



City of Richmond

Report to Committee

To: General Purposes Committee

Date: October 18, 2021

From: Claudia Jesson
Director, City Clerk's Office

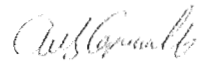

File: 99-LAW/2021-Vol 01

Re: Amendments to the Council Procedure Bylaw – Electronic Meetings and Electronic Participation

Staff Recommendation

1. That Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10302, which introduces amendments relating to electronic meetings and electronic participation, be introduced and given first, second and third readings;
2. That Council authorize participation by the public and the holding of public hearings and board of variance hearings by means of electronic or other communication facilities as contemplated in the report titled “Amendments to the Council Procedure Bylaw – Electronic Meetings and Electronic Participation” and dated October 18, 2021 from the Director, City Clerk’s Office ; and,
3. That staff report back to Council in the event technical or operational issues arise through the implementation of Recommendation 2 of the report titled “Amendments to the Council Procedure Bylaw – Electronic Meetings and Electronic Participation” and dated October 18, 2021 from the Director, City Clerk’s Office.


 Claudia Jesson
 Director, City Clerk's Office
 (604-276-4006)

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER 	
SENIOR STAFF REPORT REVIEW	INITIALS: N/A
APPROVED BY CAO 	

Staff Report

Origin

Since June 17, 2020, local governments have been operating under Ministerial Order M192 which allowed all meetings and public hearings to be conducted electronically during the COVID-19 pandemic. On June 1, 2021, Bill 10 *Municipal Affairs Statutes Amendments Act* was passed. Bill 10 includes changes to provide permanent authority for municipalities to choose whether to conduct Council and Council Committee meetings electronically.

As discussed in the memorandum dated September 24, 2021, along with attached report (Attachment 1), staff committed to present additional amendments to the Council Procedure Bylaw No. 7560 for Council's consideration in the fall of 2021, after the amendments to the *Local Government Act* and the *Community Charter* are brought into force by Regulation. A Regulation has now been promulgated bringing these amendments into force on September 29, 2021.

This report supports Council's Strategic Plan 2018-2022 Strategy #8 An Engaged and Informed Community:

Ensure that the citizenry of Richmond is well-informed and engaged about City business and decision-making.

Electronic Meetings

Under the authority of these newly enacted provisions of the *Community Charter* (Attachment 2), a municipality may, by bylaw, provide permanent authority for municipalities to choose to conduct regular and committee meetings electronically (previously, only special meetings could be conducted in this way). While not defined by legislation, the Ministry of Municipal Affairs in its guidance document entitled "Guidance for Adapting to the New Electronic Meetings Framework" that accompanied these newly enacted provisions, has described the difference between "electronic meetings" and "electronic participation" as follows:

- *Electronic Meetings*, if authorized by bylaw, are meetings where all members of a council or board may participate electronically (e.g., video conference, audioconference or telephone).
- *Electronic participation*, if authorized by bylaw, allows for a hybrid meeting where some members of council or a board attend in person, and other members attend by electronic participation.

Currently, the Council Procedure Bylaw only permits electronic meetings for Special Council Meetings only. It also allows for electronic participation by a member of Council at all meetings of Council and Committee in circumstances where that member is unable to attend.

The proposed amendments to the Council Procedure Bylaw contemplated by this report would allow for electronic meetings generally, as opposed to just being limited to Special Council Meetings.

Under the proposed bylaw amendments, the determination of whether a meeting will be conducted as an electronic meeting, will be made by the Mayor or the Committee Chair, as applicable, in his or her discretion which is consistent with the current determination of whether a Special Meeting of Council should be held. As noted by the Ministry in its guidance document entitled "Guidance for Adapting to the New Electronic Meetings Framework" referred to above, "*Electronic meetings may be a useful tool for councils and boards in certain circumstances; however, as a best practice, they should not be a substitute for all in-person meetings.*". On this point, the current meetings of Council and Committee are in law considered in-person meetings which allow members to participate electronically if they are unable to attend.

The existing provisions of the Council Procedure Bylaw which allow for electronic participation of members who are unable to attend were adopted under the authority of s.128 of the *Community Charter* as it read immediately before the amendments brought into force through Bill 10. Prior to amendment, s.128(1) of the *Community Charter* read as follows:

Electronic meetings and participation by members

128(1) If this is authorized by procedure bylaw and the requirements of subsection (2) are met,

- (a) a special council meeting may be conducted by means of electronic or other communication facilities, or*
- (b) a member of council or committee **who is unable to attend** at a council meeting or a council committee meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities. [emphasis added]*

Under the newly enacted provisions of the *Community Charter*, this authority is continued under s.128.3(1) which reads as follows:

Electronic participation by members in council and council committee meetings

128.3 *(1) If authorized by a procedure bylaw and the requirements of subsection (2) are met, a member of council or a council committee **who is unable to attend in person** at a regular council meeting, a special council meeting or a council committee meeting may participate in the meeting by means of electronic or other communication facilities. [emphasis added]*

In the case of electronic participation by members of Council and Committee the discretion to determine whether the member is unable to attend, rests with individual member. This has not changed under the newly enacted provisions introduced through the enactment of Bill 10.

Public Participation

In terms of public participation moving forward post pandemic, it is not necessary for a municipality to amend its procedure bylaw to allow for continued public participation through electronic or other communication facilities. Council may by resolution continue to afford the public the opportunity to be heard in this manner. As contemplated in Recommendations 2 and 3 of this report, it is recommended that affording this additional means to be heard should be periodically reassessed in the event unforeseen technical or operational issues arise making general public participation in this manner impractical. Although not required, an amendment to the Council Procedure Bylaw has been proposed which specifies that the public is afforded this opportunity.

Also, under the authority of the newly enacted provisions of the *Local Government Act*, it is not necessary to adopt a bylaw authorizing the holding of public hearings or board of variance meetings by means of electronic or other communication facilities. Direct statutory authority to do so now exists with the enactment of these provisions provided the electronic or other communication facilities enable a public hearing's participants to hear, or watch and hear, each other. Recommendations 2 and 3 of this report, contemplate that the holding of such meetings in this manner also be periodically reassessed in the event unforeseen technical or operation issues arise.

Next Steps

Should Amendment Bylaw No. 10302 be given 1st, 2nd and 3rd Readings, in accordance with the *Community Charter*, any amendment to the Council Procedure Bylaw requires that a public notice be placed in a local newspaper publication for two consecutive weeks. Following the required public notice, it is anticipated that the Amendment Bylaw No. 10302 will be brought forward to the December 6, 2021 Council Meeting for Final Adoption.

Financial Impact

None.

Conclusion

Staff recommends that Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10302, which introduces amendments pertaining to electronic meetings and electronic participation, be introduced and given first, second and third readings. It is further recommended that Council authorize participation by the public and the holding of public hearings and board of variance hearings by means of electronic or other communication facilities.



Claudia Jesson
Director, City Clerk's Office
(604-276-4006)

Attachments:

- Attachment 1 - Memorandum dated September 24, 2021 titled "Council and Committee Meetings – Public Participation"
- Attachment 2- Amended Provisions of the *Community Charter*



**City of
Richmond**

Report to Committee

To: General Purposes Committee **Date:** July 5, 2021
From: Claudia Jesson **File:** 99-LAW/2021-Vol 01
 Director, City Clerk's Office
Re: **Amendments to the Council Procedure Bylaw – Participation By Means of
 Electronic or Other Communication Facilities**

Staff Recommendation

That Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10202, which introduces amendments relating to participation by means of electronic or other communication facilities, be introduced and given first, second and third readings.

Claudia Jesson
 Claudia Jesson
 Director, City Clerk's Office
 (604-276-4006)

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER	
<i>Chris Cunniff</i>	
SENIOR STAFF REPORT REVIEW	INITIALS: N/A
APPROVED BY CAO	
<i>[Signature]</i>	

Staff Report

Origin

The Province, by way of Ministerial Order M275, cancelled the Provincial State of Emergency effective at the end of day June 30, 2021. During the State of Emergency, municipalities have had the authority to conduct all meetings electronically pursuant to Ministerial Order M192.

With the cancellation of the State of Emergency, municipalities now have a limited window of 90 days under the *COVID-19 Related Measures Act* to continue to rely on the authority of Ministerial Order M192 for the purposes of conducting all meetings electronically. This expires on September 28, 2021.

This report recommends amendments to the Council Procedure Bylaw No. 7560 that will enable Council members to continue to participate by means of electronic or other communication facilities in regular circumstances when they are unable to attend meetings in person.

This report supports Council's Strategic Plan 2018-2022 Strategy #8 An Engaged and Informed Community:

Ensure that the citizenry of Richmond is well-informed and engaged about City business and decision-making.

Analysis

To enable local governments to hold regular and council committee meetings electronically and to conduct public hearings electronically going forward in non-emergency times, the Ministry of Municipal Affairs, through Bill 10, introduced amendments to the *Local Government Act* and the *Community Charter*. This legislation received Royal Assent on June 17, 2021, but does not come into force until a Regulation is promulgated. Based on discussions with Ministry staff, these amendments will likely not come into force until the end of September 2021.

In order to ensure that members of Council may continue to participate electronically in Council and Committee meetings immediately after the expiry of the 90 day period provided for under the *COVID-19 Related Measures Act*, this report recommends amendments to the Council Procedure Bylaw. These amendments to the Council Procedure Bylaw would be made under the current authority of s.128 of the *Community Charter* which provides the ability, if authorized by procedure bylaw, for a member of Council who is unable to attend a Council or Committee meeting to participate by means of electronic or other communication facilities.

It is anticipated that additional amendments to the Council Procedure Bylaw to allow for electronic meetings and electronic public participation generally will be presented for Council's consideration in the fall of 2021 after the amendments to the *Local Government Act* and the *Community Charter* are brought into force by Regulation.

July 5, 2021

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Financial Impact

None.

Conclusion

Staff recommends that Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10202, which introduces amendments to enable Council members to participate by means of electronic or other communication facilities when they are unable to attend Regular Council, Regular Council for Public Hearings, or Standing Committee Meetings, be introduced and given first, second and third readings.



Claudia Jesson
Director, City Clerk's Office
(604-276-4006)



Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10202

The Council of the City of Richmond enacts as follows:

1. "Council Procedure Bylaw No. 7560", as amended, is further amended as follows:

Delete Section 1.4 and replace it with a new Section 1.4 as follows:

"1.4 In accordance with the provisions of *The Community Charter*,

- (a) Special Council Meetings may be conducted by means of electronic or other communication facilities;
- (b) Any one or more members of Council may participate in a Special Council Meeting by means of electronic or other communication facilities;
- (c) A member of Council or a Standing Committee who is unable to attend a Regular Council Meeting, Regular Council Meeting for Public Hearings or a Standing Committee Meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities; and
- (d) The facilities used must permit the meeting's participants to hear, or watch and hear, each other and, except for any part of the meeting which is closed, permit the public to hear, or watch and hear, the participation of the members during the meeting."

2. This Bylaw is cited as "Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10202".

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.
CS
APPROVED for legality by Solicitor
TC

MAYOR

CORPORATE OFFICER

Electronic regular council meetings

128 (1) If authorized by a procedure bylaw and the requirements of subsection (2) are met, regular council meetings may be conducted by means of electronic or other communication facilities.

(2) The following rules apply in relation to a regular council meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

(b) in the procedure bylaw, a council must

(i) provide for advance public notice of the following:

(A) the way in which the meeting is to be conducted by means of electronic or other communication facilities;

(B) the place where the public may attend to hear, or watch and hear, the proceedings that are open to the public, and

(ii) establish the procedures for giving that notice;

(c) the facilities must

(i) enable the meeting's participants to hear, or watch and hear, the meeting,

(ii) except for any part of the meeting that is closed to the public, enable the public to hear, or watch and hear, the meeting, and

(iii) except for any part of the meeting that is closed to the public, enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place.

(3) Members of council who are participating in a meeting conducted in accordance with this section are deemed to be present at the meeting.

Electronic special council meetings

128.1 (1) If authorized by a procedure bylaw and the requirements of subsection (2) are met, special council meetings may be conducted by means of electronic or other communication facilities.

(2) The following rules apply in relation to a special council meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

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(b) the notice under section 127 (2) must include notice of the way in which the meeting is to be conducted by means of electronic or other communication facilities and the place where the public may attend to hear, or watch and hear, the proceedings that are open to the public;

(c) the facilities must

(i) enable the meeting's participants to hear, or watch and hear, the meeting, and

(ii) except for any part of the meeting that is closed to the public, enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place.

(3) Members of council who are participating in a meeting conducted in accordance with this section are deemed to be present at the meeting.

Electronic council committee meetings

128.2 (1) If authorized by a procedure bylaw and the requirements of subsection (2) are met, council committee meetings may be conducted by means of electronic or other communication facilities.

(2) The following rules apply in relation to a council committee meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

(b) in the procedure bylaw, a council must provide for advance public notice of the way in which the meeting is to be conducted by means of electronic or other communication facilities and establish the procedures for giving that notice;

(c) the facilities must enable the meeting's participants to hear, or watch and hear, the meeting;

(d) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting.

(3) Members of a council committee who are participating in a meeting conducted in accordance with this section are deemed to be present at the meeting.

Electronic participation by members in council and council committee meetings

128.3 (1) If authorized by a procedure bylaw and the requirements of subsection (2) are met, a member of council or a council committee who is unable to attend in person at a regular council meeting, a special council meeting or a council committee meeting may participate in the meeting by means of electronic or other communication facilities.

(2) The following rules apply in relation to a meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

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(b) the facilities must enable the meeting's participants to hear, or watch and hear, the participation of the member;

(c) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.

(3) Members of council or a council committee who are participating under this section in a meeting conducted in accordance with this section are deemed to be present at the meeting.



Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10302

The Council of the City of Richmond enacts as follows:

1. "Council Procedure Bylaw No. 7560", as amended, is further amended as follows:

a) Delete Section 1.4 and replace it with new Section 1.4 as follows:

"1.4 Electronic Participation

1.4.1. In accordance with the provisions of the *Community Charter*, a member of Council or a council committee who is unable to attend in person at a Special Council Meeting, a Regular Council Meeting, a Regular Council Meeting for Public Hearings, or a Standing Committee Meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities.

1.4.2. A person or organization wishing to address a Special Council Meeting, a Regular Council Meeting, a Regular Council Meeting for Public Hearings or a Standing Committee Meeting as a delegation may be offered the option to be heard at that meeting by means of electronic or other communication facilities, provided the communication facilities are available and operational, and a resolution of Council authorizing communication in this manner is in effect."

b) Insert new Section 1.6 as follows:

"1.6 Electronic Meetings

(a) At the discretion of the Mayor, a Special Council Meeting, a Regular Council Meeting, a Regular Council Meeting for Public Hearings or a Standing Committee Meeting may be conducted by means of electronic or other communication facilities;

(b) At the discretion of the Standing Committee Chair, a Standing Committee Meeting may be conducted by means of electronic or other communication facilities;

(c) For a Special Council Meeting, a Regular Council Meeting, a Regular Council Meeting for Public Hearings or a Standing Committee that is conducted by means of electronic or other communication facilities, the following provisions apply:

- (i) The advance public notice shall be posted in the Public Notice Posting Place and shall describe that the meeting is to be conducted by way of videoconference, audioconference or telephone;
- (ii) The specified place where the public may attend to hear, or watch and hear, the proceedings that are open to the public, shall be the Council Chambers of Richmond City Hall or such other place specified by the Mayor and shall be identified in the advance public notice;
- (iii) The procedures for giving advance public notice are those set out in Section 3.3;
- (iv) The designated municipal officer who must be in attendance at the specified place shall be the City Clerk, his or her delegate, or such other person specified by the Mayor.”

2. This Bylaw is cited as “**Council Procedure Bylaw No. 7560, Amendment Bylaw No. 10302**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept <i>CS</i>
APPROVED for legality by solicitor <i>TC</i>

MAYOR

CORPORATE OFFICER