

# STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



<b>Report to:</b>	Mayor and Council Members	<b>Priority:</b>	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
<b>Submitted by:</b>	Brent Larmer, Municipal Clerk/Manager of Legislative Services <a href="mailto:blarmer@cobourg.ca">blarmer@cobourg.ca</a>	<b>Meeting Type:</b>	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
<b>Meeting Date:</b>	<b>August 23, 2021</b>		
<b>Report No.:</b>	Corporate Services-086-21		
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**Subject/Title: Return to In-Person Council Meetings through Hybrid Electronic Participation**

## RECOMMENDATION:

WHEREAS at the Committee of the Whole Meeting on August 23, 2021, Council considered a Memo from the Municipal Clerk/Manager of Legislative Services, regarding the options to return to in-person Council Meetings through a Hybrid Electronic Participation Model;

NOW THEREFORE BE IT RESOLVED THAT Council Meetings return to an in-person format in Cobourg Municipal Council Chambers in the following new format:

THAT Municipal Council allow for the continuation of Electronic Participation by Council Members in combination with the resumption of physical attendance of Members in Council Chambers in order to continue to maintain modernization of Council Meetings as permitted in the Municipal Act, Section 238 s. 3.1 and s. 3.3 in order to allow for Council to continue to legally meet if there may be a reason where a Member is unable to be present in Chambers; and

FURTHER THAT Members of the Public and Delegates/Presenters shall participate electronically through Zoom Video Conference; and

FURTHER THAT Council authorize all Council Advisory Committees to participate through electronic participation utilizing Zoom Video Conferencing for the remainder of the Municipal Council Term or until Council provides further direction to return to in-person meeting.

Not Applicable

## 2. PUBLIC ENGAGEMENT

Not Applicable

## 3. PURPOSE

This report is to provide Council with options and recommendations on retuning to in-person Council Meetings in Council Chambers at Victoria Hall, Cobourg.

## 4. ORIGIN AND LEGISLATION

In January 2019, Municipal Council received a Staff Report from the Municipal Clerk summarizing the impact of the various changes to the Municipal Act, 2001 because of Bill 68 which received Royal Assent in 2017. This report was received by Council which included a discussion on the new rules surrounding electronic participation at Council meetings. In 2019 during the review of the Council Procedural By-law it was determined that electronic participation by Members of Council would not be something that Council would like to pursue at that time, and this was a common practice occurring across Ontario.

As a result of Bill 68, of the *Municipal Act, 2001* stated in 2020 that:

*(3.1) The applicable 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.*

*(3.2) The applicable procedure by-law shall not 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 closed to the public.*

As a result of the COVID-19 pandemic emergency, Subsection 238 (3.3) was added to allow Council Members participating electronically to count towards quorum and in closed session to still conduct municipal decision making. This change was a direct result of the pandemic and to keep persons safe with the increased risk of spreading COVID-19 through in person contact.

On March 16, 2020, Council passed By-law No. 018-2020 to amend the Procedural By-law to accommodate these emergency provisions and to allow for full electronic Council Meetings.

## 5. BACKGROUND

Since March 2020, Town of Cobourg Council meetings have been held remotely (or electronically) to continue to provide continuity of local government and

decision making during the changing pandemic environment. Council amended the Town's Procedural By-law on March 16, 2020, under the temporary amendment to the *Municipal Act, 2001* to allow for remote meetings of Council. The *COVID-19 Economic Recovery Act, 2020* further amended the *Municipal Act, 2001* to allow municipal councils to continue to meet remotely indefinitely after an emergency is declared. On July 27, 2020 Council amended the Town's Procedural By-law to include provisions to allow Council to meet remotely indefinitely in accordance with the *Municipal Act* amendment under the more permanent *Municipal Act* Amendment that was released at that time.

On September 14, 2020, Municipal Council implemented the successful restart of in-person Council Meetings utilizing an alternative location of the Concert Hall, Victoria Hall with increased safety protocols and physical distancing of participants and by limiting the capacity of members of the public attending physically in the new meeting space. As a result of the increasing rise of COVID-19 cases within Ontario in the winter of 2020, the decision was made to suspend the continuance of in-person meetings until the effects of the potential second wave are fully realized by staff and provincial numbers return to a lower daily increase.

On October 19, 2020, Municipal Council considered a report from the Municipal Clerk to return to electronic participation for Council Meetings due to the increase in COVID-19 cases and the Provincial restrictions and shutdowns across Province to mitigate the spread of COVID-19. Council agreed to return to electronic meetings until further notice into 2021.

Beginning on March 16, Committee and Council meetings have been taking advantage of the loosening of restrictions and at least the majority, if not all, of Council (and Staff and delegations) has been attending meetings remotely ever since other than in September of 2020 when Council met in person within the Concert Hall.

As the province is now unveiling successes of increasing vaccination rates and the province is progressing through the reopening stages of getting back to a new normal, (which Ontario is currently in Phase Three (3) of the Plan), Staff is providing this report to Municipal Council if Council wishes to return to in-person Council Meetings with the option of electronic participation.

If Council decides to return to in-person meetings during the current status of the pandemic, there will need to be procedures in place to create a controlled atmosphere subject to current Public Health protocols as well as make the appropriate amendments to procedures based on how the return to in-person meetings is decided.

Council will also need to consider moving forward on a long term basis beyond the pandemic, what will Council Meetings look like (i.e. continuing a hybrid model or fully return to person) and if so, under what conditions if any beyond those set out in the *Municipal Act, 2001*.

## 6. ANALYSIS

During the COVID-19 pandemic Council and staff have evolved into conducting smooth and effective meetings which are open to the public. The question before Council, currently, is whether to continue with electronic participation, and if so under what conditions.

### **Electronic Participation by Council Members**

Prior to COVID-19, many municipalities elected to allow for electronic participation but only in limited circumstances, such as:

- Where a member is travelling outside of the municipality, or
- Where a member is ill and not fit to physically attend the Chambers

At the passing of Bill 68, municipalities chose not to allow electronic participation for a variety of reasons including apprehension of the technology, perceived lack of accountability, accessibility to the public, and lack of funds available to invest in the required hardware and software.

The concept of decision making “as a team” should be contemplated. Although many large private corporations allow remote participation as part of their meetings, local government is perceived as more “hands on” and there may be an expectation, on the part of the public, that they want to “see their local representatives” in the same room, working together. Also, it is often a more effective way to govern when the entire team is in the same room.

There is also the matter of the public’s expectation of accountability and transparency in attending or viewing Council/Committee meetings that should be considered. While at the same time, there may be an expectation from residents and stakeholders that the option of electronic participation continues – “it has been so easy, so why would you not allow it going forward?”

Based on the positive experience of electronic participation during COVID-19, Staff recommends that Council should allow for some form of electronic participation in Council Meetings in the current status of COVID-19 in Ontario, and furthermore introduce an approach going forward to test a hybrid model of Electronic Participation in some form during Council Meetings and maybe make a permanent change in the future.

There are two options for Council to consider when contemplating the return to Municipal Council Chambers:

- 1) That all of Council Members be physically present in Council Chambers for all Municipal Council Meetings including the Municipal Clerk and Deputy Clerk and Chief Administrative Officer. All other Staff, Member of the Public and Delegates/Presenters shall participate electronically through Zoom Video Conferencing.

**OR**

- 2) That Members of Council may participate in person in Council Chambers and allowing some members to participate by Zoom Video Conferencing, and all other Staff, Members of the Public and Delegates/Presenters shall participate electronically through Zoom Video Conferencing.

### **Electronic Participation for Delegations and Presenters and Municipal Staff**

Since Staff, delegations, presentations, and members of the public have successfully been able to attend meetings electronically, Staff are recommending that all these attendees be afforded the opportunity to participate electronically going forward for the current time being.

Within the current state of COVID-19, Staff is recommending that the numbers of persons physically in Council Chambers be kept at a minimum and members of the public continue to live stream Council meetings to view the proceedings in an open and transparent way and those persons wishing to be a delegate participant shall participate solely through electronic means only. In addition, it is recommended that Staff attendance in Council Chambers be limited as much as possible and only those Statutory Officers, CAO and required Staff be in attendance as determined by Council.

Staff will endeavor to use electronic means to make sure that the remote participants can see the Council Members and to be able to see presentation materials and referencing slides to enable full participation.

### **Logistics and Technology**

In 2020, Municipal Council approved the new eSCRIBE Meeting Management System which includes a Hybrid Meeting function that will help integrate physical and electronic attendance into one steady stream to the public.

This current technology is currently being tested by the Municipal Clerk's Department with hopes to have this hybrid model will be working by September 2021. Currently the Town is experiencing issues with Audio, and we are hoping to have a solution as quick as possible. Audio for Hybrid Council meetings is an issue for most municipalities trying to make the switch to a combination of in-person and electronic meetings.

Town Staff have been working with the Town's Meeting Management Subscriber (eSCRIBE), Audio and Visual Contractor, (Alliance) and the Webcasting Vendor (ISI Live) to update our current Council Chambers broadcasting set-up and Live Streaming System to integrate the ZOOM Video Conferencing application into the A/V control panel which would create a hybrid meeting solution to seamlessly integrate physical and electronic spaces. This solution will enable Council to take advantage of both options of continuing to allow for electronic participation at Council meetings with a combination of some participants utilizing in-person attendance and others using virtual attendance.

Depending on any decision by Municipal Council on the topic of returning to Council Chambers in any new format in a more permanent arrangement, there are a few logistical requirements that need to be made.

First Municipal Council should amend the Procedural By-law to provide more concise language, definitions, and rules when it comes to electronic participation, and a full audit of the by-law be conducted to make sure all rules and protocols reflect electronic participation. The necessary amendments would include some of the following (not all will be necessary depending on Council's direction):

- Adding the definitions for “electronic participation” and “present”
- Ensuring the Mayor/Chair/Presiding Officer is present in the Chamber along with the Municipal Clerk to ensure the meeting flows smoothly
- Vacating the meeting
- Requirements around participating remotely, including notification to the Municipal Clerk that the member intends on participating electronically
- Allowing for the use of electronic devices for the purpose of electronic participation
- Updating rules for delegations participating electronically

Secondly, consideration should be made to require the creation and implementation of a Municipal Clerk's Department Policy regarding electronic participation at Council Meetings if there is to be the allowance for Members of Council to be present in the meeting both electronically and physically at Council Meetings, being a hybrid meeting of Council. This Policy would be an evolving document recognizing that changes in technology and requirements may occur over time.

### **Advisory Committees**

The Town of Cobourg has several active Advisory Committees. Advisory committees are distinctly different from those Council Meetings covered above, primarily in that their recommendations are made to Council for consideration only.

These advisory committees generally carry out their mandate in a less formal manner with their minutes being presented to Council for information and recommendations provided to Council for consideration. While the open meeting requirements in the Act do not specifically apply to advisory committees of Cobourg (i.e. Accessibility Advisory Committee, the Transportation Advisory Committee, etc.), Cobourg's Procedural By-law, Advisory Committees Policy, and the Committee specific Terms of Reference, do speak to:

- requiring the meetings be open to the public.
- meeting locations with the meetings generally being held at the Municipal Office on the third floor, although meetings may occasionally be held elsewhere in the Town of Cobourg if deemed necessary or appropriate.

- decisions reached by the Committee shall be based on a majority vote based on quorum, where the Chair will call for a formal vote by a show of hands.

Thus far, during the COVID-19 pandemic, the Town's Advisory Committees have successfully enjoyed the convenience and ease of electronic meetings. Staff therefore recommends that the Terms of Reference for Cobourg's Advisory Committees and the Town's Procedural By-law related to Advisory Committees be amended to allow for the continuation of full electronic participation of all its members for committee meetings for the remainder of the Council Term.

Should Council decide not to allow electronic participation and return to in person meetings or a hybrid model for meetings Staff would recommend that advisory committees procedures and policies be amended in addition to Council electronic participation amendments.

As a special note, Council could also consider streaming these Advisory Committee live, in order to allow for a more accessible and transparent means for the public to attend and listen to committee meetings if Council elects to continue with electronic meetings only for these Committees.

### **Committee of Adjustment**

Electronic Participation for the Committee of Adjustment meetings has proven to work quite well during the COVID-19 period.

The Committee members, the public, as well as applicants, have provided no criticism or issue with the current electronic meeting process. In fact, the Committee of Adjustment has had an appeal of one of their decisions that was heard at the Ontario Land Tribunal (formerly the Local Planning Appeal Tribunal) during electronic meeting participation and there was no issue or disadvantage provided with submissions to the Tribunal at the hearing.

*The Planning Act* neither expressly authorizes nor prohibits electronic participation in Committee of Adjustment Hearings.

It is recommended that, Staff undertake a review of the Committee of Adjustment By-law, and any best practices for conducting hearings via electronic participation, as well as the procedures used thus far during the COVID-19 period for Cobourg's Committee of Adjustment, and report back to Council with a recommended approach going forward on electronic participation, with the status quo remaining in place until such time.

## **7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS**

There are currently no financial implications or budget impacts related to this Staff Report. Staff will utilize current maintenance accounts and service agreements that are in place to minimize costs with the introduction of Council's decision on the best option moving forward. If there are unanticipated costs needed to successfully

deliver Council's decision, Staff will provide a report to council for reasoning, consideration and a decision.

## 8. CONCLUSION

It is respectfully recommended that, should Council wish to proceed with implementing electronic participation by Members of Council at Council meetings with a return to Council Chambers in some form, staff are recommending that the steps as outlined in the Staff report be implemented based on Council direction.

### Report Approval Details

Document Title:	<b>Return to In-Person Council Meetings through Hybrid Electronic Participation</b>
Attachments:	-
Final Approval Date:	Sep 2, 2021

This report and all its attachments were approved and signed as outlined below:

**Tracey Vaughan, Chief Administrative Officer – Sep 2, 2021 - 1:13 PM**