

**AGENDA
AUGUSTA TOWNSHIP
SPECIAL COUNCIL MEETING
April 10, 2020 @ 10:00 A.M.**

Questions from the public: email the clerk at – asimonian@augusta.ca prior to the meeting

- A. Call to Order
- B. Approval of Agenda
- C. Disclosure of Interest and Nature Thereof
- D. Report 2020-028 – Electronic Participation and Council Meetings
- E. By-law 3471-2020 – Council Meeting Electronic Participation
- F. Adjournment

REPORT #: 2020-028

REPORT TO COUNCIL: April 10, 2020

RE: Electronic participation and council meetings.

PREPARED BY: Annette Simonian, Clerk

RECOMMENDATION:

THAT Council adopt the by-law amendment to allow electronic participation at council and committee meetings during time of declared emergencies.

PURPOSE

On March 19, 2020 the Ontario Government had an emergency sitting of the legislature in response to COVID-19 and enacted Bill 187, Municipal Emergency Act, 2020. This legislation amended section 238 of the Municipal Act, to authorize Municipal Council to amend its Procedural By-law after an emergency has been declared to allow electronic participation. The change allows councillors to participate in open and closed meetings electronically and be counted for purposes of quorum only for the duration of the declared emergency.

The intent of the legislation is to allow for some flexibility in these uncertain times for Council to conduct business, based on need and circumstances.

The Ministry of Municipal Affairs and Housing provided the attached document that summarizes the new legislation that will allow municipalities to conduct business during this extreme circumstance.

ATTACHMENT 1

The attached by-law will allow council to conduct business electronically for a limited time, specifically during times of an emergency. Council can choose their preference about how to amend the by-law. They can opt not to be able to participate electronically at all, they can allow electronic participation, and if so, they can decide whether to allow for both open and closed meetings and whether councillors who participate electronically count as quorum and whether they can vote or not. If council wishes to continue the practice, the procedural by-law will have to be updated again to include that provision. It is recommended that council wait until this emergency is over to revisit that option.

Although the document from MMAH doesn't specifically state the electronic participants can vote, the intent is there because otherwise council would not be able to conduct business and the original legislation for electronic participation allows council to decide if

virtual participants can vote or not. Staff is recommending that all votes be recorded, but Council can decide on the manner of voting they prefer.

The legislation also provides for special meetings with electronic participation in order to amend an applicable procedural by-law. Because the Province has already declared a state of emergency, no municipality has to make a declaration in order to take advantage of the virtual meeting powers. You already have that authority now. All you need to do is pass an amendment to the procedural by-law and create the virtual process that is appropriate in our circumstances.

Open meeting and notice of meeting rules still apply. The Act does not change transparency requirements. Delegations will be suspended, but the public will be able to submit petitions and letters to Council for the agenda. Questions from the public submitted prior to the meeting will be read by the Mayor at the meeting. The Township will take all reasonable measures to facilitate public and media participation, and staff will consider options to meet the requirements. Delegations In addition, Council should consider that regular scheduled meetings should be suspended, and special meetings called as necessary to deal with urgent and time sensitive items only.

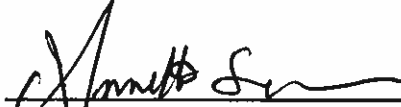
Any questions that Councillors may have can be directed to the Clerk or CAO.

OPTIONS

Opt not to conduct electronic meetings. This is not a viable option as it is Provincially mandated that people must be six feet apart and only a gathering of 5 people is permitted.
Pass by-law with amendments based on Council's preferences.
Pass by-law as written.

FINANCIAL

Financial consideration will depend on the technology used. It is recommended that funds be allocated from the Municipal Modernization Funding reserve to offset costs of this initiative.



Annette Simonian
Clerk

Ray Morrison
CAO/Treasurer

**THE CORPORATION OF THE TOWNSHIP OF AUGUSTA
BY-LAW NUMBER 3471-2020**

**A BY-LAW TO AMEND BY-LAW 3336-2017 BEING A BY-LAW TO GOVERN THE
PROCEEDINGS OF COUNCIL AND ITS COMMITTEES TO ALLOW FOR THE
ELECTRONIC PARTICIPATION OF MEMBERS DURING A DECLARED PROVINCIAL
OR MUNICIPAL EMERGENCY**

WHEREAS pursuant to Section 238(2) of the Municipal Act, S.O. 2001 c,25 as amended, every Council shall pass a procedural by-law for governing the calling, place and proceedings of meetings;

AND WHEREAS pursuant to Section 238(3.1) of the Municipal Act provides that the applicable procedural by-law may provide that a member of council, of a committee of either of them, can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time;

AND WHEREAS Bill 187 amends section 238 of the Municipal Act Section 238(3.3) to provide that applicable procedure by-law may provide that, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act,

(a) despite subsection (3.1), 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) despite subsection (3.2), 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 closed to the public;

AND WHEREAS the Council of the Township of Augusta deems it expedient to amend its procedural by-law to allow its members to participate at Council and Committee meetings for the period of time of a declared Provincial and/or Municipal emergency;

NOW THEREFORE the Council of the Corporation of the Township of Augusta hereby enacts as follows that:

1. The Council hereby authorizes Council and Committee Members to participate electronically at council or committee meetings during a period of a declared Provincial or Municipal Emergency.
2. Regular meetings of Council will be suspended, and special meetings called by the Mayor as necessary.
3. That Members participating electronically count towards quorum.
4. That Members may participate electronically in a closed meeting.
5. That Quorum will not need to be present at the physical location of the meeting that has been provided in the notice of the meeting.
6. That Members participating electronically will be able to vote on matters before the Council in an open meeting.
7. Members must be recognized by the Chair by name to speak during the debate. Any Member not being recognized prior to speaking during a debate will be considered out of order.
8. All votes shall be recorded during an electronic meeting. Each member present, including the presiding officer, except a member who is disqualified from voting by

- any Act, shall announce his/her vote verbally when called in alphabetical order by the clerk, and the clerk shall record each member's name and vote.
9. That Members are responsible for ensuring the technology is available to allow for them to participate effectively.
 10. Questions from the public may be submitted to the Clerk prior to the start of the meeting.
 11. Only written delegations and petitions submitted the Clerk in advance of the agenda publication shall be accepted.
 12. That if a Member is disconnected due to technology issues, they will be considered to have left the meeting and the meeting will proceed with the remaining Members so long as there is still quorum. The Member may rejoin the meeting at any time they are able.
 13. That this by-law is limited to the time that an emergency has been declared to exist.
 14. All other applicable provisions of By-law 3336-2017 shall continue to apply.

Read a first, second, and third time and finally passed this 10 day of April, 2020.

MAYOR

CLERK

Providing Flexibility For Municipalities To Hold Local Meetings During Emergencies

March 2020

This document is intended to give a summary of complex matters. It does not include all details and does not take into account local facts and circumstances. This document refers to or reflects laws and practices that are subject to change. Municipalities are responsible for making local decisions that are in compliance with the law such as applicable statutes and regulations. This document applies only to those municipalities whose meeting rules are governed by the *Municipal Act, 2001*. This document, as well as any links or information from other sources referred to in it, should not be relied upon, including as a substitute for specialized legal or other professional advice in connection with any particular matter.

The user is solely responsible for any use or application of this document.

What do these changes to the Municipal Act do?

The province is providing municipalities with the tools they need to ensure local decision making by municipal councils is not affected by existing quorum requirements during emergency situations, such as the one Ontario and its municipalities are currently facing.

These changes to the Municipal Act allow members of councils, committees and certain local boards who participate in open and closed meetings electronically to be counted for purposes of quorum during emergencies declared by the Province or a local Head of Council.

These provisions are optional, and municipalities continue to have the flexibility to determine if they wish to use these provisions and incorporate them in their individual procedure by-laws. Municipalities may wish to review their procedure by-laws to determine whether to provide for electronic participation in meetings, and whether to take advantage of the new provisions based on their local needs and circumstances.

What types of emergencies does this apply to?

These changes apply in the event of an emergency being declared by the Premier, Cabinet or the municipal Head of Council under the Emergency Management and Civil Protection Act. Once the emergency has ended, regular meeting rules apply.

How can a municipality use these changes?

These changes allow a municipality, should it choose to, to hold a special meeting during an emergency for the purposes of amending the procedure by-law to allow for electronic participation. During this special meeting, members participating electronically may be counted for the purposes of quorum.

Municipal councils, committees and boards can choose to amend their procedure by-laws to:

- allow the use of electronic participation at meetings,
- state whether members can participate in both open meeting and closed meetings; and
- state whether members participating electronically count towards quorum

It is up to municipalities to determine whether to use these provisions, the method of electronic participation and the extent to which members can participate electronically.

What technology should a municipality use for electronic meetings?

Municipalities, and their boards and committees can choose the technology best suited to their local circumstances to enable electronic participation of their members in decision making, as well as ensuring meetings can be open to the public.

Municipalities may want to engage with peers who have electronic participation in place on their best practices as they revise their procedure by-laws. Some municipalities may choose to use teleconferences while others may use video conferencing.

Do open meeting requirements still apply?

The Municipal Act specifies requirements for open meetings to ensure that most municipal business is conducted transparently, and with access for and in view of the public. There are limited circumstances under the Municipal Act when municipal meetings can be conducted in closed session.

Meetings held under these new provisions would still be required to follow existing meeting rules including providing of notice of meetings to the public, maintaining meeting minutes, and subject to certain exceptions, that meetings continue to be open to the public.

Which local boards are covered by this proposal?

Local boards subject to the meeting rules in the Municipal Act include municipal service boards, transportation commissions, boards of health, planning boards, and many other local boards and bodies.

Some local boards will not be covered, for example, police services, library and school boards have different rules about their meetings, which are found in other legislation. A municipality is best positioned to determine whether a local entity is considered a local board and if in doubt, can seek independent legal advice regarding the status of any local entities and whether these new provisions would apply to them.

What else can a municipality do to plan for an emergency?

Municipal councils, committees, and boards have the ability to delegate certain actions to staff, especially during an emergency, to ensure operational continuity in the event that they cannot meet. Municipalities can also consult with their Community Emergency Management Coordinator, the Medical Officer of Health of their local public health unit and seek legal advice to ensure the appropriate meeting procedures and delegations are in place to address emergency situations.

Select References

- Municipal Act, 2001: <https://www.ontario.ca/laws/statute/01m25>
- The Ontario Municipal Councillor's Guide 2018: <https://www.ontario.ca/document/ontario-municipal-councillors-guide-2018>

Key Concepts

Optional Use – these provisions are optional. With these changes in place, municipalities continue to locally determine the contents of procedure by-laws. Municipalities may wish to review the procedure by-laws to determine whether to provide for electronic participation in meetings, and whether to take advantage of the new provisions if they meet local needs.

Time Limited – Counting electronic participants for quorum purposes and allowing electronic participation in closed meetings are only available during emergencies. Once the emergency has ended, regular meeting rules will apply.

Special Meetings – These new provisions would allow municipalities to hold a special meeting with electronic participation in order to amend an applicable procedure by-law if amendments to the local procedure by-law have not been made prior to the declaration of an emergency.

Ministry Contacts

If you have questions regarding how these new provisions may impact your municipality, contact your local Municipal Services Office with the Ministry of Municipal Affairs and Housing.

- **Central Municipal Services Office**
Telephone: 416-585-6226 or 1-800-668-0230
- **Eastern Municipal Services Office**
Telephone: 613-545-2100 or 1-800-267-9438
- **Northern Municipal Services Office (Sudbury)**
Telephone: 705-564-0120 or 1-800-461-1193
- **Northern Municipal Services Office (Thunder Bay)**
Telephone: 807-475-1651 or 1-800-465-5027
- **Western Municipal Services Office**
Telephone: 519-873-4020 or 1-800-265-4736

Additional Resources

For information about the 2019 Novel Coronavirus (COVID-19) municipalities may wish to contact their local public health agencies or visit www.ontario.ca/coronavirus for up-to-date information on cases, and how Ontario is working to protect the health and well-being of all Ontarians.