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**Subject:** Amendment to Procedural By-law to Permit Electronic Participation in Meetings pursuant to Bill 197, COVID-19 Economic Recovery Act

**Report to:** Regional Council

**Report date:** Thursday, July 30, 2020

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## Recommendations

1. That the amendments to Niagara Region Procedural By-law 120-2010, as amended, as outlined in Appendix 1 to Report CLK 9-2020 to facilitate electronic meeting participation during the COVID-19 pandemic and recovery period **BE APPROVED** for a period of one-year from the termination of the Provincial Declaration of Emergency;
2. That staff **BE DIRECTED** to provide a report considering permitting electronic participation in meetings on a permanent basis before the expiry of the one-year period; and
3. That the necessary by-law **BE PRESENTED** to Council for consideration.

## Key Facts

- The Province enacted the Municipal Emergency Act on March 19, 2020, which amended the provisions of the Municipal Act regarding electronic participation to allow members that participate electronically to count towards quorum, and participate in closed session, in circumstances when an emergency has been declared.
- On March 26, 2020, the Region's Procedural By-law was amended to permit members of Council to participate in both open and closed meetings electronically and be counted towards quorum during the period of the emergency declared by the Province of Ontario pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act, related to the COVID-19 Pandemic.
- On July 21, 2020, Bill 197, COVID-19 Economic Recovery Act, received royal assent and included provisions to amend the Municipal Act 2001, to allow members of municipal councils to continue to participate electronically in both open and closed meetings and be counted towards quorum, even in the absence of an emergency.
- Notice of the by-law amendment was provided at the July 23, 2020, Regular Council meeting as required.

- This report seeks Council's approval to allow electronic participation in meetings to be permitted for a one-year period (from July 24, 2020) at which time staff will provide a report with considerations for allowing electronic participation permanently.

## **Financial Considerations**

Costs associated with enhancing the technology in the Council Chamber to further refine electronic participation will be accommodated within existing budgets.

## **Analysis**

In response to the COVID-19 pandemic, the Province enacted the Municipal Emergency Act on March 19, 2020, which amended the provisions of the Municipal Act regarding electronic participation to allow members that participate electronically to count towards quorum, and participate in closed session, in circumstances when an emergency has been declared.

On March 26, 2020, the Region's Procedural By-law was amended to permit members of Council to participate in both open and closed meetings electronically and be counted towards quorum during the period of the emergency declared by the Province of Ontario pursuant to section 7.0.1 of the Emergency Management and Civil Protection Act, related to the COVID-19 Pandemic.

On July 21, 2020, Bill 197, COVID-19 Economic Recovery Act, received royal assent. This bill included provisions to amend the Municipal Act 2001, to provide municipalities with new permissive authority related to electronic meetings. The Bill repealed the prior rules for electronic participation and substituted new rules that permit Council to amend its procedures to permit a member of a council, of a local board or of a committee of either of them, to participate electronically in a meeting to the extent and in the manner set out in the by-law even in the absence of an emergency.

The Bill also provides that:

- A member 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
- A member can participate electronically in a meeting that is open or closed to the public.

The current procedural by-law amendment to allow electronic meetings expires with the termination of the provincial declared emergency. The Province of Ontario terminated the Declaration of Emergency effective July 24, 2020. This means that in order to continue to hold meetings by electronic participation, a procedural by-law amendment is necessary. Notice of the amendment was provided at the July 23, 2020, Regular Council meeting as required. The Bill includes the ability for a municipality to hold a special meeting to amend an applicable procedure by-law for the purposes of including provisions related to electronic meetings.

Based on public health advice and physical distancing requirements to limit the spread of COVID-19, remote meetings are the preferred method for meetings. Although Niagara has entered Stage 3, the province in their Stage 3 Framework continues to advise “Working from home or remotely as much as possible”. Limiting people who don’t need to be in our buildings is therefore still recommended. The continued risk of community transmission posed by COVID-19 and the second wave of infection that is anticipated to occur provides sound reasoning to have all Niagara Region Council and Committee meetings held electronically.

Council and Standing Committee meetings have been held electronically since March and May respectively. Currently all members of Council participate electronically with the Clerk, Regional Chair or Committee Chair, Chief Administrative Officer and additional staff as required being present in the Council Chamber. To date staff have encountered little difficulty with this meeting format aside from some minor initial connectivity issues experienced intermittently by Councillors and/or delegations.

The current Council Chamber configuration will not allow for all Council members to physically attend meetings and still adhere to physical distancing requirements. Therefore reliance on electronic participation in meetings will likely be required for the foreseeable future.

The current technology in the Council Chamber will not facilitate a meeting with additional Council members present. Staff are utilizing a stationary camera for viewing of the Council Chamber which only allows for a specific camera range. IT staff have been actively working with the vendor to have equipment upgrades completed; however, this has been hampered by the unavailability of the equipment required for the Council Chamber system and availability of the vendor to complete the work due to the pandemic.

The continuation of electronic participation in meetings will afford an opportunity to consider whether some limitations or conditions should be placed on electronic participation once the return to in-person meetings in Council Chamber is possible.

In addition to the changes noted above, Bill 197 also introduces new rules regarding proxy voting at Council meetings. These changes represent a new policy direction within the Municipal Act with significant governance implications. As a result, Clerk's Office staff will undertake a thorough review of the rules and implications of proxy voting and provide a report in future examining the issue in detail.

### **Alternatives Reviewed**

Council could decline to approve the proposed by-law amendment and not permit electronic participation in meetings to continue. As the Province has terminated the declaration of emergency, Council and Committees would be required to attend all meetings in person. This is not recommended as it would be in conflict with current public health advice.

### **Relationship to Council Strategic Priorities**

This report has been prepared as a response to recent Municipal Act amendments; however, it does align with Council's Strategic Priority of Sustainable and Engaging Government.

### **Other Pertinent Reports**

CLK 5-2020                      Procedural By-law Update for Electronic Meeting Participation

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**Prepared and Recommended by:**  
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Regional Clerk

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**Submitted by:**  
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*This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services.*

## **Appendices**

Appendix 1            Draft Procedural By-law Amendment