A. **Recommendations**

THAT Council receive Staff Report FAF.20.135, entitled “Proposed Revisions to Procedural By-law, Including Consideration of Bill 197, being the COVID-19 Economic Recovery Act, 2020 S.O, c. 18”;

AND THAT, Council direct that all Council Meetings, Committee of the Whole, Committee of Adjustment and Committees of Council continue to meet electronically, pending revision of the relevant Procedural By-laws, and while the Town of The Blue Mountains is in a declared state of emergency in all or any part of the municipality;

AND THAT, if required, Council directs staff to provide Council with a By-law to revise the Procedural By-law at a future Council Meeting for Council consideration.

B. **Overview**

This report provides options to Council for revisions to the Procedural By-law, including consideration of Bill 197 that permits “Electronic Participation in Municipal Meetings” and “Proxy Voting”.

C. **Background**

The COVID-19 Economic Recovery Act, 2020 S.O, c. 18 – Bill 197, came into effect July 21, 2020 and provided changes to various pieces of legislation, including the Municipal Act. Bill 197 made changes to expand the authority for municipalities to amend their Procedural By-law to provide that members of Council and Committees may participate electronically in open and closed municipal meetings and be counted in determining quorum. This authority is expanded beyond the current provision that allows Council and Committee members to participate electronically and be counted in quorum when there is a declared state of emergency in all or any portion of the municipality.
Bill 197 also included provision to provide municipalities with the authority to amend their Procedural By-law to allow members of council who are unable to attend a meeting to appoint a proxyholder to act on their behalf, subject to certain limitations.

It should be noted that the above initiatives are optional and are available to Council, provided that the Procedural By-law is amended accordingly.

Staff are providing additional details below regarding each of the new options available to Council through Bill 197, and are seeking Council direction. Staff recommend that the current electronic participation continue until the relevant Procedural By-law (i.e. Council Procedural By-law, and Committee of Adjustment Procedural By-law) can be revised to reflect Council direction and whilst a declared state of emergency has been declared in all or any portion of the municipality, and be counted in quorum.

D. Analysis

Electronic Participation

Section 238(3.1) and (3.3) of the Municipal Act are provided below for reference, it being noted that Bill 197 repealed and replaced section 3.3 of the Municipal Act that provided that during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the Emergency Management and Civil Protection Act that council and committee members may meet electronically and be counted in determining quorum.

*Procedure by-law*

Electronic participation

238(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 to the extent and in the manner set out in the by-law.

Same

(3.3) The applicable procedure by-law may provide that,

(a) a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and

(b) a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is open or closed to the public. 2020, c. 18, Sched. 12, s. 1 (3).

Staff are seeking Council direction for the following items as it relates to Council, Committee of the Whole, Committees and Committee of Adjustment. With Council direction, staff will then provide Council with the relevant Procedural By-law for consideration:

1. Allow the use of electronic participation? If yes, to what extent? The following options are provided for Council consideration:
   i. Only during a declared state of emergency?
   ii. For Council, Committee of the Whole, Committees of Council, and Committee of Adjustment meetings?
   iii. For open and closed meetings?
iv. Will those members participating electronically be counted in quorum?
v. Limit the number of meetings that each member may participate in electronically on an annual basis? If so, what is the limit (i.e. 25% of meetings, no more than 3 consecutive meetings)
vi. Limit the number of members that may participate electronically in any meeting? If so, what is the limit, a quorum of Council present in the Council Chamber?
vii. Extenuating circumstances, with Council approval by motion, (i.e. family emergency, illness, transportation issues)

It is noted that Staff are currently in the process of implementing a new electronic agenda management system, with a planned rollout of November, 2020. The scheduled November 2020 rollout provides for electronic voting for Committee of the Whole and Council Meetings and satisfies the March 23, 2020 Council direction as noted below:

THAT Council receive Staff Report FAF.20.030, entitled “Proposed Revisions to Procedural By-law 2019-56 as it relates to Recorded Votes”;

AND THAT Council direct staff to provide a further report with draft by-law for Council consideration, including the following:

i) roll call votes continue to be required at Council Meetings;

ii) electronic voting shall be implemented by October 31, 2020, failing which roll call votes will be required at all Council, Committee of the Whole and Committees of Council Meetings, Carried.

The Town’s IT Department has been in discussions with the current live-broadcasting provider and the new agenda management system provider to determine if “hybrid” meetings (with some members present, some members participating remotely) can be accomplished. With Council direction, IT staff will continue these discussions to allow hybrid meetings.

Proxy Voting

Section 243.1(1) to (7) of the *Municipal Act* are provided below for reference, it being noted that Bill 197 provides flexibility to municipalities to allow proxy voting for absent municipal Council members. Municipalities that wish to allow proxy voting are required to amend their procedural by-law to allow a member of Council to appoint another member of the same Council to act in their place when they are absent. Municipalities have the flexibility to determine the scope and extent of proxy appointments, including rules or limitations, the process for appointing or revoking a proxy, and how proxyholders may participate in meetings.

**Proxy vote**

243.1 (1) The procedure by-law may provide that, in accordance with a process to be established by the clerk, a member of council may appoint another member of council as a proxy to act in their place when they are absent subject to the following rules:
1. A member of a local council appointed as an alternate member of the upper-tier council under section 267 may appoint a member of the upper-tier council as a proxy to act in their place when they are absent from the upper-tier council.

2. A member who is unable to attend a meeting of the upper-tier council and for whom an alternate member is appointed under section 267 shall not appoint a proxy.

3. A member appointed as an alternate member of the upper-tier council under section 268 shall not appoint a proxy.

4. A member who is unable to attend a meeting of the upper-tier council and for whom an alternate member is appointed under section 268 shall not appoint a proxy if the appointed member is acting on their behalf at the meeting. 2020, c. 18, Sched. 12, s. 2.

Rules re proxy votes
(2) The following rules apply with respect to the appointment of another member of council to act as a proxy under subsection (1):

1. A member shall not appoint a proxy unless the proxyholder is a member of the same council as the appointing member.

2. A member shall not act as a proxy for more than one member of council at any one time.

3. The member appointing the proxy shall notify the clerk of the appointment in accordance with the process established by the clerk.

4. For the purpose of determining whether or not a quorum of members is present at any point in time, a proxyholder shall be counted as one member and shall not be counted as both the appointing member and the proxyholder.

5. A proxy shall be revoked if the appointing member or the proxyholder requests that the proxy be revoked and complies with the proxy revocation process established by the clerk.

6. Where a recorded vote is requested under section 246, the clerk shall record the name of each proxyholder, the name of the member of council for whom the proxyholder is voting and the vote cast on behalf of that member.

7. A member who appoints a proxy for a meeting shall be considered absent from the meeting for the purposes of determining whether the office of the member is vacant under clause 259 (1) (c). 2020, c. 18, Sched. 12, s. 2.

Pecuniary interest
(3) A member who has a pecuniary interest described in subsection 5 (1) of the Municipal Conflict of Interest Act in a matter to be considered at a meeting shall not, if the interest is known to the member, appoint a proxy in respect of the matter. 2020, c. 18, Sched. 12, s. 2.

Same, pre-meeting discovery
(4) If, after appointing a proxy, a member discovers that they have a pecuniary interest described in subsection 5 (1) of the Municipal Conflict of Interest Act in a matter to be considered at a meeting that is to be attended by the proxyholder, the member shall, as soon as possible,

(a) notify the proxyholder of the interest in the matter and indicate that the proxy will be revoked in respect of the matter; and

(b) request that the clerk revoke the proxy with respect to the matter in accordance with the proxy revocation process established by the clerk. 2020, c. 18, Sched. 12, s. 2.

Same, post-meeting discovery
(5) For greater certainty, if, after appointing a proxy, a member discovers that they have a pecuniary interest described in subsection 5 (1) of the Municipal Conflict of Interest Act in a matter that was considered at a meeting attended by the proxyholder, the appointing member shall comply with subsection 5 (3) of the Municipal Conflict of Interest Act with respect to the interest at the next meeting attended by the appointing member after they discover the interest. 2020, c. 18, Sched. 12, s. 2.

Conflict, etc., proxyholder
(6) For greater certainty, nothing in this section authorizes a proxyholder who is disabled from participating in a meeting under the Municipal Conflict of Interest Act from participating in the meeting in the place of an appointing member. 2020, c. 18, Sched. 12, s. 2.
Regulations, proxy votes

(7) The Minister may make regulations providing for any matters which, in the Minister’s opinion, are necessary or desirable for the purposes of this section. 2020, c. 18, Sched. 12, s. 2.

Staff are seeking Council direction as to whether Council wishes to allow proxy voting. With Council direction, staff will then provide Council with a revised Procedural By-law for consideration:

2. Allow the use of proxy voting? If yes, as is required by the Municipal Act, the Procedural By-law will be revised to reflect this direction, subject to a process as established by the Town Clerk, and approved by Council.

Public Meeting

In accordance with the “Provision of Notice and Manner of Giving Notice to the Public Policy, POL.COR.07.03”, a public meeting is required to receive comments regarding changes to the Town’s Procedural By-law.

3. Public Meeting: Staff require direction as to whether Council wishes to schedule a Public Meeting to receive comments regarding the proposed changes to the Procedural By-law in response to this staff report.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners
Objective #1 Improve External Communication with our Constituents
Objective #2 Use Technology to Advance Engagement
Objective #3 Strengthen Partnerships

Goal #4: Promote a Culture of Organizational & Operational Excellence
Objective #1 To Be an Employer of Choice
Objective #2 Improve Internal Communications Across our Organization
Objective #3 To Consistently Deliver Excellent Customer Service
Objective #4 To Be a Financially Responsible Organization
Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None

G. Financial Impact

“Hybrid” Council Meetings, being a blend of members present in the Council Chamber, and members participating remotely will require upgrades to the current live webcasting and new agenda management system. Additional IT equipment will be required and, if directed by Council, purchased in accordance with the Town’s Purchasing Policy.
H. In consultation with

1. Shawn Everitt, CAO
2. Finance and IT Services

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre. The Council direction sought through this staff report will determine if a Public Meeting will be scheduled. Comments regarding this report should be submitted to Corrina Giles, Town Clerk, townclerk@thebluemountains.ca

J. Attached

None

Respectfully Submitted,

Corrina Giles
Town Clerk

Shawn Everitt
Chief Administrative Officer

For more information, please contact:
Corrina Giles, Town Clerk,
townclerk@thebluemountains.ca
519-599-3131 extension 232