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**TO:** GENERAL COMMITTEE

**SUBJECT:** BILL 197 – COVID-19 ECONOMIC RECOVERY ACT – ELECTRONIC MEETING PARTICIPATION

**WARD:** ALL

**PREPARED BY AND KEY CONTACT:** W. COOKE, CITY CLERK AND DIRECTOR OF LEGISLATIVE AND COURT SERVICES EXT. 4560

**SUBMITTED BY:** W. COOKE, CITY CLERK AND DIRECTOR OF LEGISLATIVE AND COURT SERVICES

**GENERAL MANAGER APPROVAL:** D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That the City Clerk be authorized to further amend City's Procedural By-law 2019-100, as amended, to provide for members of City Council, Committee and Local Board Committee to participate electronically meetings and count towards quorum in accordance with Bill 197, the *COVID-19 Economic Recovery Act*.

### **PURPOSE & BACKGROUND**

#### **Purpose**

2. The purpose of this Staff Report is to recommend changes to the Procedural By-law 2013-072 to implement provisions for electronic meeting participation by members of City Council, Committee and Local Boards and count towards quorum outside of a declared Provincial/Municipal emergency, based on the provisions contained within Bill 197.

#### **Background**

3. On March 19, 2020 the Province of Ontario passed Bill 187 *the Municipal Emergency Act*, which amends the *Municipal Act* to provide that during emergencies Councils, local boards and committees the ability to participate electronically in open and closed meetings and count towards quorum.
4. On March 30, 2020 City Council passed an amendment to the Procedural By-law to provide for electronic meetings during a declared provincial and/or municipal emergency. These amendments provide for City Council to meet electronically during an emergency in order to move any necessary business forward.
5. On April 27, 2020 City Council passed a further amendment to the Procedural By-law to allow for Deputations, Open Delegations and citizens to participate at Public Meetings virtually. City Council, General Committee and Planning Committee have been meeting electronically on a modified schedule since May, 2020.

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6. On July 21, 2020, Bill 197 the Covid-19 Economic Recovery Act received Royal Assent. This Bill amends a number of Acts and continues some of the measures put in place by the Provincial Government during the declared emergency to ensure the safe re-opening of the Province. Schedule 12 of this Bill, specifically speaks to amendments to the Municipal Act, including:
- a) Allowing members of City Councils, Committees, and local boards to participate electronically in meetings open or closed to the public and count as quorum and of a declared emergency.
  - b) Adding provisions that a municipality may amend their Procedural By-law for a member of Council to appoint another member to act as a proxy when they are absent from a meeting in accordance with a process to be established by the Clerk.

## **ANALYSIS**

### **Virtual Meetings**

- 7. The Procedural By-law currently provides for electronic Council and Committee meetings during a declared provincial and/or municipal emergency. This includes electronic participation by Council and Committee members as well as members of the public who may be providing an open delegation, deputation or speaking at a public meeting. Under the current provisions, once the declared emergency ends, members of Council, committees and local boards must attend meetings in-person.
- 8. Currently these meetings are being conducted in a small hybrid approach, with the Mayor and Clerk and the Director of Development Services present in the Council Chamber, and the Chief Administrative Officer, Director of Information Technology and an additional staff to handle the phones and emails during the Planning Public Meeting in different boardrooms, with the remainder of staff and members of the public participating electronically. There is also an additional IT resource and a resource from Access Barrie available in case there are issues with the technology and/or Livestream. The meetings are currently being livestreamed on the City of Barrie YouTube Channel and Rogers Community Television.
- 9. Given that the declared emergencies will likely end before some of the restrictions such as physical distancing, gatherings end or the continued risk of community transmission of COVID-19 has been significantly reduced or eliminated, staff are recommending amendments to the Procedural By-law to continue electronic meetings participation for members of Council, committees and local boards. The impact of these amendments is proposed to be reviewed after the first 10 months, and if further amendments are required staff would report back after June 30<sup>th</sup>, 2021. This would allow staff to review the benefits of continuing with full or partial electronic meeting participation, its effectiveness and whether or not to recommend additional conditions and limitations on when a member can participate electronically.
- 10. Full electronic participation by members of Council, committees, staff and members of the public will continue well into the Fall of 2020 to continue adhere to health and safety guidelines established by the Simcoe Muskoka District Health Unit. If Council approves extending the rules for electronic meeting participation, it is expected that meetings during the recovery period would eventually involve a mix of in-person and electronic attendance at the meetings. The City Clerk in consultation with the Mayor and the Director of Information Technology will continue to evaluate the meeting format while weighing the health and safety risks and any technology requirements of gradually bringing Council, Committee members, staff and members of the public back to the Chamber/City Hall for meetings.

11. Meetings of the Reference and Advisory Committees have been suspended since the onset of the pandemic, primarily due to adjusting to a new meeting format and the Committee staff being redeployed. Committee staff will be brought back to the Legislative Services Branch in the Fall to allow for the graduated re-introduction of a full meeting schedule with appropriate support resources.

#### Proxy Voting

12. Bill 197, the Covid-19 Economic Recovery Act also includes provisions associated with proxy voting. Amendments to the Procedural By-law would be required, in accordance with a process to be established by the City Clerk to implement this option for City Council.
  - a) The member must be a member of the same council as an appointing member;
  - b) A member can only act as a proxy for one member of Council at a time;
  - c) The member appointing the proxy shall notify the Clerk of the appointment in accordance with the process established by the Clerk;
  - d) For the purposes of determining quorum of members present, a proxyholder shall only be counted as one member and shall not be counted as both the appointing member and the proxyholder;
  - e) A proxy shall be revoked if the appointing member or proxyholder request that the proxy be revoked with the proxy revocation process established by the Clerk;
  - f) Where a recorded vote is requested, the Clerk shall record the name of each proxyholder, the name of the member of Council for whom the proxyholder is voting and the vote cast on behalf of that member;
  - g) A member who appoints a proxy for a meeting shall be considered absent from the meeting for the purposes of determining whether the office of the member is vacant under clause 259 (1) c – a member being absent from council for three consecutive months without permission;
  - h) A member who has a pecuniary interest pursuant to section 5(1) of the Municipal Conflict of Interest Act in a matter to be considered at a meeting, shall not if the interest is known to the member, appoint a proxy in respect of the matter; and
  - i) Provisions for notification and declaration if the appointing member discovers they have a pecuniary interest after appointing a proxy.
13. Staff have not had the opportunity to review the implications of allowing proxy voting under the specific requirements of Bill 197. As this option has not been available to municipalities in the past, there is no experience that the City can draw upon at this time, to determine any challenges related to Council's decision making process, accountability and transparency for the public or challenges for individual members of Council. If General Committee is interested in investigating proxy voting, rather than directing specific amendments to the Procedural By-law, the recommended motion could be amended to request that the City Clerk report back on this option. This would allow the City Clerk to establish processes required in accordance with the above noted rules, review this with the Integrity Commissioner to discuss possible amendments to Code of Conduct and determine whether or not proxy voting should be limited to certain circumstances.

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## **ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS**

14. There are no environmental and/or climate change impact matters directly related to the recommendation.

## **ALTERNATIVES**

15. The following alternatives are available for consideration by General Committee:

### **Alternative #1**

General Committee could recommend not to amend the Procedural By-law to allow for electronic meetings outside of a declared Provincial/Municipal Emergency.

This alternative is available but not recommended, as the changes will ensure the health and safety of the members of Council, staff and the public by allowing electronic meetings when the emergency is declared over by both the Province and the City, but health and safety provisions continue to be recommended.

### **Alternative #2**

General Committee could recommend amendments to the Procedural By-law to allow for Proxy Voting

This is not recommended, as staff has not had the opportunity to review and develop a process or procedures, or conditions and limitations that Council may want to consider for the use of proxy votes. Should Council wish to pursue proxy voting, staff would recommend reporting back to General Committee after a fulsome review of the implications.

## **FINANCIAL**

16. At this point in time, staff do not believe that there are any direct financial implications for the Corporation resulting from the proposed recommendations. However, additional technology may need to be explored to support electronic meetings by all committees of Council, as well as additional staff resources for meeting support.

## **LINKAGE TO 2018-2022 STRATEGIC PLAN**

17. The recommendations included in this Staff Report are not specifically related to the goals identified in the 2018-2022 Strategic Plan.