



To: General Purposes Committee

Date: October 21, 2004

From: J. Richard McKenna  
City Clerk

File: 01-0105-01/2004-Vol 01

Re: **Electronic Meetings and Participation by Members of Council**

**Staff Recommendation**

That the City Clerk bring forward appropriate amendments to the Council Procedure Bylaw to implement electronic meeting participation for members of Council, on the following basis:

- (a) Open and closed Regular and Special Meetings of Council provided they are held in either the Council Chambers or the Anderson Room;
- (b) Open and closed meetings of all Standing and Select committees of Council provided they are held in either the Council Chambers or the Anderson Room;
- (c) Public Hearings will not be held electronically or have electronic participation; and
- (d) A physical quorum must always be present, without electronic attendance, and the Chair must always be among those physically present.

J. Richard McKenna  
City Clerk  
(3266)

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ROUTED TO:		CONCURRENCE		CONCURRENCE OF GENERAL MANAGER (Acting)	
Law.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>				
Finance.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>				
REVIEWED BY TAG		YES	NO	REVIEWED BY CAO	
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				YES	NO
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## Staff Report

### Origin

Section 128 of the *Community Charter* permits the option of sanctioning electronic participation by members of council and committee at meetings, through amendments to the Council Procedure Bylaw. The purpose of this report is to describe the situations where this is permitted, to evaluate the advantages and potential shortcomings in each case, and ultimately, to determine the extent and circumstances in which Council would wish to see the practice used, if at all.

### Analysis

#### Special Meetings

The first situation provided for in the statute is the holding of an entire special meeting by electronic means. Since special meetings (both open and closed) are just additional meetings called out of sequence with regular meetings for unusual and urgent matters, these are by far the more likely type of meetings which a member of Council might have difficulty attending – hence they are specifically addressed in the statute. In contrast, the dates of regular meetings are known years in advance. If Council opted to permit special Council meetings to be held electronically, up to all nine members of Council could be physically absent, including the Chair, but the Corporate Officer must be present. Public notification must also be given of Council's intent to conduct a special meeting by this means.

#### Individual Participation at Regular Council or Committee Meetings

The second situation provided for in the statute is for electronic participation by “a member of Council or a standing/select committee” where that member is “unable to attend” a particular Council or committee meeting. It is interesting that the statute places no limit on the number of members who can avail of the technology, in that if it is available for “a member” it must be available for all members. Also, the statute does not define “unable to attend”. Thus, it seems that by default an entire regular meeting (open or closed), or public hearing or committee meeting, could be held electronically, just as is the case with special meetings.

#### Issues

The following are the issues which Council should be aware of before taking a position on electronic meetings or electronic participation at meetings. Some of these should be reflected in the bylaw and I have so indicated where this is the case.

1. Public accessibility – the statute requires that the public must be given the opportunity to hear (or to see and hear if video technology is used) all members of Council who are not physically present at a meeting, but who are participating electronically. Other than the vote to close a meeting and deem the matters on the agenda to be compliant with the statutory closed meeting criteria, this requirement would not apply to a closed meeting.

2. Confidentiality – obviously this is only an issue for closed meetings, but where a member of Council is participating electronically there must be some assurance that no one else is in the room, or can in any way hear Council proceedings. Indeed, such importance is placed on this matter that Section 117 of the *Community Charter* is entirely devoted to the obligations of a member of Council to respect closed meeting confidentially.
3. Information circulated at a meeting – where additional or corrected information on an agenda item is to be handed out to the members of Council or committee when a meeting is starting, this will be somewhat problematic, although certainly not impossible to accommodate for a member participating electronically.
4. Delegations – this would certainly be a problem if the Chair was participating electronically, yet had to recognize delegations from the floor.
5. Role of the Chair – aside from the delegation issue, a considerable burden would be placed on the Chair of any meeting where one or more members were participating electronically, and very much so in the case of an entire meeting held electronically. Even with the best equipment the Chair would have to take whatever steps were necessary each and every time to ensure that “everyone heard everything” and that the public (in the case of open meetings) were also able to hear (or see and hear) everything. Also, the Chair would be responsible for determining if any member(s) participating electronically wished to speak on a motion, since the normal visual or “button” means of attracting the attention of the Chair would not be available. I am of the opinion that all of these would serve to considerably lengthen the meetings in question. Also, the statute does not preclude the Chair from participating electronically, even if all other members are present, and this raises the issue of just how practical it would be to chair a meeting electronically. Thus the issue therefore becomes - should the Chair always be physically present - and I am proposing that this be a requirement in the bylaw.
6. Visual Presentations – other than through video technology, visual presentations would be just about impossible to accommodate in an electronic meeting context in that a member of Council or the public demonstrating something by means of boards or charts could not be seen. Images shown on the “elmo” projector would also be impossible to accommodate. This may seem like an innocent issue, but it could be fatal in circumstances such as public hearings, statutory appeals to Council, etc., where there are legal standards to be met before voting on a particular matter. I am therefore proposing that electronic participation at public hearings (which are council meetings) be excluded from the scope of the bylaw.
7. Criteria for “unable to attend” - interestingly, and as mentioned earlier, the statute establishes no criteria for when, or how often, a member can participate electronically other than the phrase “when a member is unable to attend”. I had rather hoped the statute would give more guidance on this issue or even establish different standards between entire special meetings held electronically (where availability is the issue) versus electronic participation at a regular meeting where, absence because of illness, injury, etc may be more likely reasons. Thus Council could attempt to establish “unable to attend” criteria and “how often” criteria for electronic participation if it feels these are necessary or appropriate, however I am not proposing this in the bylaw.

8. Declaring a conflict of interest – a member participating electronically must be able to declare a conflict of interest, and attracting the attention of the Chair, while not impossible, may be somewhat awkward during the flow of Council business.
9. Participation of staff - an interesting question arises about the possible participation of staff by electronic means. There is nothing to preclude such participation even now, and in certain meeting situations the comments and advice of staff could be critical to a decision. If, for example an entire meeting was held electronically, with only the corporate officer physically present, would it be appropriate for a senior member of staff to participate electronically and should the listening public be able to hear (or see and hear) that staff member, just as is the case with members of Council?
10. Achieving a quorum - Council may wish to establish that a quorum must be physically present, and that only post-quorum members may participate electronically, even though the statute states that a member participating electronically is “deemed to be present at the meeting” (for the purposes of a quorum). The arguments in favour of this are (i) if a quorum can be achieved by members participating electronically, it may be difficult to determine if the quorum was ever broken, since a member may be required to be absent from electronic participation for a period of time for any one or more personal reasons; and (ii) if Council or committee relied on an electronic member(s) to make up a quorum and the electronic connection is lost, so is the quorum. I am therefore proposing that the quorum not rely on members participating electronically.
11. Public Perception – a discerning public would understand that there are occasions when a member(s) of Council cannot be physically present at a special meeting called to deal with an important matter. In short, not only would the public expect the involvement of as many duly elected members in such matters as physically (and now electronically) possible, but I believe their perception would be that this means of participation only be used in extreme circumstances.
12. Experience in other jurisdictions – in the Greater Vancouver area some jurisdictions have enacted bylaw amendments to permit electronic participation, and some have not. Of those who have, each has tailored the bylaw to suit their own needs. For example, some allow only special meetings to be held electronically, whereas some disallow closed meetings to be so held, for fear of a breach of confidentiality. Several have left me with the impression that facilitating electronic meeting participation was not worth the trouble to set it up, and that the option is rarely used.

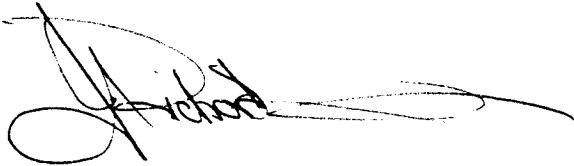
The above comments are meant to make Council aware that electronic meeting participation is not without its shortcomings, and should not be seen as a panacea for all situations involving the absence of a member of Council. The Council Procedure Bylaw changes to authorize electronic meeting participation will require advance public notification before being adopted, and this may provide further public perspective on the matter.

**Financial Impact**

In order to accommodate electronic meeting participation both the council chambers and the Anderson Room will require attention. In the case of the former it is fortunate that the facility already accommodates audio conferencing, and unless there is an unforeseen equipment problem, all that would be required is for a system maintenance check be undertaken. In the case of the Anderson Room, however, a telephone equipment upgrade would be required to ensure that members participating electronically (by telephone) can be heard by everyone in the room over ambient noise levels, at full room capacity. This would entail the purchase and installation of a professional conference calling unit, the estimated cost of which should not exceed two to three thousand dollars. Out of an abundance of caution I would suggest that a one-time expenditure of \$5,000 be budgeted for from any remaining year-end surplus, to accommodate all elements of electronic meeting participation.

**Conclusion**

This report provides what I believe to be a balanced view of the issues to be considered in connection with the electronic meeting participation option now provided for in the *Community Charter*. Overall this is an improvement which has been long requested primarily by remote municipalities and Regional Districts which have very different physical characteristics and climatic conditions than Richmond. In the interests of practicality I have proposed certain restrictions on what is provided for in the statute. Having said this, as these proposed bylaw amendments are intended to accommodate the needs of elected officials, committee should feel free to direct staff any way it sees fit on this issue. Upon the establishment of parameters for electronic meeting participation I will bring forward the appropriate bylaw amendments and undertake the required public notification.



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