



Subject: Amendments to Procedural By-Law

Report Number: CS 22-35

Department: Corporate Services Department

Submitted by: Laura Pickersgill, Executive Assistant/Assistant Clerk

Meeting Type: Council Meeting

Meeting Date: Monday, December 12, 2022

RECOMMENDATION

THAT Council receives CS 22-35, Amendments to Procedural By-Law;

AND THAT Council direct staff to bring back an amendment to the procedural by-law to allow for electronic participation in meetings for reasons other than for emergencies and pandemic reasons as currently stated.

BACKGROUND

At the Council meeting of November 21, 2022, Council passed the following resolution:

“THAT Council directs staff to bring back a report in regards to virtual meetings and the current procedural by-law.

AND that staff compare to other neighbouring municipalities when it comes to extended time away and attending meetings virtually.”

The Town’s procedural By-Law currently states:

5.3. Electronic Participation

(1) Electronic meetings for both open and closed meetings will be permitted in the following circumstances: during a pandemic and in certain emergency situations.

(2) Members of Council who participate electronically will count towards quorum.

(3) All members of Council may participate electronically or some members may participate electronically while other members may be present in the Council Chambers or an alternative Council meeting space.

(4) The Meeting method or technology shall be determined by the Clerk and such meeting technology should allow for accessible meetings to the public.

At the April 19, 2022 Council Meeting, Council passed the following resolution:

Resolution # 2022-144

Moved By: Councillor Esseltine

Seconded By: Councillor Rosehart

THAT plans be put in place for council members and staff to return to the council chambers for regularly scheduled council meetings as soon as possible, and in accordance with the end of the COVID-19 pandemic as determined by the provincial government. At this time, the provincial government has stated that Ontario COVID-19 Public Health measures and advice and all remaining measures, directives and orders are to end by April 27, 2022.

A hybrid option will continue to be available for individuals who are unable to attend in person citing health or distance concerns.

With the provincial statement in mind and as per the town's Procedural By-Law section 5.3 which reads "Electronic meetings for both open and closed meetings will be permitted in the following circumstances: during a pandemic and in certain emergency situations", the provincial government's declaration supports the town's return to open, in person meetings of council and council committees.

AND FURTHER having been advised that the recently approved Hybrid Work Policy could result in staff not being available to attend in person meetings, or to complete other tasks for which in person attendance at town facilities is important, that council requests a staff report outlining revisions to the Hybrid Work Policy that will assure council and the community that staff attendance at town facilities is considered important and often in the best interest of the municipality.

Should Southwestern Public Health issue regulations requiring in-person public meetings to cease because of a continuance or reoccurrence of COVID-19, Councillors and staff will return to the full hybrid meeting option for the required period of time specified by public health.

This motion and the Procedural By-Law are not in line and require clarification regarding Council's intentions for hybrid meetings and defining what is meant by "are unable to attend in person citing health or distance concerns". Council should also define if or how notice is required when attending meetings virtually and if virtual attendance is limited or at the discretion of Council or the individual.

Staff have completed a review of Oxford County Municipalities procedural bylaws regarding the section related to virtual/hybrid meetings. All of these Municipalities allow for some form of electronic participation.

Blandford Blenheim allows members to participate electronically at the discretion of the Chair or by resolution of Council and they must advise the clerk no later than 4:30 on the Friday preceding the meeting date.

Township of Zorra permits members to attend electronically by notifying the Clerk no later than noon the day before the meeting or at the discretion of the Mayor or Clerk if the situation arises on short notice. A member may not attend Council meetings virtually for three successive months without being authorized to do so.

Town of Ingersoll allows for a member to participate electronically and shall provide the Clerk notice at least 24 hours prior to the meeting. Ingersoll also defines their Electronic Meetings – “1. Under this section, an “Electronic Meeting” is defined as any regular or special meeting of Council that utilizes remote electronic access for all Members where in-person participation is unachievable due a declared emergency, either by the Head of Council or the Province, at such times during a public health crisis at the recommendation of the Medical Officer of Health or at the discretion of the Mayor, or designate due to factors that would prevent, or make in-person meeting difficult.”

Township of Norwich allows for electronic participation during a pandemic or an emergency.

East-Zorra Tavistock allows for electronic participation when an emergency has been declared.

South West Oxford members may participate electronically at the discretion of the Chair or by resolution of Council. If a member wished to participate electronically they must advice the Clerk on the Friday preceding the meeting.

City of Woodstock members of Council may participate electronically in a meeting.

County of Oxford’s procedural by-law sets out a protocol for electronic meetings and does not set any parameters on individual council participation electronically.

The following chart indicates excerpts from their procedural by-laws:

Blandford Blenheim	5.15 Electronic Participation at Meetings Members of council may participate electronically in a meeting which is open or closed to the public at the discretion of the Chair or by resolution of Council. A member of council who is participating electronically in such a meeting may be counted in determining whether or not a quorum of members is present at any point in time.	
-----------------------	---	--

	<p>If a member wishes to participate electronically in a meeting, they must advise the Clerk no later than 4:30 p.m. on the Friday preceding the meeting date.</p>	
Township of Zorra	<p>4.12 Electronic Meetings</p> <p>(a) Electronic Participation - Council</p> <p>Members of council may participate electronically in a meeting which is open or closed to the public. Members participating/voting electronically will count towards quorum. Members will be permitted to attend meetings electronically by notifying the Clerk by no later than noon the day before the meeting or, at the discretion of the Mayor or Clerk if the situation arises on short notice where a member is unable to attend a meeting in person.</p> <p>Where the call for a meeting arises having a potential for serious or grave consequences for the municipality or its inhabitants, the Mayor may issue a call for an electronic meeting of the members of Council. The meeting shall be held at the time in accordance with 4.1. In the absence of the Mayor and under severe conditions, the Clerk shall be similarly so empowered.</p> <p>Council Members must have their video enabled while participating in the meeting. No virtual backgrounds are permitted for Council members. During voting, Council members will raise their hands clearly when appearing by video to show their vote when called for by the Mayor.</p> <p>Except for periods where there are declared emergencies and circumstances cited herein, a member may not attend Council meetings virtually for three successive months without being authorized to do so.</p>	
Ingersoll	<p>Section 27 – Remote Participation</p> <p>27. The following rules and regulations for remote participation in a Council Meeting or Council Committee meeting shall apply:</p> <p>a. Members participating electronically shall count towards quorum.</p> <p>b. Members participating electronically may participate in a meeting that is open or closed to the public.</p>	

	<p>c. A Member who is unable to attend a Council Meeting in person may participate in that Meeting by electronic or telephonic means so long as:</p> <p>i. The method of participation enables all participating Members, whether attending in person or through electronic participation, to hear and be heard by all other Members.</p> <p>ii. Except for all or any part of the Council Meeting that is closed to the public, the method of participation is capable of and enables the public to hear, or watch and hear, all Members participating in the Meeting.</p> <p>iii. A Member who intends to participate in any such Meeting of Council by electronic or other means of participation shall provide the Clerk notice of that intention at least 24 hours prior to the commencement of such Meeting, or as much prior notice as possible where the Member is otherwise prevented from providing the Clerk with 24 hours advance notice.</p> <p>iv. In all such circumstances, the Clerk will, as soon as reasonably possible, provide the Member intending to attend by electronic participation with instructions on how to connect to and participate in that Meeting by electronic or other means of communication.</p> <p>v. There shall be no limit upon the number of Members who may attend a Meeting of Council by electronic or other method of communication.</p> <p>vi. The Mayor (or designate), as Chair, shall lead the Meeting and be present from a designated meeting location supported by the CAO (or designate), where possible.</p> <p>vii. Any Member attending and present during a Meeting by electronic or other means of communication may participate in all aspects of the Meeting as if present in person, including but not limited to debate, questioning, presentation of motion, and/or voting.</p> <p>viii. During the course of a Meeting within which any Member is participating by electronic or other means of</p>	
--	---	--

	<p>communication, the Chair (or designate) shall announce each agenda item on the floor of the Meeting and shall thereafter maintain an orderly meeting process, including keeping Members fully informed.</p> <p>ix. Any Member attending and present during a Meeting by electronic or other means of communication may vote on any matter being considered in such Meeting and that vote shall be counted as set forth below:</p> <ol style="list-style-type: none"> 1. When the Chair calls for a vote on a matter, Members who are participating using Audio-only communications shall verbally announce their vote by stating “in favour” or “opposed”. 2. When the Chair calls for a vote on a matter, Members who are participating using Audiovisual Communications, shall visually show their vote by raising their hand to show they are either “in favour” or “opposed”. 3. A recorded vote will be treated the same for audio and audiovisual – verbal vote when called upon and in accordance with sections 1.28 and 15.5. <p>28.0 Electronic Meetings</p> <p>1. Under this section, an “Electronic Meeting” is defined as any regular or special meeting of Council that utilizes remote electronic access for all Members where in-person participation is unachievable due a declared emergency, either by the Head of Council or the Province, at such times during a public health crisis at the recommendation of the Medical Officer of Health or at the discretion of the Mayor, or designate due to factors that would prevent, or make in-person meeting difficult.</p>	
Township of Norwich	Procedural By-law allows for electronic participation using full remote meetings during a pandemic or an emergency. There is no provision for personal choice to attend virtually.	
East Zorra-Tavistock	3.20.b Where an emergency has been declared to exist in all or part of the municipality under Section 4 or 7.0.1 of the Emergency Management and Civil Protection Act, members of Council may participate/ vote electronically in a meeting which is open or closed to the public during any period when an emergency has been declared to exist. As well, and	

	despite Sections 3.6 to 3.11 (inclusive) of this by-law, a member of Council who is participating/ voting electronically in such a meeting may be counted in determining whether or not a quorum of members is present at any point in time.	
South West Oxford	<p>Electronic Participation at Meetings</p> <p>4.17 Members of Council and Committees may participate electronically in a meeting which is open or closed to the public at the discretion of the Chair or by resolution of Council.</p> <p>4.18 A member who is participating electronically in such a meeting may be counted in determining whether or not a quorum of members is present at any point in time.</p> <p>4.19 If a member wishes to participate electronically in a meeting, they must advise the Clerk no later than 4:30 p.m. on the Friday preceding the meeting date.</p>	
City of Woodstock	<p>16.6.24 Electronic participation</p> <p>Members of council may participate electronically in a meeting which is open or closed to the public. A member of council who is participating electronically in such a meeting may be counted in determining whether or not a quorum of members is present at any point in time.</p>	
Tillsonburg	<p>5.3. Electronic Participation</p> <p>(1) Electronic meetings for both open and closed meetings will be permitted in the following circumstances: during a pandemic and in certain emergency situations.</p> <p>(2) Members of Council who participate electronically will count towards quorum.</p> <p>(3) All members of Council may participate electronically or some members may participate electronically while other members may be present in the Council Chambers or an alternative Council meeting space.</p> <p>(4) The Meeting method or technology shall be determined by the Clerk and such meeting technology should allow for accessible meetings to the public.</p>	
County of Oxford	<p>3.5 ELECTRONIC MEETINGS</p> <p>3.5.1 Quorum and Voting for Electronic Meeting – Members participating in an Electronic Meeting, either in person or by electronic means, shall be counted for purposes of quorum at the commencement and at any point in time during the meeting, and shall be entitled to vote through a vote recorded by the Clerk as if they were attending the meeting in person.</p>	

	<p>3.5.2 Closed Session – An Electronic Meeting may include a Closed Session, which shall be conducted in the absence of the public and in accordance with this Section and the Electronic Meeting Protocol.</p> <p>3.5.3 Public Notice of Electronic Meeting – A public notice of an Electronic Meeting shall include sufficient information as to provide the public with a means to electronically access the open session of such Electronic Meeting.</p> <p>3.5.4 Application and Conflict – Notwithstanding the foregoing, the Procedure By-law shall continue to apply to an Electronic Meeting held pursuant to this Section, except that this Section and any Provincial legislation or order shall prevail to the extent of any conflict.</p> <p>BY-LAW NO. 6268-2020 Schedule “B” as amended by Resolution of Council November 24, 2021</p> <p>ELECTRONIC MEETING PROTOCOL</p> <p>Procedure By-Law No. 6268-2020 shall continue to apply to an Electronic Meeting held pursuant to this Electronic Meeting Protocol (hereinafter, “Protocol”). Amendments to this Protocol may be permitted to be made by simple majority vote of Council to accommodate an effective and efficient meeting, so long as any such amendments are not contrary to prevailing Provincial legislation or orders.</p> <p>Prior to Electronic Meeting</p> <p>The method and technology used for an Electronic Meeting in Open or Closed Session will be determined by the Chief Administrative Officer based on the resources available.</p> <p>General</p> <p>Where an Electronic Meeting is held, Council Members, Staff, Delegates and Registered Members of the Public may attend by Electronic means.</p> <p>Staff will ensure that the general public are able to watch and/or hear the business to be carried out at meetings which are held in Open Session by using an online streaming service in order to ensure that that the meeting is open and transparent.</p>	
--	---	--

	<p>Conduct</p> <ul style="list-style-type: none"> i. Members of Council participating in a meeting electronically must use both video and audio. ii. When participating in a meeting electronically, the manner of voting shall be by show of hands unless otherwise stated by the Chair. Failure to show a hand shall be considered a negative vote. iii. Staff shall mute their microphone and turn off their camera unless they are presenting or responding to a Member. iv. Each Member shall mute their microphone and remain attentive to the proceeding when not assigned the floor by Chair. v. When participating electronically in Closed Session discussions, Members and Staff must ensure confidentiality is maintained at all times. <p>Internet and Other IT Disruptions</p> <p>In the event of an internet or other IT disruption compromises the ability of participants or the public to participate or stream in the Electronic Meeting, in the opinion of the Chair, the Chair shall call a recess and take such steps as necessary to address the issue and reconvene the meeting in a timely manner or, where this is not possible, adjourn the meeting to a later date.</p> <p>The Oxford County Electronic Meeting Protocol shall continue to apply for Public Meetings, Boards and Committees.</p> <p>3.5.5 Schedule “B”, Electronic Meeting Protocol – sets out the procedures for conducting electronic meetings and may be amended by resolution of Council.</p>	
--	--	--

Staff are recommending that the Town’s procedural by-law be specific in terms of how electronic meetings are conducted and under what circumstance they will or won’t be allowed, who can attend electronically, notice period for attending electronically if allowed, and a time period or a number of concurrent meetings a member will be allowed to attend electronically if allowed. For example, by continuing allowance of electronic participation beyond reasons of emergencies and pandemics, this would increase the opportunity for members of Town Advisory Committees to participate in meetings rather than limiting options for attendance by allowing for in-person attendance only. This model has proven to work well over the past year and a half and should be used as a guide moving forward for decision making.

Following direction regarding virtual attendance at Council meetings, a draft by-law will be brought forward for council’s consideration.

FINANCIAL IMPACT/FUNDING SOURCE

None

CORPORATE GOALS

How does this report support the corporate goals identified in the Community Strategic Plan?

- ☐ Lifestyle and amenities
- ☒ Customer service, communication and engagement
- ☐ Business attraction, retention and expansion
- ☐ Community growth
- ☐ Connectivity and transportation
- ☐ Not Applicable

Does this report relate to a specific strategic direction or project identified in the Community Strategic Plan? Please indicate section number and/or any priority projects identified in the plan.

Goal- The Town of Tillsonburg will strive for excellence and accountability in government, providing effective and efficient services, information and opportunities to shape municipal initiatives.

Strategic Direction- Increase opportunities and promotion for public engagement in municipal initiatives.

Priority Project- N/A

ATTACHMENTS

N/A