



The Corporation of the Town of Tecumseh

Corporate Services & Clerk

To: Policies and Priorities Committee

From: Laura Moy, Director Corporate Services & Clerk

Date to Council: June 22, 2021

Report Number: CS-2021-13

Subject: Procedure By-Law Review

Recommendations

It is recommended:

That Report CS-2021-13 entitled “Procedure By-Law Review”, **be received;**

And that the recommended revisions to the Procedure By-law outlined in Report CS-2021-13, **be accepted;**

And further that an amending By-law with the recommended revisions to the Procedural By-law **be presented** at a Regular Meeting of Council.

Executive Summary

[By-law No. 2020-13](#) was adopted February 11, 2020, and governs the proceedings of Council and its committees/local boards, the conduct of members and the calling of meetings (Procedure By-law). The Procedure By-law was subsequently amended [March 24, 2020](#), to permit electronic participation in meetings during a declared emergency.

Prior to the global pandemic, being declared in March 2020 the Policies & Priorities Committee at their [January 28, 2020](#), meeting appointed three Members of Council to a Procedure By-law Review Subcommittee (Subcommittee) in order to provide greater opportunity to study the Procedure By-law by Council Members, with support from the Clerk’s Office.

The purpose of this report is to present the Subcommittee’s review of the Procedure By-law and recommendations on further amendments as permitted under the *Municipal Act 2001 S.O.*

2001, c.25 (Act) and the legislative changes arising from the *Modernizing Ontario's Municipal Legislation Act, 2017* (Bill 68) and the *COVID-19 Economic Recovery Act, 2020* (Bill 197).

The Subcommittee is recommending provisions to the Procedure By-law to allow for:

- electronic participation in meetings when there is not a declared emergency;
- proxy voting for members;
- implementation of the electronic voting module in eScribe;
- reduction of e delegate speaking time; and
- a change in the way communications are placed on the Agenda to allow for efficiencies in agenda production time.

Subject to Council's acceptance of the Subcommittee's recommendations, or other direction by the Policies & Priorities Committee, an amended Procedure By-law will be drafted for Council's consideration of approval at a forthcoming Regular Council Meeting.

Background

[Procedure By-law No. 2020-13](#), as amended, governs the proceedings of Council and its committees/local boards, the conduct of its members and the calling of meetings. Section 238(2) of the Act requires that every Council and local board adopt a procedure by-law to govern the calling, place and proceedings of meetings.

Amendments to the Procedure By-law were adopted as recommended to the Policies & Priorities Committee at the January 28, 2020, meeting as outlined in [Report CS-2020-02](#) entitled "Procedural By-law Review" and in keeping with legislative changes to the Act under Bill 68. A summary of provisions to the By-law changed at that time includes:

- The Inaugural Meeting of Council to allow for an alternate location to be determined by a resolution of Council;
- Updated matters for which a meeting may be closed;
- An absence of a Council Member for three successive months results in the seat being vacant if the absence was not authorized by a resolution of Council;
- The order of business for meetings of Council, Committee's and Boards was revised to have Roll Call as the first item of business and a new item for "Reporting Out of Closed Meeting" was added immediately after calling the meeting to order;
- Requests for Delegations may be refused or postponed by the Clerk when there has been, or will be, at least one (1) public meeting held at which the public was, or will be, provided the opportunity to make formal presentations on that subject matter.

In order to provide greater opportunity to examine the Procedure By-law by Members of Council, a Subcommittee was appointed by the Policies & Priorities Committee at their [January 28, 2020](#) meeting. The Members appointed to the Subcommittee are Councillors Bill Altenhof, Andrew Dowie and Tania Jobin.

Subsequently, the Act was amended by the Province of Ontario (Province) to provide municipalities with the tools they needed to ensure local decision making by municipal councils was not affected by the quorum requirements in the Act during emergency situations, such as the one Ontario and its municipalities were facing in relation to the COVID-19 pandemic.

On March 19, 2020, the Province's Legislature passed the *Municipal Emergency Act, 2020* which amended the Act to provide that, during emergencies declared locally, or provincially, under the *Emergency Management and Civil Protection Act*, should they choose to, members of councils, local boards and committees who participate electronically in open and closed meetings may be counted for purposes of quorum.

Council adopted an amending by-law to the Procedure By-law at their [March 24, 2020](#) meeting to allow the following during a declared emergency:

- the use of electronic participation at meetings;
- members to participate in both open meeting and closed meetings; and
- members participating electronically count towards quorum.

Since then, Bill 197 - *The COVID-19 Economic Recovery Act, 2020* received Royal Assent on July 21, 2020 (Bill 197). Bill 197 amends a number of statutes as part of the Province's plan for growth, renewal and economic recovery made necessary due to the ongoing COVID-19 pandemic. Bill 197 further amended the Act to permit members of council, committees and local boards to participate electronically in meetings, which may be open or closed to the public, and to be counted for the purpose of determining a quorum. In essence, Bill 197 makes the temporary measures implemented to respond to the COVID-19 emergency permanent.

Additionally, the amendments to the Act by Bill 197 allow council members to be able to appoint a proxy councillor to act on their behalf during a meeting by voting, questioning or speaking. Specific rules apply with respect to the appointment of a proxy council member.

Bill 197 also sets out rules relating to the fulfillment of temporary council vacancies under section 267 and 268 of the Act and prohibits councillors who have declared a pecuniary interest from appointing a proxy with respect to the item(s) in question.

Further amendments to the Procedure By-law are required should Council decide to allow for electronic meetings when there is not a declared emergency and to allow Members to appoint a proxy to act on their behalf during a meeting.

Comments

The Subcommittee has convened six meetings to discuss the legislative changes to the Act and other potential amendments to the Procedure By-law based on recent experience.

This report describes the provisions considered and the Subcommittee's recommendations for Council's consideration.

Electronic Participation

The COVID-19 Pandemic has illustrated technology's vital role in allowing members to meet virtually to conduct municipal business. Electronic participation is currently permitted under Schedule A of the Procedure By-law, as amended, during a declared emergency which is still in effect at this time due to COVID-19 and potential for flooding.

The Town is currently utilizing eScribe software (software) to prepare agendas and minutes for Council, Committee and Board meetings, as well as Administrative reports. The software also allows for webcasting and closed captioning of meetings, in addition to electronic voting by members during a meeting using a Voter Module (Module). This Module was demonstrated to the Subcommittee for its functionality to allow members to participate electronically by logging into a meeting with their laptop or tablet, similar to the Zoom and Livestream platforms which are currently in use. While in the meeting, members would have access to software features including:

- the ability to declare a conflict of interest on an agenda item;
- checking in or out of meetings through roll call;
- request to speak options to notify the Chair and manage discussions;
- voting on motions, and
- chat messenger for participants during the meeting.

The Town previously acquired this Module, and to implement would require Module training for the Members of Council and Committees/Boards, as well as support staff.

The Subcommittee is recommending the Procedure By-law be amended to permit electronic participation in meetings for members of Council or Committee/Boards when there is not a declared emergency, and to allow for electronic voting.

While the Subcommittee considered limiting the number of meetings a member could participate in a meeting electronically in a year, they are not recommending any limitation. However, when the Chairperson is participating electronically, it is recommended that the role of the Chair be delegated to a member that is physically present in the Council Chambers. Members opting for electronic participation would be required to notify the Clerk, or designate, five (5) days in advance and in writing prior to the meeting

Delegations

The By-law indicates that delegations are required to submit written notice to the Clerk seven (7) days in advance of the meeting at which they wish to appear. The By-law also allows for persons to be heard upon approval of Council, by resolution stated at the meeting. Electronic participation for delegates could be an accommodation in support of the *Accessibility for Ontarian's with Disabilities Act, 2005*, and O. Reg. 191/11 Integrated Accessibility Standards. Prior to COVID-19, delegations at Council and Committee meetings were in person only.

[By-law 2020-52](#) amended the Procedure By-law to allow for delegations at Public Meetings of Council meetings and Statutory Committee meetings to participate electronically, during a declared emergency, in an effort to adhere to statutory requirements, particularly of the

Planning Act and Drainage Act. Electronic participation at these meetings are currently permitted in accordance with the following:

- Persons desiring to be a delegate give notice to the Clerk by 12:00 (noon) on the day of the agenda is published for the meeting at which they wish to appear; or after the agenda is published, by giving notice to the Clerk by 12:00 (noon) on the day of the meeting at which they wish to appear.
- Notice is given to the Clerk by submitting an online Delegation Request Form found on the Town's website, or by email or phone.

These measures were implemented to provide the public additional time to request to be a delegate after the published agenda was posted on the Town's website and to best replicate, when meeting in person, the ability for the public to attend the meeting and address Council during the Public Meeting.

The Subcommittee is recommending the Procedure By-law be amended to include provisions for electronic participation for delegations at Council and Committee/Boards meetings, as an accommodation and to provide greater inclusion and meet individual needs after the declaration of emergency has been terminated. All delegation requests for accommodation will be processed by the Clerk's office, including requests to be read into the record.

The Subcommittee also considered the speaking time for delegates. Currently, the Procedure By-law allows for a speaking not more than ten minutes (10), except that a deputation consisting of more than five persons (5) is limited to two (2) speakers, each limited to speaking not more than ten (10) minutes in total time. It further allows the Mayor to reduce the speaking time at his discretion.

The Subcommittee is recommending a speaking time for delegates of not more than five minutes (5) and one speaker for each municipal address, except that organizations, such as ERCA, TWEPI and Essex Power who attend annually to report out to Council, will be given ten (10) minutes in total time. Deputations consisting of more than five (5) persons shall continue to be limited to two (2) speakers, each limited to speaking not more than ten (10) minutes in total time. The by-law should allow the Mayor the discretion to increase speaking time.

Proxy Voting

In July, 2020, the Ontario government made amendments to the *Municipal Act, 2001*, which allowed the option of authorizing proxy voting for members of council as a measure to "ensure continuing representation of constituents' interests on municipal councils when a member is unable to attend in person due to, for example, illness, a leave of absence, or the need to

practice physical distancing.”¹ ([AMCTO](#)) Municipalities received further guidance in Bill 197: The *COVID-19 Economic Recovery Act, 2020*, which states that municipalities that wish to allow proxy voting must amend their procedure bylaw to allow members of Council to appoint another member of the same council to act in their place when they are absent.

The Procedure By-law currently does not permit proxy voting. Proxy voting allows members of council who are unable to attend a meeting to appoint a proxyholder to act on their behalf, subject to certain statutory limitations including:

- i. A proxyholder cannot be appointed unless they are a member of the same council as the appointing member (For upper-tiers, this means that a proxyholder has to be a member of the same upper-tier council as the appointee, regardless of lower-tier membership)
- ii. A member cannot act as a proxyholder for more than one other member of council at a time;
- iii. An appointed proxy is not counted when determining if a quorum is present;
- iv. A member appointing a proxy shall notify the Clerk of the appointment in accordance with a local process established by the Clerk; and
- v. When a recorded vote is taken, the Clerk shall record the name and vote of every proxyholder and the name of the member of Council for whom the proxyholder is acting
- vi. A member may not appoint a proxy or serve as a proxyholder on a matter which they have a pecuniary interest under *the Municipal Conflict of Interest Act*.

Notwithstanding that electronic participation in meetings is being recommended by the Subcommittee, they are also recommending the Procedure By-law be amended to allow for proxy voting for Members of Council. Accordingly, the Subcommittee further recommends that the Clerk develop a process for members to appoint a proxyholder, including notice and recording of how a proxyholder is instructed to vote by the appointing member on the matters.

Calling of Special Committee or Board Meetings

The Subcommittee has reviewed the provisions that currently only allow the Mayor to call a special meeting of Council with one full of day notice specifying the purpose of such a meeting which is to be the sole business of the meeting. Special Council meetings can also be called upon request of the majority of Members of Council.

The Subcommittee recommends that Committees and Boards be permitted to hold special meetings provided at least five (5) days' notice is given by way of posting of such meeting and the agenda to the Town's website.

¹ AMCTO, Proxy Voting for Members of Council, 2020

Removal of a Committee / Board Member

The by-laws appointing members to committees and boards provides for removal of a member if they miss three consecutive meetings without prior notice or reason. Regular absences by members may impact quorum as meetings must be adjourned after fifteen (15) minutes if there is no quorum present. The Subcommittee recommends that removal of a member from a Committee or Board for three (3) consecutive meetings, without prior notice or reason, also be included in the Procedure By-law.

Communications

The Procedure By-law currently states that “Letters or written communications requiring consideration and action will be listed on the agenda.”

It is recommended that the Clerk, in consultation with the Mayor and CAO, be given the same authority for communications as Delegations, and not automatically place communications on an open Council agenda under the following circumstances:

- i. The subject matter is deemed to be beyond the jurisdiction of Council;
- ii. The issue is specific to a labour/management dispute, or other matter properly held in closed session;
- iii. The issue has been or is to be considered by the Committee of Adjustment;
- iv. Council has previously considered or made a decision on the issue and a Delegation has appeared before Council with respect to the same issue previously considered or decided by Council within a period of twelve (12) months following the date on which the issue was last considered or decided by Council;
- v. The issue should be referred to Administration for action; or
- vi. Correspondence consists of communications from municipalities, municipal associations, other organizations, and interest groups for endorsement of resolutions and policies.

All correspondence addressed to Council will be circulated to Council prior to the publication of the Agenda. If a Member of Council so requests, the item(s) of correspondence will be placed on the Council Agenda as a communication item (excluding i – iii above). This will also assist in reducing staff time spent in converting documents included on meeting agendas to an accessible format.

Notice

Community newspapers have recently closed their operations, save and except the Essex Free Press. Reference to notice in local newspapers is also recommended to be removed from the Procedure By-law. Notice will continue to be placed on the Town’s website and social media.

Consultations

Procedure By-law Review Subcommittee

Financial Implications

There are no financial implications relating to this report.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input checked="" type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐

Social Media ☐

News Release ☐

Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Deputy Clerk & Manager Legislative Services

Reviewed by:

Laura Moy, Dipl. M.M., CMMIII HR Professional
Director Corporate Services & Clerk

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
None	None