

Report to Council



Date: September 13, 2021
To: Council
From: City Manager
Subject: Electronic Council Meeting and Public Hearing Procedures
Department: Office of the City Clerk

Recommendation:

THAT Council receives, for information, the report from the Office of the City Clerk dated September 13, 2021 with respect to electronic Council meeting and public hearing procedures;

AND THAT Council direct staff to prepare amendments to Council Procedure Bylaw No. 9200 and relevant policies in accordance with Options 1B, 2C, and 3C in the report from the Office of the City Clerk dated September 13, 2021;

AND FURTHER THAT Council continue to hold public hearings and Tuesday regular meetings in-person and electronically and continue with pandemic procedural changes for public hearings and Tuesday regular meetings until Council Procedure Bylaw No. 9200 is amended to reflect the proposed changes.

Purpose:

To provide direction on options for electronic Council meetings and public hearings.

Background:

The Province introduced new legislation that allows local governments to hold electronic Council and committee meetings and public hearings. This follows temporary orders allowing electronic meetings and public hearings during the COVID-19 pandemic. Amendments to Council Procedure Bylaw No. 9200 are needed should Council wish to make use of the new electronic meeting provisions in the *Community Charter* and *Local Government Act*. The legislation comes into force on September 29, 2021 and amendments to Bylaw No. 9200 can be made after that date.

Previous Council Resolution

Resolution	Date
AND THAT Council direct staff to continue to recommend that Council waive	July 12, 2021

the public hearing for rezoning applications that are consistent with the Official Community Plan, have a recommendation of support from staff, and are not expected to generate significant public input based on correspondence received at the time of the report to Council until Council decides on a long-term option for electronic Council meetings and public hearings;	
AND FURTHER THAT Council direct staff to report back to Council with long-term options for electronic Council meetings and public hearings.	

Discussion:

Based on the legislation and the experience with electronic meetings and public hearings to date, staff identified several options for Council's consideration. Options for Council and committee meetings are presented in the table below with brief discussion, followed by the same for public hearings.

If a meeting or public hearing is held electronically, the public notice must include information about the electronic means of conducting the meeting. The City must also provide a location where the public can hear or watch and hear the meeting with a designated municipal officer in attendance.

Council and Committee Meetings

Item	Option 1A: Status Quo (Pre-Pandemic)	Option 1B: Conditional Electronic Meetings	Option 1C: Unconditional Electronic Meetings
Fully electronic meeting	Special Council meeting with Mayor authorization	Conditional	✓
Electronic participation by members of Council	With Mayor authorization	Conditional	✓
Electronic participation by the public	X	Conditional	✓

Option 1A: Under the current bylaw, electronic meetings are only permitted for special Council meetings with Mayor authorization. Individual Council members may participate electronically in a regular Council meeting with Mayor authorization. Meetings are livestreamed; however, members of the public scheduled to present to Council must be in-person.

Option 1B: Council may allow for electronic meetings and electronic participation in meetings under certain circumstances. Recommended conditions include:

- Fully electronic meeting: special Council meeting, during state of local or provincial emergency.
- Electronic Council participation: unable to attend in person (e.g., illness, out of town), participate for entire meeting, have audio and video, be located in Canada, maintain confidentiality for closed meetings.
- Electronic public participation: only when scheduled on agenda, have audio and video, be located in Canada, maintain confidentiality for closed meetings.

Option 1C: Electronic meetings and participation could also be unrestricted, allowing for Council meetings to be held electronically in any circumstances and for members of Council or the public to participate electronically with no specific requirements.

The status quo (Option 1A) limits Council's ability to meet electronically and was established prior to new technologies that allow for a more comprehensive electronic meeting experience. Option 1B sets conditions, at Council's direction, to hold or participate in meetings electronically, setting clear expectations for Council and the public. Bylaw wording needs to be flexible enough to account for different situations. While Option 1C broadly allows for electronic meetings and participation, it is not considered best practice to maintain openness, transparency, and accountability. Staff recommend proceeding with Option 1B as it opens up opportunities for electronic meetings and participation while reflecting core principles of Council meeting governance.

Public Hearings & Tuesday Regular Meetings

Item	Option 2A: Status Quo (Pre-Pandemic)	Option 2B: Hybrid & Pandemic Procedural Changes	Option 2C: Hybrid & Refined Procedural Changes
Electronic participation by members of Council	X	✓	✓
Electronic participation by the public	X	✓	✓
Deadline for correspondence	4 pm Monday before public hearing	12 pm day of public hearing	8 am day of public hearing
Start time	6:00 pm	6:00 pm standard, 4:00 pm when needed	6:00 pm standard, 4:00 pm when needed
Item scheduling	All items scheduled for 6:00 pm	Individual or bundled start times	Individual or bundled start times
Bylaw consideration	After all public hearing items	Immediately after each public hearing item	Immediately after each public hearing item

Option 2A: Reverting back to pre-pandemic public hearing procedures removes the option for electronic participation by members of Council or the public. Other changes introduced during the pandemic would go back to previous requirements and policies.

Option 2B: This option continues with the changes introduced during the pandemic, with both electronic and in-person participation, a later deadline for correspondence, flexibility for earlier start time, and scheduling changes.

Option 2C: This option largely reflects the changes introduced during the pandemic with one change to the deadline for correspondence to balance the opportunity for the public to submit correspondence with additional time for Council to review written submissions prior to that evening's hearing or meeting, in particular for 4 pm start times.

Introducing electronic public hearings at the beginning of 2021 and hybrid public hearings this summer has expanded opportunities for the public to participate in public hearings. Continuing with hybrid public hearings allows the public to choose whether to participate in-person or online. Changes

regarding the correspondence deadline, start time, and item scheduling have generally been well-received. Staff recommend proceeding with Option 2C, with hybrid public hearings and most of the procedures introduced during the pandemic. The only change from the pandemic procedures is to shift the correspondence deadline to 8 am the day of, affording Council more time to review written correspondence from the current deadline of 12 pm.

Waiving Public Hearings

The *Local Government Act* allows Council to waive the public hearing for zoning bylaws that are consistent with the Official Community Plan (OCP). To reduce the number of items going to public hearing during the pandemic, in January 2021 Council directed staff to recommend that Council waive public hearings for rezoning applications that are consistent with the OCP, have a staff recommendation of support, and are not expected to generate significant public input based on correspondence received at the time of the report to Council. Notice is provided and the public has the opportunity to submit written correspondence to Council.

Specifically, waiving a public hearing follows these steps:

1. Staff recommendation to Council based on established criteria.
2. If Council waives the public hearing, notice is advertised in the newspaper and mailed to properties within 50 m, and a development notice sign is placed on the property informing the public of the opportunity to submit written correspondence.
3. Written correspondence is accepted for two weeks following initial consideration and is circulated to Council.
4. Supplemental report to Council summarizes correspondence with recommendation to:
 - a. Give the bylaw further readings;
 - b. Advance the bylaw to a public hearing; or
 - c. Defeat the bylaw.

The table below shows statistics for rezoning and text amendment applications without a corresponding OCP amendment that Council considered between January 1, 2021 and August 31, 2021. These statistics do not include OCP amendments, land use contracts, or other types of applications where the public hearing cannot be waived.

Item	Public Hearing Waived	Public Hearing Held
Number of Zoning Bylaw applications	33 ¹	49 ²
Number of Zoning Bylaw applications with correspondence	6	16
Percentage of Zoning Bylaw applications with correspondence	18%	33%
Total number of pieces of correspondence	9	65
Average number of pieces of correspondence per application³	1.5	4.1

¹ Includes one application sent to public hearing after the notification period.

² Another 15 rezoning or text amendment applications had an OCP amendment and the public hearing could not have been waived. These tend to generate greater numbers of correspondence.

³ Based on the number of applications with correspondence

The experience to date in 2021 shows the percentage of applications with correspondence submitted is nearly double for applications that went to public hearing (33%) compared to those where the public hearing was waived (18%). Of the applications where correspondence was submitted, the average number of pieces of correspondence is 2.7 times more for applications that went to public hearing.

Based on the experience to date, the established criteria appear to be effective at gauging the level of public interest in an item. By continuing to waive public hearings on certain items, only those applications that are likely to generate more public input go to public hearing. This places greater emphasis on more significant applications and facilitates more effective public hearing scheduling. When a public hearing is waived, the public still receives notice and has the opportunity to submit correspondence or to speak with Council members before Council makes further decisions on the item.

Options for waiving public hearings are presented in the table below followed by brief discussion.

Item	Option 3A: Status Quo (Pre-Pandemic)	Option 3B: Pandemic Changes	Option 3C: Refined Changes
Waiving public hearings	Council Policy No. 307: <ul style="list-style-type: none"> ✓ Consistent with OCP ✓ Commercial, industrial, institutional and mixed use development ✓ No residential development ✓ Not adjacent to residential development 	Amend Council Policy No. 307 with criteria: <ul style="list-style-type: none"> ✓ Consistent with OCP ✓ Recommendation of support from staff ✓ Not expected to generate significant public input 	Amend Council Policy No. 307 with criteria and reporting: <ul style="list-style-type: none"> ✓ Consistent with OCP ✓ Recommendation of support from staff ✓ Not expected to generate significant public input ✓ Regularly report on waived public hearings

Option 3A: Council Policy No. 307 currently limits the authority to waive public hearings to developments with only commercial, industrial, and institutional uses, and where not adjacent to residential uses. Few applications meet these criteria and the policy is rarely used.

Option 3B: This option continues the criteria established during the pandemic and staff would recommend that Council waive the public hearing on rezoning applications that meet those criteria.

Option 3C: This is the same as Option 3B with the addition of regular reporting on waived public hearings (e.g., number of applications, correspondence received). The reporting is intended to monitor the effectiveness of the criteria.

Staff recommend proceeding with Option 3C, updating Council Policy No. 307 to reflect the criteria listed above with the addition of regular reporting on waived public hearing statistics.

Next Steps

Staff will prepare amendments to Council Procedure Bylaw No. 9200 based on Council's direction. These will come back to Council in October 2021 along with any policy amendments or new policies needed to implement the changes. Public notice of the Council Procedure Bylaw amendments will be given prior to bylaw adoption.

Conclusion:

New provincial legislation allows the City to implement electronic Council meetings and public hearings for the long-term. The recommended options – conditional electronic Council and committee meetings, hybrid public hearings with refined procedures, and waiving public hearings with regular reporting – are based on the City's experience with electronic meetings and procedures to date. They balance flexibility and modernization with openness, transparency, and accountability.

Considerations applicable to this report:***Legal/Statutory Authority:***

Bill 10 – 2021 Municipal Affairs Statutes Amendments Act (amendments to *Community Charter* and *Local Government Act*)

Legal/Statutory Procedural Requirements:

Council can consider a bylaw to amend Council Procedure Bylaw No. 9200 after Bill 10 comes into effect on September 29, 2021.

Public notice of proposed amendments to Council Procedure Bylaw No. 9200 must be given before a bylaw is adopted (*Community Charter* s. 124(3)).

Existing Policy:

[Council Policy No. 307 Waiver of Public Hearing](#)

Financial/Budgetary Considerations:

One additional staff is needed to moderate electronic participation at public hearings and Tuesday regular meetings. At this time, additional staff are not needed to operate the camera system. The estimated staffing cost is \$250 per public hearing for hybrid public hearings. This does not include costs associated with temporary COVID-19 measures (e.g., contact tracing).

Considerations not applicable to this report:

External Agency/Public Comments:

Communications Comments:

Submitted by:

L. Bentley, Deputy City Clerk

Approved for inclusion: S. Fleming, City Clerk

Attachments:

Council Policy No. 307 Waiver of Public Hearing

cc:

R. Smith, Divisional Director, Planning & Development Services