the exception that they shall not count toward a quorum of members and shall not be permitted to participate in any portion of a meeting which is closed to the public, unless otherwise proclaimed by the Province of Ontario, in accordance with the provisions of the Municipal Act, 2001 as amended.
2. Electronic Participation shall only be permitted during the COVID-19 (Novel Coronavirus) Pandemic, as defined by the World Health Organization (WHO).
3. Electronic Participation shall only be permitted for Standing Committee meetings and any special, emergency or regular Council meeting.
4. The Regional Chair and/or Committee Chair shall not be permitted to participate electronically at any meeting.
5. The member of Council who wishes to participate in a meeting electronically shall provide the Clerk a minimum of 24 hours notice in advance.

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**Subject:** Delegated Authority – Council Failure to Meet Quorum Requirements During COVID-19 (Novel Coronavirus) Pandemic

**Report to:** Regional Council

**Report date:** Wednesday, March 18, 2020

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## Recommendations

1. That until the end of the COVID-19 (Novel Coronavirus) Pandemic, as declared by Health Canada, and where Council or its appointed Committees fail to meet the quorum requirements under Section 237 of the Municipal Act, 2001, the Acting Chief Administrative Officer **BE DELEGATED** authority to exercise the following actions in the interests of ensuring continuity of necessary municipal services:
  - 1.1. The disposition of any real or personal property of the municipality;
  - 1.2. Making any expenditure or incurring any other liability subject to them being included in the approved budget;
  - 1.3. The appointment or removal from office of any officer of the municipality, excluding those set out in s.23.3 (1)1 of the Municipal Act.
2. That the Regional Chair and Clerk **BE AUTHORIZED** to execute such agreements, instruments, conveyances and other related documents necessary to give effect to the transactions authorized by the Acting Chief Administrative Officer under the delegated authority approved until the end of the COVID-19 (Novel Coronavirus) Pandemic;
3. That the Acting Chief Administrative Officer **BE DELEGATED** authority to exercise any discretionary corporate actions in response to unforeseen circumstances that arise due to the COVID-19 (Novel Coronavirus) Pandemic and to exercise delegated authority where such authority has not already been provided by Council subject to the limitations prescribed in the Municipal Act, until the end of the COVID-19 (Novel Coronavirus) Pandemic; and

4. That the Acting Chief Administrative Officer **BE DIRECTED** to report to Regional Council all actions taken pursuant to this delegation.

### **Key Facts**

- On March 11, 2020, the World Health Organization declared COVID-19 (Novel Coronavirus) a global pandemic.
- On March 17, 2020, the Province of Ontario enacted a declaration of emergency with respect to COVID-19 and took extraordinary actions to help to continue to protect the health and safety of all individuals and families.
- It is possible that the isolation of Members of Council, whether preventative in nature or in relation to a confirmed case of COVID-19, could impact the ability of Regional Council to meet the quorum requirements.
- This report has been prepared to assist in ensuring the continuity of business during this uncertain time.

### **Financial Considerations**

This delegated authority is subject to the requirement that the expenditure or liability can be accommodated within an approved budget.

### **Analysis**

With respect to the current COVID-19 Pandemic recently declared by the World Health Organization, it is possible that the isolation of Members of Council, whether preventative in nature or in relation to a confirmed case of COVID-19, could impact the ability of Regional Council to meet the quorum requirements under Section 237 of the Municipal Act, as follows:

237 (1) A majority of the members of a municipal council is necessary to form a quorum with the following exceptions:

1. In the upper-tier municipalities of Durham, Niagara and the County of Oxford, a majority of members representing at least one-half of the lower-tier municipalities is necessary to form a quorum.
2. In the upper-tier municipalities of Halton, York and The District Municipality of Muskoka, a majority of members representing a majority of the lower-tier municipalities is necessary to form a quorum.

3. In The Regional Municipality of Peel, a majority of members representing all lower-tier municipalities is necessary to form a quorum.

While Section 238(3.1) of the Municipal Act now contemplates electronic participation in meetings if provisions related to this are included in the municipality's Procedural By-law, the Municipal Act also states that any electronic participation by a member **shall not be counted in determining quorum**. This restriction eliminates any opportunity for Council to undertake an amendment to the Procedural By-law to implement full electronic participation in a meeting. Electronic participation can be an option to allow those members who may be physically unable to attend Committee and Council meetings to participate. Staff were recently informed that the Province will be considering an amendment to the Act to enhance the provisions allowing for electronic participation by a member in light of the pandemic; however, staff is unaware of the particulars of the potential changes and the related impacts.

As was reported to Council prior to the 2018 Municipal Election, Section 275 of the Municipal Act stipulates certain periods where a Council cannot make decisions during Municipal Elections, and restricts certain actions of Council. This is commonly referred to as a *Lame Duck Council*.

When Council is in "Lame Duck", it may not engage in the following actions:

The appointment or removal from office of any officer of the municipality;

The hiring or dismissal of any employee of the municipality;

The disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and

Making any expenditures or incurring any other liability which exceeds \$50,000.

The restrictions on the actions identified above do not apply if the disposition or liability was included in the most recent budget adopted by Council before Nomination Day. The municipality is also not prevented from taking any action in the event of a declared emergency.

On December 7, 2007, Council adopted Policy C3-D07 (now C-A-08) with respect to the delegation of powers and duties. This policy sets out the scope of the powers and duties

under which Council may delegate its legislative and administrative authority and to establish principles governing such delegation.

Common practice in municipalities in Ontario is to provide delegated authority to the Chief Administrative Officer (CAO) to exercise those acts under which Council is prohibited in the event that there is a Lame Duck Council. This was the case in Niagara Region in 2018.

The Region has a number of measures already in place to ensure that Council failing to meet quorum requirements would have minimal impact on the day-to-day operations of the Region. These measures include, but are not limited to, the adoption of the Procurement By-law; adoption of the annual budget; approval of specific policies that delegate certain authority to the CAO or other senior staff; approval of the by-law to provide for the roles and responsibilities of the Chief Administrative Officer and Chief Administrative Officer appointing By-law; and adoption of other similar measures. Notwithstanding these measures, providing clear delegated authority to the CAO during the COVID-19 pandemic will ensure the efficient management of the corporation and the ability to respond to issues in a timely fashion in the event that quorum for a meeting of Council cannot be achieved.

For clarity, pursuant to Section 229 of the Act, the CAO is responsible for exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality; and performing such other duties as are assigned by the municipality.

The responsibilities of the CAO are more specifically detailed in By-law 2020-09, being a by-law to provide for the roles and responsibilities of the Chief Administrative Officer, that was approved by Council on February 20, 2020.

In accordance with Section 23.1 of the Municipal Act, the following rules apply to delegating any of the municipality's powers or duties:

A delegation may be revoked at any time without notice unless the delegation specifically limits the municipality's power to revoke the delegation.

A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation.

A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.

A delegation or deemed delegation of a duty results in the duty being a joint duty of the municipality and the delegate.

A delegation may be made subject to such conditions and limits as the council of the municipality considers appropriate.

Where a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the delegated power and any duties related to the power are deemed to be delegated with the power.

In accordance with Sections 23.2 and 23.3 of the Municipal Act, Council is not authorized to delegate any of the following powers and duties:

- Appoint or remove statutory officers (i.e. Regional Clerk, Treasurer)
- Taxation matters
- Incorporating Corporations
- Adopting or amending official plans
- Zoning by-laws
- Matters related to small business counseling and municipal capital facilities
- Community improvement plans
- Adopting or amending the budget of the municipality
- Any other power or duty that may be prescribed by legislation
- Legislative powers to a Corporation

## **Alternatives Reviewed**

Council can decline to authorize the proposed delegation of authority, in which case in the event that quorum is not achieved at a meeting of Council; any business items requiring approval beyond the scope of any existing delegation of authority will be adjourned to the next Council meeting until such time as quorum is achieved.

## **Relationship to Council Strategic Priorities**

This report has been prepared as a response to the COVID-19 (Novel Coronavirus) pandemic; however, does align with Council's Strategic Priority of Sustainable and Engaging Government.

## **Other Pertinent Reports**

None.

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**Prepared by:**  
Ann-Marie Norio  
Regional Clerk

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**Reviewed by:**  
Donna Gibbs  
Director, Legal and Court Services  
Corporate Services

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**Submitted by:**  
Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

## **Appendices**

None.

## THE REGIONAL MUNICIPALITY OF NIAGARA

## BY-LAW NO. &lt;&gt;

A BY-LAW TO AMEND BY-LAW 120-2010, THE PROCEDURAL BY-LAW

WHEREAS subsection 238(2) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meetings;

WHEREAS subsection 238(3.1) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, provides that the applicable procedural by-law may provide that a member of council can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that such member shall not count towards quorum; and

WHEREAS Regional Council deems it advisable to amend By-Law 120-2010, The Procedural By-Law to allow for electronic participation in meetings during the COVID-19 (Novel Coronavirus) Pandemic;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the following provisions be added to By-law 120-2010:

Definition of Electronic Participation: A Council member who participates in a Standing Committee or Council meeting remotely via electronic means (e.g. audio), will have the same rights and responsibilities as if he or she were in physical attendance, including the right to vote, with the exception that they shall not count toward a quorum of members and shall not be permitted to participate in any portion of a meeting which is closed to the public, unless otherwise proclaimed by the Province of Ontario, in accordance with the provisions of the *Municipal Act, 2001* as amended.

Electronic Participation shall only be permitted during the COVID-19 (Novel Coronavirus) Pandemic, as defined by the World Health Organization (WHO).

Electronic Participation shall only be permitted for Standing Committee meetings and any special, emergency or regular Council meeting.

The Regional Chair and/or Committee Chair shall not be permitted to participate electronically at any meeting.

The member of Council who wishes to participate in a meeting electronically shall provide the Clerk a minimum of 24 hours notice in advance.



2. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: <date> by a vote of 2/3 of the members present

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO APPOINT AN ACTING DEPUTY REGIONAL  
CLERK FOR THE REGIONAL MUNICIPALITY OF  
NIAGARA

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WHEREAS subsection 228 (2) of the *Municipal Act*, S.O. 2001, c.25, (the "Act") as amended, states that Regional Council may appoint a Deputy Clerk who has all the powers and duties of the Clerk under this and any other Act.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That Donna Gibbs is hereby appointed Acting Deputy Regional Clerk for The Regional Municipality of Niagara until the end of the COVID-19 (Novel Coronavirus) Pandemic.
2. That, pursuant to subsection 228 (2) of the Act, the said Acting Deputy Regional Clerk shall have all the powers and duties of the Clerk under this and any other Act.
3. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: <date>

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF  
REGIONAL COUNCIL AT ITS SPECIAL MEETING  
HELD MARCH 18, 2020

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its special meeting held March 18, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
  - a) Any actions required by law to be taken by resolution; or
  - b) Any actions for which prior Local Planning Appeal Tribunal approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: <date>