

Report to / Rapport au:

**Ottawa Public Library Board
Conseil d'administration de la Bibliothèque publique d'Ottawa**

October 13, 2020 / 13 octobre 2020

Submitted by / Soumis par:

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File Number: OPLB-2020-1002

SUBJECT: Ottawa Public Library Board Rules of Procedure By-law amendments

**OBJET: Modifications du règlement de procédure du Conseil
d'administration de la Bibliothèque publique d'Ottawa**

REPORT RECOMMENDATIONS

That at its meeting of October 13, 2020, the Ottawa Public Library (OPL) Board:

- 1. Receive and table the OPL Board Rules of Procedure By-law Amendments report.**

That at its meeting of November 3, 2020, the OPL Board:

- 2. Approve the amendments to the OPL Board Rules of Procedure By-law amendments as further described in this report.**

RECOMMANDATIONS DU RAPPORT

Que lors de sa réunion du 13 octobre 2020, le Conseil d'administration (C.A.) de la Bibliothèque publique d'Ottawa (BPO) :

- 1. Prenne connaissance et dépose le rapport sur les modifications aux règlements de procédure du C.A. de la BPO ;**

Que lors de sa réunion du 3 novembre 2020, le C.A. de la BPO :

2. Approuve les modifications au règlement de procédure du C.A. de la BPO, telles que décrites plus en détail dans le présent rapport.

BACKGROUND

The Ottawa Public Library Board (the “OPL Board”) is constituted under the *Public Libraries Act*, R.S.O. 1990, Chapter P.44 (“the PLA”) as amended from time to time. The OPL Board has adopted a policy governance model, designed to empower Boards to fulfill their obligations over the organization. The model “enables the board to focus on the larger issues, to delegate with clarity, to control management's job without meddling, to rigorously evaluate the accomplishment of the organization; to truly lead its organization.”¹ The current version of the OPL Board Rules of Procedure By-law (“the By-law”) was approved on March 10, 2020 (OPLB-2020-0203).

On March 17, 2020, the Province of Ontario declared a state of emergency due to the novel coronavirus outbreak, pursuant to Section 7.0.1 of the *Emergency Management and Civil Protection Act*, as set out in Order in Council 518/2020. On March 19, 2020, Bill 187, the *Municipal Emergency Act, 2020*, received Royal Assent and amended the *Municipal Act, 2001* such 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 municipality's Procedure By-law may provide that:

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*].

¹ Carver, J. and Carver, M., (2015, January 2) *The Policy Governance Model*®. Retrieved from PolicyGovernance.com

The Provincial State of Emergency under Order in Council 518/2020 was revoked on July 24, 2020, with the coming into force of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*. However, it is noted that on March 25, 2020, Mayor Jim Watson declared a state of emergency for the City of Ottawa pursuant to Section 4 of the *Emergency Management and Civil Protection Act* due to the spread of COVID-19 in Ottawa. This Declaration remains in effect as of the date of this Report.

On July 21, 2020, the Province enacted the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c.18 which made changes to various statutes, including to Subsection 238(3.3) of the *Municipal Act, 2001*. The Subsection no longer makes reference to a declared emergency, and now provides:

- (3.3) The applicable procedure by-law may provide that,
- (a) 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) 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 open or closed to the public.

Public library boards operate under the PLA and are specifically excluded from the definition of “local boards” set out Section 238 of the *Municipal Act, 2001*. *Nevertheless*, on March 27, the Federation of Ontario Public Libraries (FOPL) released the following statement from Kevin Finnerty, Assistant Deputy Minister Heritage, Tourism and Culture Division, regarding library board meetings:

Virtual Electronic Meeting, emergencies

“Following the Chief Medical Officer of Health’s advice and due to the need for ‘social distancing’, public library board meetings that are open to the public under the Public Libraries Act (PLA), may be held using a live video interface platform or conference call service, so long as the public may attend virtually, in real-time, and be able to ask questions. As with all library board meetings, advance notice is required and sufficient information of the topics to be considered should be made available to the public to enable them to make an informed decision as to whether or not to attend.”

As a result of the March 27 statement by Assistant Deputy Minister Finnerty, OPL held its April 14, May 12, and May 28, June 23, and September 8 Board meetings on Zoom using OPL’s business-level Zoom account. Meeting agendas included the following statement: “This Meeting will be held through Electronic Participation in accordance with

Bill 187, the *Municipal Emergency Act*, advice from the Heritage, Tourism and Culture Division, and the *Emergency Management and Civil Protection Act* that prohibits organized public events of more than five people.”

As a reminder, all meeting agendas also include the following note about accessibility: “Accessible formats and communication supports, as well as simultaneous interpretation in both official languages, are available for any specific agenda item. Please contact the OPL Board at board@bibliooottawalibrary.ca at least two (2) business days in advance of the meeting to make a request.”

Slight amendments were made to the procedures around meetings during this time:

- The Zoom meeting link was promoted via social media prior to the meeting
- Prior to the May meeting, public engagement was promoted on Twitter
- The Board web page was revised to include a section about “Public Participation - Ottawa Public Library Board Meetings during COVID-19,” including asking residents to submit their Request to speak form before 12:00 p.m. on the day of the meeting.

Public attendance at board meetings has increased since virtual meetings were introduced: at the April 14 meeting there were 58 participants, at the May 12 meeting there were 90, and at the May 28 meeting there were 159, at the June 23 meeting there were 111, and at the September 8 meeting there were 75. Participants are a mix of OPL employees (all levels and jobs), members of the public (increasing from approximately 20 in April to approximately 40 at the May 28 meeting, 38 at the June meeting, and 25 at the September meeting), and other stakeholders (for example, members of the library community, City councillors, and media).

Staff indicate that virtual Board meetings have been a success during the last few months. Providing an electronic option for Board meetings (including a possible virtual element) on an ongoing basis will increase their accessibility for Ottawa residents, and may increase resident engagement. For current or future Board members, the electronic meeting option may reduce barriers to access as well. Electronic meetings will be a useful option should there be another emergency such as the current pandemic. Adding the electronic meeting option to the By-law will allow OPL to take advantage of this

option and provide flexibility in meetings on an ongoing basis, for members, residents, and in subsequent emergency situations.

The primary purpose of this report is to recommend amendments to the By-law to explicitly allow meetings to be held electronically, and for Board members and members of the public to participate in meetings electronically, after the Provincial or local State of Emergency ends. The report also recommends amendments to the processes whereby a member of the public may provide a delegation to include additional time to address set-up considerations. Staff are currently consulting with other Ontario public libraries and examining software and hardware options for electronic or virtual meetings and meeting participation, including possibilities for livestreaming meetings and/or posting video or audio recording of meetings on the Library's website. At this point, no specific tools or practices have been confirmed by OPL.

According to the existing By-law, Section 44 (1), amendments to the By-law require a majority vote of the whole Board. Further, Section 44 (2) states that amendments or repeals to the By-law shall be considered at any meeting of the Board provided notice of the proposed amendment or repeal was given at a prior regular meeting of the Board. However, with a majority vote of all members the Board, this notice can be waived.

DISCUSSION

Amendments are proposed to four sections of the By-law: Section 15 (1), Meetings of the Board, Section 19 (1), Quorum, Section 37 (2), Hearing of Motions, and Section 40 (1), Hearing of Delegations. These amendments are discussed below, and the proposed edits to the By-law can be found in Document 1 - OPL Rules of Procedure By-law Amendments; proposed edits are in bold. The amendments proposed will ensure that meetings can be held electronically, and individual members can attend electronically. They will also allow members of the public can attend and/or make a public delegation in these circumstances.

Section 15 (1) - Meetings of the Board

Section 15 of the By-law (Meetings of the Board) includes information regarding meeting logistics, including the number of meetings, any cancellations or changes to meeting dates, and meeting days that fall on holidays. The proposed changes to

subsection 1 clarify that meetings may be held electronically, as long as the public may attend electronically and in real-time.

Section 19 (1) – Quorum

Section 19 outlines the minimum number of members that must be physically present at a meeting to make the proceedings of that meeting valid. The proposed changes allow a member to be considered present for purposes of quorum either in-person or via electronic participation.

Section 37 (2) – Voting on Motions

Section 37 includes information about voting procedures. The proposed change to subsection 2 accommodates members participating remotely who may vote through “roll call,” when verbally calling on members by name, and not merely by a show of hands.

Section 40 (1) - Hearing of Delegations

Section 40 provides instruction regarding how members of the public may make a delegation to the Board. The proposed changes indicate that members of the public wishing to make a delegation via electronic means or at a meeting being held electronically must submit their request four (4) hours prior to the meeting start time. This change is recommended to allow staff time to make the necessary technology arrangements with the member of the public regarding their participation.

CONSULTATION

The City Clerk, City Solicitor, and the City Accessibility Office were consulted regarding the proposed changes. Staff also consulted colleagues at Toronto Public Library, Hamilton Public Library, Burlington Public Library, and the Federation of Ontario Public Libraries.

LEGAL IMPLICATIONS

There are no legal implications associated with this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report. Any tools used for electronic meetings or electronic participation would be required to have suitable controls, security, and options for in-camera agenda items and to respond to potential hacks or pranks.

FINANCIAL IMPLICATIONS

Depending on the tools identified for potential use, there may be costs (software, hardware, and/or staff time) to hold meetings electronically, and / or record and edit meetings in order to post them on the OPL website, including ensuring all content meets Accessibility for Ontarians with Disabilities Act (AODA) guidelines.

ACCESSIBILITY IMPACTS

In approving this report, Board meetings have the potential to be more easily accessible to residents of Ottawa. Allowing electronic public participation may increase engagement for residents, particularly residents at risk of exclusion such as individuals with a disability and / or older adults. Allowing electronic participation for members may also reduce barriers, such as making the time commitments easier. Any tools used for virtual meetings or participation would be required to allow for captioning and transcription; staff will also consider whether tools allow for options such as simultaneous translation that may further reduce potential barriers.

TECHNOLOGY IMPLICATIONS

Depending on the tools identified for potential use, there may be impacts on OPL's Technology Services and Communications departments, in addition to the Board and Strategic Services team, to support these tools. This could include hardware, software, and licensing and maintenance.

BOARD PRIORITIES

This report aligns with OPL Values of inclusion and integrity. It further aligns with the Strategic Directions to assess the impacts of barriers to service and to strengthen stakeholder relationships and advocacy.

SUPPORTING DOCUMENTATION

Document 1 – Revised sections of the OPL Board Rules of Procedure By-law

DISPOSITION

Pending Board approval of this report, staff will:

1. Amend the March 10, 2020 revised By-law accordingly; and,

2. Explore tools and processes for electronic Board meetings and meeting participation, including a virtual element.

The Rules of Procedure By-Law amendment will be effective on the date of approval.

REVISED Sections of the OPL Board Rules of Procedure By-law

MEETINGS OF THE BOARD

15. (1) Regular meetings of the Board shall be held once a month for at least seven months of the year as required by the *Act*, or more frequently at the direction of the Board, and shall be held at the place and time as may be designated by the Board. **Meetings may also be held electronically, as long as the public may attend electronically, in real-time,**

QUORUM

19. (1) A quorum shall be a majority of the Members **present in-person or electronically,** according to the *Act*.

VOTING ON MOTIONS

37. (2) Voting shall be by show of **hands or through “roll call” (when verbally calling members by name)** unless otherwise noted in this by-law; no vote shall be taken by ballot or by any other means of secret voting unless so identified in these by-laws.

HEARING OF DELEGATIONS

40. (1) Delegations wishing to address the Board regarding an item listed on the agenda may be heard with permission of the Board. Delegations shall provide written notice of their request, setting out the particulars of the matter on which the person wishes to speak. Such requests may be received up until the start of the meeting **for in-person delegations, and up until four hours prior to the start of the meeting for electronic meetings or an electronic delegation.**