

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

Recommendation:

BE IT RESOLVED THAT Council receive Report # 2020-0121-Clerks;

AND THAT amendments to the Town of Pelham Procedural By-law No. 4107(2019), as amended by By-law No. 4217(2020), as appended hereto be approved to facilitate continued electronic meeting participation during the COVID-19 pandemic recovery period, and extended for a period of one year from the termination of the Provincial Declaration of Emergency;

AND THAT staff be directed to provide Council with a report which considers permitting electronic participation and proxy voting in meetings on a more permanent basis prior to the expiry of the one-year period to be presented to Council for consideration at a future date.

Background:

On March 19, 2020, Bill 187, the *Municipal Emergency Act, 2020* received Royal Assent, which amended provisions of the *Municipal Act, 2001* to allow electronic participation by Members of Council, to allow electronic participation to count towards quorum, and for members to participate in closed session during circumstances when an emergency has been declared.

On March 23, 2020, Council approved By-law 4217(2020) which facilitated participation in both open and closed meetings through electronic means, including such participation to be counted toward quorum during the period of emergency.

On July 21, 2020, Bill 197, *COVID-19 Economic Recovery Act*, received royal assent and includes provisions to amend the *Municipal Act, 2001*, to allow members of municipal councils, local boards or of a committee of either of them to participate

electronically and to count toward the quorum, even in the absence of an emergency.

This report is to seek Council approval to allow electronic participation in meetings to continue for a one-year period, until August, 2021 during which period staff will provide a report giving consideration to a more permanent allowance.

Additional components of Bill 197 include the ability for a member of council to appoint another member of council as a proxy, with specific rules in place. This new authority requires additional analysis before a recommendation can be forthcoming, and as such, this initiative is not being recommended at this time.

Analysis:

Since the adoption of By-law No. 4217(2020), which was enacted to allow Council the ability to meet on a regular basis through virtual electronic meetings during the novel coronavirus, COVID-19 pandemic period, the Town has been successful in facilitating these meetings electronically. Electronic participation has been working well for Council meetings since April. Members of the public can view the meetings via the Livestream in real time, or view on the Town's YouTube channel at a later date, thus providing the public a similar experience as when they are present in the gallery to observe. The Committee of Adjustment and Council, when meeting under the *Planning Act*, also convenes electronically, allowing public participation through the Zoom Webinar platform, or to submit written comments prior to the meeting. In addition, to allow for more fulsome public participation the viewing audience has the ability to email live comments/concerns to clerks@pelham.ca while streaming the meeting.

Bill 197 now provides municipalities with permissive authority to allow electronic participation in meetings, and repealed the prior rules for electronic participation during the Declared Emergency period only. New rules have now been substituted that permit Council to amend its procedures to allow a member of a council, local board or committee of either to participate electronically, even in the absence of a declared emergency. Further, the Bill provides that any member participating electronically may be counted in a quorum, and can participate electronically whether the meeting is open or closed to the public.

Given that the current Council Chamber is not equipped to accommodate physical distancing measures for Members of Council and Senior Staff in attendance, it is recommended that electronic participation in meetings continue for the foreseeable future. For example, physical glass or acrylic barriers are not present to separate

individuals, and one stationary camera is used to view the Chamber as part of the electronic meeting. At the present time, the Mayor and Clerk are the only two individuals physically present in the Chamber, and are able to maintain a consistent physical distance exceeding the recommended six feet. All Members of Council and Senior Leadership Team members, as well as Delegation representatives, attend electronically.

The Clerk conducts voting using a recorded vote method to minimize transfer of paperwork between the Mayor and Clerk, which has been working smoothly thus far. It is recommended that an additional change to the procedural by-law be incorporated so as to rotate the call for voting so the first alphabetical surname is not always the first to vote. This suggested change has been included in the by-law proposed. Further, it is recognized that Members of Council would appreciate additional agenda review time once the agenda compilation is complete and released. An amendment has been included to move the agenda release date back by one day which should still allow time to include COVID-19 related matters on an agenda that are current.

Bill 197 introduces new rules to permit proxy voting at Council meetings, however given that the Clerk would be required to establish an appropriate process to develop appropriate procedures in this regard, it will be necessary to further study the rules related to proxy votes before a recommendation can be made. Because this represents an entirely new policy direction through the *Municipal Act 2001*, a thorough review is needed.

In summary, it is recommended that Council and all local boards and advisory committees, including the Committee of Adjustment for the Town of Pelham continue electronic participation in meetings for the foreseeable future, and that the Procedural By-law be amended to enact this provision. Based on public health advice and physical distancing requirements needed to curb the spread of COVID-19, remote electronic meetings are recommended. While it is recognized that Niagara has entered Stage 3 of the Provincial Reopening Framework, recommendations continue that people continue to work from home or remotely as much as possible.

Financial Considerations:

The Emergency Operations Committee is considering renovations to the Council Chamber to provide for glass or acrylic separation devices between Council members and between staff representatives, as well as spatial separation

requirements for the gallery. If changes are recommended, they would likely fall within the COVID-19 costs, and Council would be appropriately advised.

Alternatives Reviewed:

Council can decide to not permit electronic participation in meetings to continue which would require personal attendance at meetings of Council and Committee. This is not recommended as it conflicts with current public health advice given the inability to physically distance within the Council Chamber in the absence of the installation of barriers.

Strategic Plan Relationship: Risk Management

It is recommended to continue with electronic Council meetings for the foreseeable future to protect the health and wellness of all stakeholders.

Consultation:

Many Ontario Municipalities are enacting procedural by-law amendments to allow for continued electronic meetings, including the Region of Niagara.

Other Pertinent Reports/Attachments:

Proposed Procedural By-law Amendment for Electronic Meeting Participation

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