TORONTO

REPORT FOR ACTION

Enabling Remote Electronic Participation in Toronto Investment Board Meetings During an Emergency

Date: June 26, 2020
To: Toronto Investment Board
From: City Clerk
Wards: All

SUMMARY

The purpose of this report is to recommend amendments to the procedures by-law of the Toronto Investment Board to allow electronic participation by members of the Board in meetings 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.*

RECOMMENDATIONS

The City Clerk recommends that the Toronto Investment Board:

1. Amend By-law 1-2018 and adopt the draft bill in Attachment 1 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. a member of the Board or its Committees may participate in a meeting 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. a member of the Board or its Committees may participate electronically in a meeting that is closed to the public.

FINANCIAL IMPACT

The City Clerk will work with the Executive Director, Corporate Finance to identify any financial impacts in excess of what has been approved in the 2020 budget.

DECISION HISTORY

At its meeting on April 12 and 13, 2011, City Council adopted 2011.EX4.6, and in so doing, directed that City Council approve the board by-laws of all agencies that regulate the internal conduct of the business and affairs of the agency, including the procedures by-law for the Toronto Investment Board.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX4.6

At its meeting on June 26, 27, 28 and 29, 2018, City Council adopted Item 2018.EX35.43 and in so doing, approved the Procedures By-law (By-law 1-2018) for the Toronto Investment Board.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX35.43

At its meeting on April 30, 2020, City Council adopted Item 2020.CC20.1 as amended, and in so doing, authorized local boards of the City to amend their own procedures to permit electronic participation in meetings during emergencies, without the need for further Council approval.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC20.1

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) and prohibited organized public events in excess of 50 people. As of June 12, 2020, the Government of Ontario has restricted organized public events to no more than 10 people.

As part of the City of Toronto's COVID-19 measures, the City closed all City buildings, including City Hall, to the public.

On March 23, 2020, an emergency was declared by the Mayor of the City of Toronto 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, due to the risk to the health of the residents of the City of Toronto arising from spread of COVID-19 and its presence within the City of Toronto.

Toronto’s Medical Officer of Health is recommending physical distancing as a way to minimize COVID-19 transmission in the community. Physical distancing measures include:

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

These limitations on the assembly of people and the strong recommendations from health professionals and all orders of government that residents stay home and only go out for essential needs, present a challenge to holding legislative meetings in accordance with current procedures.

Conducting Board meetings using electronic participation during a provincial or municipal emergency

On March 19, 2020 the Province passed the Municipal Emergency Act, 2020 (the "Act") https://www.ontario.ca/laws/statute/S20004, 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 adopt procedural by-law amendments allowing 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 a local board to call and hold a special meeting in which electronic participation may be counted to determine quorum, for the purpose of amending its procedural by-law to incorporate the new electronic meeting rules during declared emergencies.

The current Toronto Investment Board procedures require that notice of an amendment to the procedures by-law be given at a prior meeting. However, in light of the declared COVID-19 emergency, it is not possible to hold a regular meeting at which to give such notice. The Municipal Emergency Act, 2020 takes priority over the notice requirement in subsection 43(2) of the Board procedures and the Board is able to consider these amendments without having given prior notice.

As directed by City Council through adoption of Item 2011.EX4.6, City Council must approve the board by-laws that regulate the internal conduct of the business and affairs of the agency. Subsection 43(3) of the Board procedures requires the Board to submit any amendment to the Procedures by-law to Council for approval. However, at its meeting on April 30, 2020, City Council adopted Item CC20.1 as amended, which authorized local boards of the City to amend their own procedures to permit electronic participation during emergencies without the need for further Council approval.

Nothing in the Act changes the requirement for meetings to be open to the public including:

- Duty to give notice of meetings
- Requirement to meet in public
- Requirement to provide for public participation
- Limitations on closed sessions
- Requirement to start and end meetings in public

- Requirement to pass a motion stating the nature of the matter and the statutory exemption relied upon before closing a meeting to the public
- Prohibition on voting in closed session
- Prohibition on secret balloting.

While the Board may need to attend to business during the COVID-19 pandemic, the Board must also be mindful of the health and safety of its members, staff and members of the public and must comply with Provincial orders. If approved, the recommendations in this report would amend the Board's procedure by-law to permit the Board to proceed with a meeting where Board members can participate electronically during a declared emergency in accordance with the Act.

To ensure that Board meetings remain open to the public in accordance with the requirements described above, the following describes the steps the Board is taking to ensure transparency and openness while respecting Provincial orders and the recommendations of health experts and authorities during the COVID-19 pandemic.

Proposed operations for electronic meetings

The City Clerk is prepared to support meetings of the Toronto Investment Board held by electronic means.

Members of the Board and City Officials including the Clerk, and registered public speakers will use the City's video conference technology as the means of electronic participation. In order to ensure that meetings of the Board continue to be open to the public, open sessions will be broadcast in real-time on the City Council YouTube channel so that the public may observe the meeting. The Clerk will include the URL for the meeting as part of the notice of meeting.

Members of the public may register to speak to the Board on any agenda item by notifying the Secretary by 12:00 p.m. on the day before the Board meeting, in accordance with subsection 39(2) of the Board procedures.

At the beginning of the meeting, the Clerk will advise the Chair once quorum is present.

During the meeting, the Chair will ask each Member if they wish to ask questions of staff or wish to speak, in an order of the Chair's choosing, so long as each Member has had an opportunity to question or speak before a second round begins.

Members and City Officials are requested to state their name prior to speaking, for the benefit of all meeting participants and observers.

Members are able to provide draft motions to the Clerk and seek drafting assistance via e-mail. Members are requested to read their motions aloud when placing them.

If the meeting needs to resolve into closed session, Members and Officials are responsible for ensuring that no other persons see or hear any of the confidential deliberations taking place. The Clerk will disconnect the input to the YouTube livestream and remove any registered public speakers during the closed session. Ensuring the confidentiality of a closed session may result in brief delays in the meeting.

If a Member's connection to the meeting becomes disconnected, the Clerk may recommend to the Chair that a brief recess be taken to re-establish connection. If quorum is lost as a result of disconnections, the meeting will be in recess until the Clerk can confirm that a quorum has been regained. If a quorum cannot be regained after all reasonable efforts have been made, the Clerk will advise Members of the time that the meeting was adjourned and any remaining business will be carried over to a future meeting.

As the special meeting on July 8, 2020 will be the first time that a Toronto Investment Board meeting is held using remote electronic participation, the City Clerk, in consultation with the Chair and Executive Director, Corporate Finance may refine and propose alternate options for meeting operations which can be implemented at future meetings that are held during a declared emergency.

CONTACT

Jennifer Forkes, Manager, Committees and Boards, 416-392-7337, jennifer.forkes@toronto.ca

SIGNATURE

City Clerk

ATTACHMENTS

Attachment 1 - Schedule A - To By-law 1-2018 to Enable Remote Electronic Participation in Board Meetings During an Emergency