



Town of Newmarket
395 Mulock Drive P.O. Box 328,
Newmarket, Ontario, L3Y 4X7

Email: info@newmarket.ca | Website: newmarket.ca | Phone: 905-895-5193

Amendments to the Procedure By-law to Permit Electronic Participation during a State of Emergency Staff Report to Council

Report Number: 2020-25

Department(s): Legislative Services

Author(s): Lisa Lyons, Director of Legislative Services/Town Clerk
Kiran Saini, Deputy Town Clerk

Meeting Date: April 27, 2020

Recommendations

1. That the report entitled Amendments to the Procedure By-law to Permit Electronic Participation during a State of Emergency dated April 27, 2020 be received; and,
2. That the proposed amendments to the Town of Newmarket's Procedure By-law 2020-12 to permit electronic participation during a state of emergency as outlined in **Attachment 1** of this report be approved; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to seek Council's approval for amendments to the Town of Newmarket's Procedure By-law to permit participation through electronic means during a state of emergency declared under the Emergency Management and Civil Protection Act ("EMCPA").

Background

The Municipal Act requires every municipal Council to adopt a By-law that governs the calling, place and proceedings of its meetings. Council recently conducted a review of its Procedure By-law, and at its March 2, 2020 meeting adopted an updated Procedure By-law 2020-12.

Amendments to the Procedure By-law to Permit Electronic Participation during a State of Emergency

On March 17, 2020 Premier Doug Ford declared a Province-wide emergency under the Emergency Management and Civil Protection Act (“EMCPA”). Among other things, the state of emergency has mandated the closure of all recreation facilities, public libraries, childcare centres, and bars and dine-in only restaurants in all municipalities across Ontario.

On March 18, 2020 Mayor John Taylor declared a Town-wide emergency under the EMCPA. The declaration was preceded by Town facility closures and cancellation of recreation programming. The Town continues to support and respond to community needs arising from the pandemic in a variety of ways.

In an effort to contain the spread of COVID-19, governments and public health authorities at the international, federal, provincial, regional and local levels are recommending that individuals practice physical distancing and that public and professional gatherings be limited until further notice. To this end, the provincial government also enacted legislation on March 28, 2020 prohibiting gatherings of more than five people.

On March 19, 2020, the Legislative Assembly of Ontario passed the Municipal Emergency Act, 2020 (“Bill 187”). This piece of legislation amended the Municipal Act, 2001 to permit members of a municipal council, local board, or committee to participate electronically in open and closed session meetings and be counted towards quorum during a declared state of emergency under the EMCPA. Bill 187 also requires that the municipality’s procedure by-law be amended to allow such electronic participation.

Discussion

Required Procedure By-law Amendments

Currently, the Town’s Procedure By-law only permits electronic participation in meetings for members of the Accessibility Advisory Committee. There are no provisions for members of Newmarket Council to participate electronically, and therefore the Procedure By-law needs to be amended to permit such participation (**Attachment 1**).

In accordance with Bill 187, the amendment to the Procedure By-law allows for electronic meetings of Council, Committee of the Whole, and all Advisory Committees and Boards. Electronic meetings will be limited to matters that are necessary for the continued administration of the Town and/or the provision of essential municipal services. With respect to All Advisory Committees (including quasi-judicial committees, such as Committee of Adjustment, Appeals, or Property Standards Committee), a meeting will only be called if, in the opinion of staff and/or the Chief Administrative Officer, there is an urgent matter that requires the committee’s consultation or feedback.

The Town continues to collaborate with other municipalities and associations for best practices

Staff participated in webinars led by the Association of Municipalities of Ontario and the Association of Municipal Clerks, Treasurers and Managers of Ontario to learn from experiences from various municipalities that have held electronic meetings. Through these webinars, it was made evident that electronic participation is new to municipal council meetings and that best practices will continue to evolve. Additionally, Town staff continue to maintain regular contact and share resources and information with neighbouring municipalities in York Region.

Written deputations

In the context of the current state of emergency surrounding COVID-19, where physical distancing and self-isolation measures are recommended by public health authorities, public participation will be limited to the extent provided in the notice of the meeting. For example, at the March 18, 2020 Emergency Council Meeting public participation was limited to written comments being submitted to Legislative Services prior to the meeting. These comments were read aloud by the Mayor during the meeting and formed part of the public record. It is anticipated that this process will continue for any future meetings held during this current pandemic. The procedure for how written comments may be submitted to the Clerk will be made available on the agenda and on the Town's website to ensure clarity around this new process.

Planning Act Matters

As part of its various legislative and regulatory responses to the current COVID-19 pandemic, the Province of Ontario passed Ontario Regulation 73/20 (O. Reg. 73/20) on March 20, 2020. The effect of O. Reg. 73/20 was to suspend limitation periods and procedural timelines under any statute, regulation, rule, by-law or order of the Government of Ontario, including the Planning Act (the **Suspension Order**).

While the Suspension Order applies to and suspends timelines and limitation periods for appeals of planning matters to the Local Planning Appeal Tribunal (LPAT), there is legal debate regarding the applicability of the Suspension Order to Planning Act timelines related to council decisions regarding planning applications (i.e., 90 days for zoning by-law amendment application decisions). In response, the Province of Ontario enacted further legislation on April 14, 2020 under Bill 189, Coronavirus (COVID-19) Support and Protection Act, 2020 (**Attachment 2**) and on April 15, 2020 under Ontario Regulation 149/20 (the **New Regulation**). The New Regulation created a new set of rules to govern the timelines for decision making and appeals under the Planning Act. The timeline changes are intended to apply for the duration of the current state of emergency. The changes are retroactive to the start of the emergency (March 17, 2020).

The details of the regulation are complex and an explanatory note from the Ministry of Municipal Affairs and Housing is expected soon. Thereafter, Staff will provide Council

with information summarizing the details of the New Regulation and its impact on planning matters.

Staff expect to report to Council with greater information and clarity regarding Planning Act matters and statutory public planning meetings at Council's next meeting.

To date, York Region municipalities have generally continued to process Planning Act applications. The Region has indicated that it will continue to process applications and render decisions under its current delegation of authority to staff, and report to Council as necessary to ensure the Region is as construction ready as possible.

Newmarket Planning Services is continuing to process all planning applications up to the point where a statutory public planning meeting or a Council decision is required.

Non-Statutory Planning Meetings

Planning Services also has numerous long-term, policy-related matters that will require Council direction (i.e., the Mulock Station Area Secondary Plan, Urban Design Guidelines, and the Regional Municipal Comprehensive Review). It is anticipated that such matters will be brought to Committee of the Whole and Council should regular business resume during the emergency, or as required in consultation with senior staff. Further, such matters will only be brought forward at key points when specific direction is required to advance these projects; other information will be provided via Information Reports.

Public Information Centres

Given the current public health messaging regarding physical distancing and recommendations for individuals to stay home, and the legislated prohibition against gatherings of more than five persons, staff will continue to investigate the use of technology to engage the public for matters that require engagement and community consultation.

Conclusion

Council is required to amend its Procedure By-law prior to holding any electronic meetings, and this report provides for amendment of the same to facilitate any electronic meetings.

Business Plan and Strategic Plan Linkages

This report aligns with the Town's vision of being well beyond the ordinary.

Consultation

The IT Services Department was consulted in developing procedures and testing audiovisual and audio-only communication technologies.

Planning and Building Services and Legal Services were consulted on this report.

Human Resource Considerations

None.

Budget Impact

Licences for audiovisual communication technologies were acquired within the Town's existing operating budget.

Attachments

Attachment 1 - Amendment to Procedure By-law 2020-12

Attachment 2 - Bill 189, Coronavirus (COVID-19) Support and Protection Act, 2020

Approval

Esther Armchuk, Commissioner of Corporate Services

Jag Sharma, Chief Administrative Officer

Contact

For more information, please contact Lisa Lyons at llyons@newmarket.ca