

To:	Warden McQueen and Members of Grey County Council
Committee Date:	September 10, 2020
Subject / Report No:	CCR-CW-08-20
Title:	Amendments to the Procedural By-law
Prepared by:	Heather Morrison
Reviewed by:	Kim Wingrove
Lower Tier(s) Affected:	None
Status:	

Recommendation

1. That Report **CCR-CW-08-20** regarding amendments to the County's Procedural By-law be received; and
2. That the Procedural By-law be amended to permit Electronic participation during all Council, Committee of the Whole and Committee meetings; and
3. That an amended Procedural By-law be brought forward for Council's consideration; and
4. That the use of proxies not be supported at this time.

Executive Summary

Bill 197, the COVID Economic Recovery Act, 2020 was proclaimed in July 2020 and provided councils with the option of amending their procedural by-law to include electronic meeting participation and use of proxies. This report will provide an outline of both options for Council's consideration.

Background and Discussion

Bill 197, the COVID Economic Recovery Act, 2020 was passed by Queen's Park in July 2020. This is an omnibus bill that covers amendments to several different pieces of legislation, one of which is The Municipal Act, 2001. Two changes have a potential impact to the County's Procedural By-law: electronic participation and use the proxies.

Electronic Participation

Bill 197 allows Council the option of amending its Procedural By-law to allow for electronic participation at meetings, both open and closed and those participating electronically to be counted in quorum. Previously, while electronic participation was permitted under the Municipal Act if councils chose to include such provisions in the procedural by-law, members participating in meetings via electronic means were not counted as part of quorum.

Currently Grey County's Procedural By-law permits electronic participation (Section 27.3) for sub-committee meetings only where the majority of appointments are not Council members. This would apply to the Accessibility Advisory Committee as an example. There was also a recent provision included in the Procedural By-law to allow for electronic participation during a declared emergency which has allowed Council to continue to meet during the ongoing pandemic. It is recommended that this provision be removed and encompassed into a new section on electronic participation.

With the passage of Bill 197, municipalities now have the flexibility to determine if they wish to use these new provisions and incorporate them into the Procedural By-law. Considerations related to the inclusion of electronic participation for all meetings include:

- Maximum number of members who may participate electronically
- Participation in open and closed meetings
- Method of electronic participation
- Special and Emergency Meetings

Council is asked to consider whether quorum is to continue to be achieved through physical presence, meaning at least 10 members be physically present in Council Chambers during a Council/Committee of the Whole meeting, subject to any current emergency orders on social gatherings or other items deemed to limit in-person participation such as weather.

If quorum is to be achieved through physical participation, other members, should they wish, could participate electronically during the meeting. It is also recommended that Council members may participate electronically up to three times per year for Council and Committee of the Whole during normal circumstances. The requests would be on a first come first served basis.

The Clerk, in consultation with the Warden and CAO would determine circumstances that would be deemed "emergency" or "extenuating" outside of any law that does not permit meeting in person. This might include significant weather events in a majority of the geographic area of Grey County for example. In cases where participating in

person is not permitted, electronic participation would not count towards the limit of three electronic participation meetings per year for members.

Staff would also recommend the electronic participation option include participating in both open and closed meetings. Members would need to continue to adhere to closed meeting practices while participating electronically. Meetings are still required to be open to the public and agendas posted in accordance with our current open meeting provisions.

Grey County Councillors have been participating, during the emergency declaration, via Zoom. It would be recommended that the use of Zoom for those members wanting to participate in meeting electronically continue.

Section 27.3 of the Procedural By-law would also need to be amended to permit participation by Members through electronic means at any sub-committee, task force or ad hoc committees established by Council from time to time. Again, the amendments would follow the requirements set for Council and Committee of the Whole, permitting some physical presence while permitting some Members to participate electronically. Originally, this was in place for committees where the majority of members were not members of Council. For example, the Accessibility Advisory Committee. This amendment would permit all our current task forces and sub-committees, such as the Committee of Management, where all or most of the members are Council members, to participate electronically.

Proxies

Grey County currently has alternate members appointed by each of its respective local councils to attend a meeting of Council or Committee of the Whole in the absence of the Mayor or Deputy Mayor. An alternate member has all the options for participation in meetings as any regular member of Council would including voting and participation in closed meetings. An alternate is appointed from the specific local municipality and therefore represents the same constituents as the absent member would. The same may not be said when giving a proxy to a member outside of your own municipality.

Bill 197 also allows for municipalities to choose whether to allow proxy votes for members who are absent from a meeting under Section 243.1 (1) of the Municipal Act. An information sheet from the Ministry of Municipal Affairs and Housing notes that this power will help ensure continuing representation of constituents' interests on municipal councils. Proxies may be used when a member is ill, on a leave of absence or where there is a need for physical distancing.

There are several items to consider when reviewing the use of proxy voting:

- How proxies may be established and revoked-written, email, verbal
- When proxies can and cannot be used
- Level of participation of a proxy holder-for example-used for all voting including recorded votes
- Notification of use of proxy to the Clerk's department
- Regular Members cannot have an alternate attend a meeting and use a proxy for the same meeting
- Short-term alternates cannot appoint a proxy, but can long-term alternates may (i.e. those filling in for an extend leave of absence)

A proxy is not counted as part of quorum. Therefore, although a member may have a proxy of another member, that proxy is not included in quorum numbers and if several proxies are used at any meeting, quorum may become an issue.

It is staff's recommendation that proxies not be included in the procedural by-law amendments at this time. This item can be revisited later should council wish.

Legal and Legislated Requirements

Bill 197, the COVID Economic Recovery Bill amended certain sections of The Municipal Act, 2001 to allow councils the option to consider including electronic participation and use of proxies and amending its procedural by-law to reflect these changes should council be supportive of those. The Procedural By-law will continue to follow all Municipal Act, 2001 requirements.

Financial and Resource Implications

There are no financial implications related to this report outside of normal meeting costs that can be covered under the current operating budgets.

Relevant Consultation

- Internal Kim Wingrove, Legal Services
- External

Appendices and Attachments

[Electronic Participation in Municipal Meeting-MMAH Information Sheet](#)

[Proxy Voting for Municipal Council Members-MMAH Information Sheet](#)