
Subject: Procedural By-law Update for Electronic Meeting Participation

Report to: Regional Council

Report date: Wednesday, March 18, 2020

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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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