

TOWN OF FORT FRANCES

AGENDA - April 2, 2020

SPECIAL MEETING - Committee Room

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Conference ID: 348 447 689#

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1. **COUNCIL**
(Session No. 037) 9:00 a.m.
 - 1.1 Call to Order
 - 1.2 Disclosure of pecuniary interest and the general nature thereof
2. **New Items:**
 - 2.1 Amendment to Procedural By-law due to Pandemic 2 - 7
 - approval of this report will agree to amend the Procedural by-law 34/95 in order to implement the legislative changes permitting Electronic Participation for Council and Committees which was approved by the Province of Ontario during the COVID-19 Pandemic.
3. **By-Laws:**
 - 3.1 By-law 34/95-F being a by-law to amend by-law 34/95, the Procedure 8 - 9
By-law.
4. **ADJOURNMENT**

March 31, 2020

REPORT TO: Mayor & Council

FROM: Elizabeth (Lisa) Slomke, Clerk

SUBJECT: Amendment to Procedural By-law due to Pandemic

BACKGROUND INFORMATION

On March 19, 2020 the Province of Ontario held an emergency sitting in order to pass legislation, *Municipal Emergency Act 2020* (Bill 187). The legislation amends the following (related to municipal procedural by-laws):

- The *Municipal Act, 2001* is amended to provide that, during emergencies declared locally or provincially under the *Emergency Management and Civil Protection Act*, should you choose to, members of councils, local boards and committees who participate electronically in open and closed meetings may be counted for purposes of quorum.
- Municipalities wishing to use this new authority must amend their procedure by-laws to allow for electronic meetings and may do so through electronic participation.
- Meetings held electronically will still be required to follow existing meeting rules, and if municipalities choose to adopt electronic meetings during emergencies, they will need to also determine how best to provide for notice of meetings to the public, maintain meeting minutes, and subject to certain exceptions, continue to make meetings open to the public.

I have attached an information sheet provided by the Province to this report for your information.

In order for Council of the Town of Fort Frances to continue to safely meet and conduct business during this pandemic, I am proposing an amendment to our Procedural By-law 34/95.

I have communicated with the IT Manager to determine the most effective/efficient way to host these meetings and we suggest moving ahead with the use of Microsoft Teams where available, with the additional option of teleconferencing in. The details of each meeting will be made available to Council, Managers and the public on our website. A separate meeting will be scheduled should the need arise for an in-camera discussion.

NEXT STEPS

An amendment for the Procedural By-law 34/95 has been prepared and is expected to be considered in this special council meeting.

Council approval of this report will agree to the recommendation to amend the Procedural By-law 34/95 in order to implement the legislative changes permitting Electronic Participation for Council and Committees which was approved by the Province of Ontario during the Covid-19 Pandemic.

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.

TOWN OF FORT FRANCES

BY-LAW NO. 34/95-F

(Being a by-law to amend By-Law No. 34/95, the Procedure By-Law.)

WHEREAS Section 238(2) of the Municipal Act, 2001, provides that every Municipality shall pass a procedural by-law to govern the calling, place and proceedings of meetings;

AND WHEREAS Council and its Committees shall also follow the regulations as set out within the *Municipal Conflict of Interest Act* and the parliamentary authority of Robert's Rules of Order;

AND WHEREAS the Ontario Government took unprecedented action to respond to COVID-19 by convening an emergency sitting of the legislature and passing legislation which gives municipal councils the flexibility to continue operations while maintaining social distancing through the introduction of Bill 187 – An Act to amend the *Municipal Act, 2001* and the *City of Toronto Act, 2006*;

AND WHEREAS Council of the Corporation of the Town of Fort Frances deems it expedient to provide for updates to the way in which its meetings are conducted and governed during this emergency;

NOW THEREFORE Council for the Corporation of the Town of Fort Frances **HEREBY ENACTS** as follows:

1. That Town of Fort Frances By-Law No. 34/95 (Procedure By-Law), and its amendments, be further amended as follows:

- 1) THAT the General section be amended to include the following wording regarding Electronic Participation at Meetings pursuant to *Municipal Act, 2001*:

Electronic Participation at Meetings

- a) Members may be permitted to participate in a meeting of Council or Committee/Local Board remotely via electronic means (e.g. video or audio), provided a Declaration of an Emergency is declared by the Premier, Cabinet or the Municipal Head of Council under the *Emergency Management and Civic Protection Act*. Once the emergency has ended, all Procedural By-law meeting rules apply.
- b) All members attending the meeting shall have the same rights and responsibilities as if he or she were in physical attendance.
- c) Members of Council or of a Committee/Local Board may also participate in a meeting or portion of a meeting that is closed to the public while adhering to section 239 of the *Municipal Act*.
- d) Members shall be counted towards quorum of members present at any point in time and shall be able to vote, unless prohibited by the *Municipal Act* or the *Municipal Conflict of Interest Act*.
- e) Electronic Participation does not exclude the necessity of providing notice of agendas and meetings time/locations for public access and must follow the notice by-law.

This by-law shall come into force and take effect on the final passing thereof.

J. Caul, Mayor

E. Slomke, Clerk