



## **Administrative Report**

### **Office of the Director, Legislative and Community Services/Clerk**

**To:** Warden McNamara and Members of Essex County Council

**From:** Mary Birch B.A., CMO  
Director, Legislative and Community Services/Clerk

**Date:** Wednesday, April 20, 2022

**Subject:** Electronic Participation in Meetings – Procedure By-law Amendment

**Report #:** 2022-0420-LCS-R007-MB

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#### **Purpose**

To recommend an amendment to the County of Essex Procedure By-law to allow electronic participation in Council and Committee meetings other than during a declared emergency.

#### **Background**

In 2017, the Municipal Act, 2001, S.O. 2001, c. 25 (the "Act") was amended to allow Council members to participate electronically (generally, then, by telephone) but only during the open session portion of the meetings, if Council adopted a procedural by-law allowing electronic participation. Even if permitted to participate, the Act at the time did not allow for that member to be counted towards quorum.

At the time, Essex County Council opted not to amend its procedural by-law, to allow individual members to participate electronically in meetings otherwise held in person.

Council did, however, allow municipalities the authority to appoint an alternate member of their local Council to attend a County Council meeting if the Mayor or Deputy Mayor of that municipality was not able to attend. The Alternate members have the ability to vote on behalf of the member they are replacing.

Since electronic participation in Council and Committee meetings was last discussed in 2018, there have been significant changes to the manner that these meetings have been held. Electronic meetings were thrust upon municipalities, at the start of the COVID-19 pandemic and remain in place currently. Adapting to the prominence of virtual meeting platforms and technology, as well as our comfort levels and familiarity with these systems, have made adjusting to the changes to legislation governing meetings possible.

## **Discussion**

### **Electronic Meeting History**

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In light of public health advisories in effect at the time, the Act was first amended in early 2020 to permit electronic meetings of Council (and its Committees) during declared emergencies only, if Council allowed electronic meetings in its Procedural By-Law. Council amended its Procedural By-Law at its March 26, 2020 meeting to allow for such meetings.

The Act was then later amended on July 8, 2020, through Bill 197, to allow for electronic meetings at any time and therefore not only during declared emergencies.

Currently, under the existing Essex County Procedure By-law, participation in electronic meetings can only take place during a declared emergency.

Unless Council amends its Procedural By-Law, Council members will not be permitted to attend electronically once in person meetings resume. Stated differently, unless the Procedural By-Law is amended, once meetings resume in person, Council members who wish to attend the meeting will have no option other than to attend in person.

### **Technology**

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As Council has experienced over the last couple of years, technology has advanced considerably. In 2018, Zoom and similar video conferencing platforms were essentially unheard of in the municipal sector. At the time, electronic participation in meetings effectively meant participating by audio telephone conference. Now, online meeting tools, such as Zoom, allow audio and video participation. The County's audio and video equipment and technology in the Council Chambers has been upgraded over the past two years to allow for the eventual return to in person meetings. These changes allow for those participating virtually on Zoom, and those physically in attendance in Council Chambers to see and hear one another and to be live-streamed. Interaction between those in attendance in person and those

participating through Zoom would be seamless, with those attending electronically being able to see on their screen all members in attendance in person, and members in attendance in person being able to see in real time those attending electronically on two (2) large screens in Council Chambers.

Council (and its Committees) have been meeting electronically since March 2020, without issue. Council and Staff are now quite familiar and comfortable with the technology.

## **The Act (the law)**

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As previously mentioned, the law has changed since 2017.

The Act is no longer as restrictive as it was in 2018 when Council last addressed the issue of individual members participating in meetings electronically, rather than in person. At that time, the Act did not allow for those participating electronically to be counted as part of quorum and the Act did not allow electronic participation in closed session meetings.

The Act now allows for individual members of Council to participate in meetings electronically, if Council allows it in its Procedural By-Law.

To this end, the Act now says the following:

238. (3.1) The applicable procedure by-law may provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting to the extent and in the manner set out in the by-law.

(3.3) The applicable procedure by-law may provide that,

(a) a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and

(b) a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is open or closed to the public.

Council now has the discretion to permit, through its Procedural By-Law, members of Council to attend and participate electronically in meetings that are otherwise scheduled to be held in person.

Given our experience in electronic meetings over the past two years, there are a number of reasons that could justify the flexibility of continuing to

allow some electronic participation in meetings. As we being to return to in person business, there might be some initial reluctance for some to congregate with others. This would assist those members in that transition. Second, the option would allow members to participate in circumstances where they would otherwise, given standing public health guidance, choose not to attend in person, such as when they are experiencing symptoms of a communicable disease and therefore wish not to go out in the public.

The above is by no means an exhaustive analysis of the benefits and/or drawbacks of allowing members the flexibility of attending a meeting electronically.

If Council wishes to extend members of Council and Committees the flexibility of attending meetings electronically, Council will need to amend its Procedural By-Law.

## **Financial Implications**

In the past year, a substantial investment has been made in a new audio/visual system in Council Chambers which now provides for the technology to allow electronic participation in meetings of just some members of Council, rather than having all members participate electronically. The image streamed captures those in attendance in person and those attending electronically. All members in attendance, electronically and in person, will be able capable to view and communicate with one another seamlessly. That equipment was purchased using funds from the provincial Safe Restart Funds.

## **Consultations**

There have been extensive consultations and discussions amongst the local Clerks regarding electronic meeting participation, as well as at the Association level (AMCTO).

## **Recommendation**

That Essex County Council receive report 2022-0420-LCS-R007-MB, and endorse the recommendation to adopt By-law 2022-13, amending the County of Essex Procedure By-law to allow for participation in electronic Essex County Council and Committee meetings, when there is not a declared emergency.

## Approvals

Respectfully Submitted,

*Mary Birch*

Mary Birch B.A., CMO, Director, Legislative and Community Services/Clerk

Concurred With,

*Mike Galloway*

Mike Galloway, MBA, CMO, Chief Administrative Officer

<b>Appendix Number</b>	<b>Title</b>
Draft By-law 2022-13	Amendment to Procedure By-law