



STAFF REPORT

Title: Bylaw No. 653-BD-19 - Procedure Bylaw

Meeting Date: November 26, 2019

Executive Summary:

Administration has brought forward several versions of the updated Procedure Bylaw for Council discussion and consideration. The procedural bylaw is expected to be reviewed at least once every 4 years to coincide with potential representative changes on Council.

At the October 22, 2019 Regular meeting, Council approved first reading of Bylaw No. 653-BD-19, Procedure Bylaw and requested Administration provide further information and suggested revisions prior to second and third reading.

At the November 12, 2019 Council Meeting 2 resolutions were passed to amend Bylaw 653-BD-19 and 2nd reading was carried. The discussion and amendments were around electronic meeting procedures 7.22 which states a maximum of 3 members may participate vs 2 members and section 7.24 which states that Council encourages electronic participation not to exceed 5 times over a one year period.

Council had the opportunity to further discuss the amendments to the bylaw at the November 19, 2019 Corporate Priorities meeting prior to it being presented for 3rd reading at the Nov 26, 2019 Regular Council Meeting.

Background:

Bylaw No. 308-BD-07, Procedure Bylaw was passed by Council on October 23, 2007, with minor amendments being subsequently passed by Council on November 12, 2008 (Amending Bylaw No. 344-BD-08), and December 14, 2010 (Amending Bylaw No. 383-BD-10).

At the **September 17, 2019 Corporate Priorities meeting**, Council discussed the areas they would like to see revised of the City's procedure bylaw after considering multiple similar sized municipalities' procedure bylaws.

At the **October 15, 2019 Corporate Priorities meeting**, administration presented a new draft Bylaw No. 653-BD-19, Procedure Bylaw and research as to what other municipalities were doing in relation to electronic participation. Council requested Administration revise draft Bylaw No. 653-BD-19, Procedure Bylaw and present the revised bylaw at the next Regular Meeting of Council for first reading.



At the **October 22, 2019 Regular meeting**, administration presented a revised draft Bylaw No. 653-BD-19, Procedure Bylaw, which passed first reading. Following discussion and feedback from Council, Administration is recommending the following revisions to the proposed Bylaw No. 653-BD-19, Procedure Bylaw:

- Section 7.24 has been amended to state that: “Members may participate through electronic communication in any Meeting, Committee of the Whole Meeting, or Committee Meeting. Council encourages electronic participation not exceed 5 times over a one year period.

Following debate by Council regarding the fairness, rationale and enforceability of a yearly five time cap on Councillor electronic participation, Administration recommends the encouragement to not electronically participate in a meeting more than 5 times in a one year period or remain silent on the number of meetings.

The enforcement of any set days of electronic participation currently would fall under the umbrella of section 5 of Bylaw #618-AD-18- Council Code of Conduct which states that “any resident, business owner, or taxpayer of the City of Cold Lake may make a complaint if s/he has reason to believe a Councillor may have violated section 3” of the Bylaw. Section 3.9 of the Bylaw holds that “Councillors shall uphold legislation, City bylaws, and policies” which in administration’s view would include all provisions of the Procedure Bylaw.

Upon receipt of a complaint under s.4.1 of the Council Conduct Bylaw the Council Complaints Committee may determine that the said complaint is valid by a two-thirds majority vote.

As mandated by s.146(1) of the *Municipal Government Act*, RSA 2000, c M-26 (the “MGA”), section 4.6 of the Council Conduct Bylaw **does not allow** the disqualification or removal from office of a Councillor for any breach of a municipality’s Code of Conduct.

Beyond this, the list of sanctions available to Council is limited. Pursuant to requirements under the MGA, Section 4.5 of the Council Conduct Bylaw mandates an exhaustive list upon determination that a Code of Conduct violation has occurred, including:

- “4.5.1 a letter of reprimand addressed to the Councillor;
- 4.5.2 requesting the Councillor to issue a letter of apology;
- 4.5.3 publication of a letter of reprimand or request for apology and the Councillor’s response;



- 4.5.4 a requirement to attend training;
- 4.5.5 suspension or removal of the appointment of a Councillor as the deputy Mayor or acting Mayor under section 152 of the Act;
- 4.5.6 suspension or removal of the Mayor's presiding duties under section 154 of the Act;
- 4.5.7 suspension or removal from some or all council committees and bodies to which council has the right to appoint members;
- 4.5.8 reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings;"

The introduction of a yearly five time cap for electronic participation in Council meetings risks breaching section 6 of the *Code of Conduct for Elected Officials Regulation, AR 200/2017* which states that "A code of conduct or any sanctions imposed under a code of conduct must not prevent a councillor from fulfilling the legislated duties of a councillor". However, precluding a Councillor from attending more than 5 Council meetings electronically per year would not be interpreted as preventing a councillor from fulfilling their legislated duties as they remain free to attend Council meetings in person.

Under the Municipal Government Act there is currently no requirement for Municipal Councils to allow electronic participation. Based on the wording of the Municipal Government Act administration is of the view that electronic participation in Council meetings is a privilege that may be restricted based on Council's discretion. To date several Alberta municipalities have either not yet considered amendments to their procedure bylaws allowing for electronic participation in Council meetings or have specifically opted not to introduce such changes.

Options for enforcing the proposed yearly 5 time cap pursuant to the revised s. 7.24 may include the following:

- Introducing wording into the Procedure Bylaw mandating that Councillors who wish to attend more than 5 meetings per year by way of electronic participation shall, absent a majority vote, be prevented from doing so;
- Allowing all non-compliance issues to be dealt with by way of the complaints procedure outlined in the Council Code of Conduct;

Alternatives:

Council may consider the following options:

1. Council give third and final reading to Bylaw No. 653-BD-19 as recommended by the Corporate Priorities Committee.
2. Council may postpone the item to a future meeting for further discussion.



3. Council may defeat third reading and continue to operate under the Procedural Bylaw 308 passed in 2012 with amendments.

Recommended Action:

Administration recommends that Council give third and final reading to Bylaw No. 653-BD-19 being the Procedure Bylaw, as presented.

Budget Implications (Yes or No):

No

Submitted by:

Kevin Nagoya, Chief Administrative Officer