

**City Council, Standing Committee and Commission
Conseil, comités permanents et commission**

Motion

Notice of Motion / Avis de motion

Council / Conseil

Report / Agenda: City Council Agenda

Item / Article:

Re: Motion to amend the Procedure By-Law 2019-8 to permit remote participation in accordance with Bill 187, *Municipal Emergency Act, 2020* and related procedural matters required as a result of the Novel Coronavirus (Covid-19) Pandemic

Moved by / Motion de: **Councillor G. Darouze**
Seconded by / Appuyée par: **Mayor J. Watson**

BE IT RESOLVED that the Rules of Procedure be suspended to permit the introduction of the following motion, in order to respond in a timely manner to the restrictions in place as a result of the Novel Coronavirus (COVID-19) pandemic; and

BE IT FURTHER RESOLVED that the Rules of Procedure be suspended to provide that Members of Council may participate in consideration of, and vote on, the following motion through electronic participation by way of telephone at the Special Meeting of City Council on March 25, 2020, in accordance with subsections 238(3.1) to 238(3.4) of the Municipal Act, 2001:

WHEREAS the Novel Coronavirus (COVID-19) pandemic continues to evolve and is causing significant effects across the world and in the City of Ottawa; and

WHEREAS the ongoing COVID-19 situation and associated recommendation from Ottawa Public Health that social distancing be practiced in order to decrease transmission may result in some Members of Council being unable to physically attend the City Council meeting of March 25, 2020, and other Council meetings in an unknown period of time thereafter; and

WHEREAS Subsection 238(3.1) of the *Municipal Act, 2001* (the *Act*), as amended by Bill 68, the *Modernizing Ontario's Municipal Legislation Act, 2017*, provides that a municipality's *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 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 on March 19, 2020, Bill 187, the *Municipal Emergency Act, 2020*, received Royal Assent and amended the *Municipal Act, 2001* such that a municipality's *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*:

1. A Member of 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" [the new Subsection 238(3.3)(a) of the *Municipal Act, 2001*], and
2. A Member of 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" [the new Subsection 238(3.3)(b) of the *Municipal Act, 2001*]; and

WHEREAS Subsection 238(3.4) of the *Municipal Act, 2001*, as amended by Bill 187, provides that "a municipality or local board may hold a special meeting to amend an applicable procedure by-law for the purposes of [Subsection 238(3.3) of the *Municipal Act, 2001*] 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* and despite [Subsection 238(3.1) of the *Municipal Act, 2001*], a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting"; and

WHEREAS on March 17, 2020, an emergency related to the COVID-19 outbreak was declared in the whole of the Province of Ontario, pursuant to Section 7.0.1 of the *Emergency Management and Civil Protection Act*, as set out in Order in Council 518/2020;

WHEREAS the Mayor has convened the Ottawa City Council meeting of March 25, 2020, as a Special Meeting of Council, as permitted under the new Subsection 238(3.4) of the *Municipal Act, 2001*; and

WHEREAS the City of Ottawa's *Procedure By-law* (No. 2019-8) does not provide for electronic participation at meetings of Ottawa City Council, and Section 28 of the *Procedure By-law* requires that, "When the Mayor calls for the vote on a question, each Member shall occupy their seat until the result of the vote has been declared by the Mayor ..." and that, "A Member not in a seat reserved for Council at the time that Member's name is called shall not be entitled to vote"; and

WHEREAS, under the current circumstances relating to COVID-19, allowing Members of Council to participate electronically in a meeting of Council pursuant to Council's discretionary authority under the *Act* would provide an opportunity for Members unable to physically attend the meeting to participate and exercise their statutory roles and responsibilities as an elected representative; and

WHEREAS staff recommend that in consideration of the current circumstances, electronic participation at a meeting of Council should include the following parameters:

- 1. While a quorum of 13 Members may be physically present at the meeting, any Member participating electronically, including those Members currently excused by a Council motion to attend at meetings, can be counted in determining whether or not a quorum is present, as permitted by statute;**
- 2. A Member shall be permitted to participate electronically in a meeting which is closed to the public, as permitted by statute;**
- 3. Electronic participation shall be conducted by way of telephone, following instructions provided by the City Clerk in order to ensure that the meeting may proceed in the most transparent and successful manner under the current timelines and circumstances; and**
- 4. Subject to the above-noted parameters, a Member who participates electronically shall have the same rights and responsibilities as if they were in physical attendance, including the right to vote; and**

WHEREAS it is necessary to limit the consideration of routine and non-time-sensitive business at Committee and Council while the emergency declaration is in effect, while ensuring that Chairs have the procedural flexibility to bring forward statutorily-required and time-sensitive matters during this period;

THEREFORE BE IT RESOLVED that City Council approve that the *Procedure By-law* (No. 2019-8) be amended to provide for Members to participate electronically in the Council meeting of March 25, 2020, and in all meetings of City Council held thereafter while the emergency declaration set out in Order in Council 518/2020 remains in effect, pursuant to subsections 238(3.1) to 238(3.3) of the *Municipal Act, 2001* and in accordance with the parameters described in this motion; and

BE IT FURTHER RESOLVED that Council waive the requirement under Section 28 of the *Procedure By-law*, as described in this motion, such that when the Mayor calls for the vote on a question, any Member participating electronically at that time shall be entitled to vote; and

BE IT FURTHER RESOLVED THAT, in order to respond to evolving circumstances, Council suspend the notice requirements set out in Subsection 99(3) of the *Procedure By-law* such that these emergency provisions may be amended or revisited by a majority of Council at a future meeting; and

BE IT FURTHER RESOLVED that, while the emergency declaration set out in in Order in Council 518/2020 remains in effect, all Council and Committee meetings may be convened as Special Meetings in accordance with Sections 14 and 87 of the *Procedure By-law*, as amended by the following:

- a) Agendas shall be limited to items that, in the opinion of the Chair, informed by operational staff and the Clerk's Office, are of a time sensitive nature such that they must be considered during the emergency period; and**

- b) Subject to the minimum six-hour notice provisions in the *Procedure By-law*, Committee Chairs and the City Clerk's Office shall endeavour to publish agendas in accordance with the timelines for a regular meeting, and where not possible, with as much notice as possible under the circumstances; and**

- c) That, during this emergency period, additional items may be added to such Special Meeting agendas, with less than six hours notice, with the approvals of $\frac{3}{4}$ of Members present and voting (instead of the unanimous consent currently provided for in Subsection 14(5) and 87(3) of the *Procedure By-law*.**