



Amendments to Procedures to Enable Remote Electronic Participation in Meetings during an Emergency

Date: April 27, 2020

To: City Council

From: City Clerk

Wards: All

SUMMARY

The purpose of this report is to amend Council Procedures to facilitate electronic meetings of City Council and committees held during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act and to authorize local boards to make amendments to their own rules of procedure that are consistent with Council's procedures.

RECOMMENDATIONS

The City Clerk recommends that:

1. City Council amend Toronto Municipal Code Chapter 27, Council Procedures to provide that during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act:

a. Members may participate in a meeting of City Council or a council committee by electronic means and will be counted in determining whether or not a quorum of members is present at any point in time;

b. Members may participate electronically in a meeting of City Council or a council committee that is closed to the public; and

c. a meeting of City Council or a council committee held by electronic means has 30 minutes to achieve quorum.

2. City Council amend the Simplified Procedures for Advisory Bodies to provide that during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act:

a. Members may participate in a meeting of a Council Advisory Body by electronic means and will be counted in determining whether or not a quorum of members is present at any point in time; and

b. Members may participate electronically in a meeting of a Council Advisory Body that is closed to the public.

3. City Council authorize local boards governed by the City of Toronto Act, 2006 to amend their own rules of procedure consistent with City Council's procedures to permit electronic participation by board members during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act, including such local boards as have already made such amendments, without the need for further Council approval; the rules for Business Improvement Area Boards to be amended by City Council as set out in Recommendation 4 below.

4. City Council amend the procedures in Schedule B of Toronto Municipal Code Chapter 19, Business Improvement Areas to provide that during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act:

a. Members may participate in a meeting of a Business Improvement Area Board by electronic means and will be counted in determining whether or not a quorum of members is present at any point in time; and

b. Members may participate electronically in a meeting of a Business Improvement Area Board that is closed to the public.

5. City Council authorize the Toronto Atmospheric Fund Board of Directors to meet by electronic means during an emergency declared to exist in all or part of the City under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act in accordance with the following:

a. a member of the Board or any committee of the Board, and the Members of the Corporation may participate in a meeting of the Board or of any committee of the Board, or a meeting of the Members of the Corporation, by electronic means and will be counted in determining whether or not a quorum of members is present at any point in time;

b. a member of the Board or any committee of the Board, and the Members of the Corporation may participate electronically in a meeting of the Board or of any committee of the Board that is closed to the public; and

c. the Board is authorized to defer and reschedule the Annual General Meeting of the Members of the Corporation,

subject to compliance with the Toronto Atmospheric Fund Act, 2005, the Relationship Framework and the 2015 Statement of Investment Principles and the waiver of any provisions in the Operational Guidelines for Remote Participation in Toronto Atmospheric Fund Board Meetings necessary to permit a fully electronic meeting.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

This is a new issue.

COMMENTS

COVID-19 measures in the City of Toronto limit public gatherings

On March 17, 2020, the Premier of Ontario declared a state of emergency under section 7.0.1(1) of the Emergency Management and Civil Protection Act in response to the novel coronavirus (COVID-19). The Province initially prohibited organized public gatherings in excess of 50 people. This limitation was further restricted to no more than 5 people.

On March 23, 2020, Mayor Tory declared an emergency under section 4 of the Emergency Management and Civil Protection Act, and section 59-5.1 of City of Toronto Municipal Code Chapter 59, Emergency Management.

As part of the City of Toronto's COVID-19 response, all City buildings, including City Hall, are closed to the public. Encouraging physical distancing has also been a key component of the City's response to help minimize COVID-19 transmission in the community. Physical distancing measures include:

- keeping 2 metres (6 feet) apart from others
- avoiding mass gatherings
- avoiding crowds.

Meeting practices need to be adapted to reflect physical distancing measures and limitations on public gatherings.

Legislation permits electronic participation during a provincial or municipal emergency

On March 19, 2020 the Province passed the Municipal Emergency Act, 2020 amending the City of Toronto Act, 2006 to allow for remote participation in municipal council and local board meetings during a declared provincial and/or municipal emergency. The Act is available online at <https://www.ontario.ca/laws/statute/S20004>.

The Act permits City Council, its local boards and committees of both to amend their rules of procedure to allow Members to participate in open and closed meetings electronically and to be counted for quorum when doing so, during declared emergencies.

The Act also allows City Council and its local boards to hold a special meeting in which electronic participation may be counted to determine quorum, for the purpose of amending their procedures to incorporate the new electronic meeting rules during declared emergencies. In the case of City Council, the special meeting must be called by the Mayor. As the legislation permits City Council to hold a special meeting for this purpose, no further notice of the proposed amendments to the Council Procedures is required.

Local Boards should be authorized to amend their own meeting procedures consistent with City Council's Procedures

The amendments to the City of Toronto Act, 2006 apply to local boards except for the Toronto Public Library and the Toronto Police Services Board which are covered by companion regulation changes. The amendments do not apply to the City's Corporations.

The amendments to the City of Toronto Act, 2006 also apply to Adjudicative Boards that are local boards under the Act. The Adjudicative Boards can amend their procedures to hold business meetings electronically during an emergency as permitted by the Act.

In addition to holding business meetings, these Adjudicative bodies also hold hearings in accordance with the Statutory Powers Procedure Act or other applicable statutes. The Province of Ontario, through Bill 188, an Act to amend Various Statutes, has enacted the Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020. This Act temporarily allows adjudicative bodies to amend their rules to allow for holding hearings electronically.

To ensure that local Boards can meet to address their own requirements in a timely way during the emergency, it is proposed that Boards be permitted to amend their meeting procedures consistent with Council's Procedures without the need for further Council approval. Under the circumstances, there will be no requirement for boards to seek Council's approval for these amendments in advance.

The Toronto Atmospheric Fund Board should be authorized to meet in a manner consistent with other boards

The Toronto Atmospheric Fund Board's current procedures, as approved by City Council, allow members to participate in meetings electronically provided that quorum is present in the room:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TA1.7>

The Boards operational guidelines also limit the number of remote participants permitted at a single meeting.

The Toronto Atmospheric Fund Board is established under separate legislation, the Toronto Atmospheric Fund Act, 2005. The TAF Board cannot avail itself of the provisions in the City of Toronto Act, 2006 that permit boards to conduct electronic meetings during an emergency where remote participants can be counted for quorum.

City Council should authorize the TAF Board to meet by electronic means during a declared emergency in a manner consistent with its other Boards.

Council Advisory Bodies should be permitted to meet remotely during an emergency

City Council's Advisory Bodies operate under the Simplified Rules of Procedure. These rules are based substantially on Council's own procedures but have been adapted to reflect the public advisory role of these bodies. With the proposed changes to the Simplified Rules, the Council Advisory Bodies will be permitted to meet remotely during a declared emergency.

Electronic Meetings are public

Meetings conducted electronically must still comply with Open Meeting requirements:

- giving notice of meetings
- meeting in public
- providing for public participation
- starting and ending meetings in public
- limiting closed sessions
- stating the nature of the matter and the statutory exemption relied upon before closing a meeting to the public
- prohibiting voting in closed session
- prohibiting secret balloting.

Since City Hall is closed to the public and there is a ban on public events during the current emergency, Council, its boards and its committees will need to take other steps to ensure their proceedings are publicly observable. This can be accomplished by streaming the proceedings live to the internet using the existing YouTube channel at youtube.com/TorontoCityCouncilLive.

If City Council should recess to meet in a closed session as permitted by law, the live stream will be interrupted. This is consistent with current meeting practices.

It is proposed that City Council permit itself and its committees 30 minutes (an increase from the current 15 minutes) to achieve quorum at a meeting held by electronic means. This will provide a safeguard in the event that a meeting should experience technical difficulties.

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SIGNATURE

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City Clerk