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**TO:** CHIEF ADMINISTRATIVE OFFICER      **DATE:** 2021 September 22

**FROM:** CITY CLERK

**SUBJECT: AMENDMENTS TO THE BURNABY PROCEDURE BYLAW -  
ELECTRONIC MEETINGS AND ELECTRONIC PARTICIPATION IN  
COUNCIL, BOARD, COMMITTEE AND COMMISSION MEETINGS, AND  
PUBLIC HEARINGS**

**PURPOSE:** To amend the Burnaby Procedure Bylaw 2004 to allow electronic meetings and electronic participation in Council, board, committee or commission meetings, and Public Hearings.

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**RECOMMENDATIONS:**

1. **THAT** Council authorize the City Solicitor to bring forward the necessary bylaw amendments to implement the proposed authorizations for electronic meetings and electronic participation in Council, board, committee and commission meetings and Public Hearings, as outlined in the report.
2. **THAT** a copy of this report be sent to all Select Committee, Commission and Board of Variance members and/or organizational representatives for information.

**REPORT**

**1.0 INTRODUCTION**

Since 2020 June 17, local governments have been operating under Ministerial Order M192, which allows local government meetings and Public Hearings to be conducted electronically during the COVID-19 pandemic.

On 2021 June 1, Bill 10 *Municipal Affairs Statutes Amendments Act* was passed. Bill 10 includes changes to the *Community Charter* and *Local Government Act* to provide permanent authority for municipalities to permit, by bylaw, conduct of regular Council and committee meetings electronically, in addition to special meetings and electronic participation by members, as already authorized under the *Community Charter*. These changes will come into force on 2021 September 29.

To continue to provide continuous services, amendments to the Burnaby Procedure Bylaw 2004 are proposed to allow for electronic meetings, and electronic participation in

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regular Council, board, committee or commission meetings, and Public Hearings. In addition, some housekeeping amendments to the Procedure Bylaw are proposed.

## 2.0 POLICY SECTION

This report aligns with the following goals and sub goals of the Corporate Strategic Plan:

### Goals

- A Safe Community
  - Community amenity safety –  
Maintain a high level of safety in City buildings and facilities for the public and City staff
- A Connected Community
  - Digital connection –  
Provide online access to core City services and information
- A Healthy Community
  - Healthy life –  
Encourages opportunities for healthy living and well-being
- A Thriving Organization
  - Communication –  
Practice open and transparent communication among staff, Council and the community
  - Technology and innovation –  
Support technology development and innovation to empower staff and to advance community objectives

## 3.0 ELECTRONIC MEETINGS AND ELECTRONIC PARTICIPATION

Generally, what is meant by electronic meetings versus electronic participation is as follows:

*Electronic meeting – a meeting where all attendees participate electronically, i.e. via Zoom (no physical location for a meeting)*

*Electronic participation – electronic participation of one or more attendees at an in-person meeting (physical location with some attending electronically)*

Currently, the *Community Charter*, Section 128 (Electronic meetings and participation by members) allows electronic meetings for Special Council meetings and electronic participation by members of Council and Committee members, provided it is authorized by the local government's procedure bylaw.

Section 10 of the Burnaby Procedure Bylaw 2004 allows members of Council or board, committee or commission members who are unable to attend a Special meeting to participate in the meeting by electronic means. Section 10(6) of the Bylaw extends the participation to a regular Council meeting and a regularly

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scheduled board, committee or commission meeting in the event of a state of emergency, provincial health emergency or a pandemic declaration.

To continue to protect the health and safety of the public, Council, and enable the provision of continuous services to the community, it is recommended that Section 10 of the Burnaby Procedure Bylaw 2004 be amended to allow for electronic meetings and electronic participation, as described in this report.

### **3.1. COUNCIL MEETINGS**

#### **Currently under the Burnaby Procedure Bylaw:**

##### **Section 6**

- (1) Regular Open Meetings of Council will be held at 6:30 p.m. in Burnaby City Hall in accordance with a schedule of meetings adopted by resolution of Council prior to January 1<sup>st</sup> in each year.
- (2) If a Regular Closed Meeting is cancelled under section 7(4), the Regular Open Meeting will be held beginning at 7:00 p.m. if so directed by the Mayor.
- (5) Council may, by resolution, cancel, reschedule or change the time or location of the meeting, or call an additional meeting at the time and place stipulated in the resolution.

##### **Section 7**

- (1) Subject to subsections (2) and (2a), a Regular Closed Meeting of Council will be held at 6:30 p.m. in Burnaby City Hall immediately following the "Call to Order" of the Regular Open Meeting.

##### **Section 9**

- (1) A Special Meeting may be called in accordance with the provisions of the *Charter*.
- (2) Sections 6 (3), (4), (5) and (6) apply to Special Meetings with any necessary changes

##### **Section 10**

- (1) In accordance with Section 128 of the *Community Charter*, a member of Council or a member of a board, committee or commission who is unable to attend at a Special Council meeting or a Special board, committee or commission meeting, may participate in the meeting by means of electronic or other communication facilities whereby that member can communicate with the members present at the meeting.
- (2) The member presiding at the Special Council, board, committee or commission meeting must not participate electronically.

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- (3) A member unable to attend a Special Council, board, committee or commission meeting, who wishes to participate electronically in the Special meeting must provide notice to the City Clerk of his or her intent at least four hours in advance of the start time of the Special meeting.
- (6) Subsection 10(1) to (5) also apply to a regular Council meeting and a regularly scheduled board, committee or commission meeting in the event of: (a) a State of Emergency declaration by the Federal Government and/or Province and/or the City; (b) Provincial Health Emergency; or (c) a pandemic declaration by the World Health Organization.

### **Proposed Amendments:**

#### **3.1.1. Electronic Council meetings**

Electronic Council meetings to be conducted under the following circumstances:

- Available for Special Council meetings at the discretion of the Mayor;
- Available for Regular Council meetings in special circumstances which prevent or make it difficult for members to attend the meeting in person
  - must give City Clerk 14-days notice;
  - City Clerk to advertise electronic meeting;
  - Notice procedure for notifying public: advertise in the last edition of local newspaper immediately before electronic meeting;
  - post in City's public notice posting place;
- Designated place for public to attend to hear, or hear and watch the electronic Council meeting: Council Chamber or other location specified by the Mayor;
- Designated municipal officer to be in attendance at the designated place: Deputy City Clerk or other person specified by the Mayor.

#### **3.1.2. Electronic participation by Council members and delegation at Council meetings**

Electronic participation by Council members and delegations at Council meeting to be conducted under the following circumstances:

- Available for Regular and Special, Open and Closed meetings;
- Chair and Clerk must attend the meeting in-person;
- Council member may attend electronically up to four (4) times per calendar year, except due to illness or with permission of the Mayor;
- Council member must provide notice of electronic participation to the Clerk no less than four (4) hours in advance of the meeting;
- Delegations can participate by electronic means by providing notice 24 hours prior the meeting, with the consent of the Clerk.

### **3.2. BOARD, COMMITTEE AND COMMISSION MEETINGS**

#### **Currently under the Burnaby Procedure Bylaw:**

##### **Section 10**

- (1) In accordance with Section 128 of the *Community Charter*, a member of Council or a member of a board, committee or commission who is unable to attend at a Special Council meeting or a Special board, committee or commission meeting, may participate in the meeting by means of electronic or other communication facilities whereby that member can communicate with the members present at the meeting.
- (2) The member presiding at the Special Council, board, committee or commission meeting must not participate electronically.
- (3) A member unable to attend a Special Council, board, committee or commission meeting, who wishes to participate electronically in the Special meeting must provide notice to the City Clerk of his or her intent at least four hours in advance of the start time of the Special meeting.

##### **Section 30**

A committee or commission shall meet when directed to meet by resolution of the Council, or at such other times as may be established pursuant to section 35.

##### **Section 32**

The Clerk shall give at least 24 hours notice of a meeting to the members of the committee, board or commission and keep minutes of the proceedings of the committee, board or commission. Failure to give the required notice does not invalidate the conduct of the business at the meeting if the majority of the members of the committee present, by resolution, declare the business to be urgent and waive the giving of the notice.

##### **Section 35**

- (1) The chair of a committee or commission may cancel a meeting, call an additional meeting or change the time or place of a meeting of that committee or commission.

#### **Proposed Amendments:**

##### **3.2.1. Electronic meetings**

Electronic board, committee and commission meetings to be conducted under the following circumstances:

- Special meeting at the discretion of the Chair in consultation with the Mayor;
- Regular meeting in special circumstances which prevent or make it difficult for members to attend the meeting in person;

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- Must give Clerk 14-days notice;
- Clerk to advertise electronic meeting;
- Notice procedure for notifying public: advertise in the last edition of local newspaper immediately before electronic meeting;
- post in City's public notice place.

Unlike for Council meetings, the *Community Charter* provisions to be implemented by Bill 10 does not require a designated place for the public to attend to hear, or hear and watch a board, committee or commission meeting, or a designated municipal officer to be in attendance at such a place. City staff will ensure that the communications platform for conducting the electronic meetings allows the public to hear, or watch and hear, the meeting.

### 3.2.2. Electronic participation by members and delegations

Electronic participation by board, committee and commission members and delegations at a meeting to be conducted under the following circumstances:

- Available for Regular, Special, Open or Closed meetings;
- Chair and Clerk must attend the meeting in-person;
- Committee member may participate electronically up 25% of scheduled meetings per calendar year, except due to illness or with permission of the Chair;
- Committee member must provide notice of electronic participation to board, commission or committee Clerk no less than four (4) hours in advance of the meeting;
- Delegations can participate by electronic means by providing notice 24 hours prior the meeting, with the consent of the board, committee or commission Clerk.

### 3.3. PUBLIC HEARINGS

**Currently under the Burnaby Procedure Bylaw:**

#### Section 8

- (1) A Public Hearing will be held as a Regular Meeting of Council, monthly at 7:00 p.m. in Burnaby City Hall in accordance with a schedule of meetings adopted by Council prior to January 1<sup>st</sup> in each year.
- (2) Council may, by resolution, cancel, reschedule or change the time or location of the meeting, or call an additional meeting at the time and place stipulated in the resolution.

#### Section 10

- (6) Subsection 10(1) to (5) also apply to a regular Council meeting and a regularly scheduled board, committee or commission meeting in the event of: (a) a State of Emergency declaration by the Federal Government and/or

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Province and/or the City; (b) Provincial Health Emergency; or (c) a pandemic declaration by the World Health Organization.

### **Proposed Amendments:**

#### **3.3.1. Electronic meeting**

There is no need to amend the Burnaby Procedure Bylaw to authorize electronic meetings for Public Hearings. The changes to the *Local Government Act* that will be implemented by Bill 10 authorizes Public Hearings to be conducted as an electronic meeting and sets out the requirements in such cases. The communications platform for the electronic meeting must enable participants to hear, or watch and hear, each other and the notice of Public Hearing must include information on the way by which the hearing will be held electronically.

City staff have experience with holding Public Hearings electronically and will ensure that all required legislative requirements are met, as well as taking measures to ensure ease of participation by the public.

#### **3.3.2. Electronic participation by Council members and delegations**

The Burnaby Procedure Bylaw will need to be amended to allow electronic participation by Council members at Public Hearings. The following are proposed such participation:

- Chair and City Clerk must attend the meeting in-person;
- Council member may attend electronically up to four (4) times per calendar year, except due to illness or with permission of the Mayor;
- Council member must provide notice of electronic participation to City Clerk no less than four (4) hours in advance of the meeting.

The intent is to continue the communications platform that the City has been using for Public Hearings which allow electronic participation, and continue to allow the public to make submissions by way of electronic participation for future Public Hearings. Electronic participation by the public, as opposed to Council members, at a Public Hearing does not need to be specifically authorized in the Burnaby Procedure Bylaw. The way members of the public can participate electronically at a Public Hearing will be outlined in the notice of Public Hearing.

## **4.0. AMENDMENTS TO THE PROCEDURE BYLAW**

Based on recommendations noted under Sections 3.1, 3.2 and 3.3 of the report, the following are proposed amendments to the Burnaby Procedure Bylaw:

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- Section 2 - by adding the following definitions:

*“electronic meeting” means a meeting where all attendees participate by means of electronic or other communication facilities;*

*“electronic participation” means participating by means of electronic or other communication facilities;”*

- Section 10 – by repealing the current provisions and substituting the following:

***“Electronic Participation***

***10A. (1) A member of Council or a member of a board, committee or commission who is unable to attend at a Regular Meeting (including a Public Hearing), Special Meeting or a special or regular board, committee or commission meeting, as applicable, may attend the meeting by electronic participation, provided that:***

- (a) the member presiding at the meeting must not attend by electronic participation;*
- (b) the member must provide written notice to the City Clerk of the intent to attend by electronic participation at least four (4) hours prior to the start of the meeting;*
- (c) except in the case of illness or with the permission of the Mayor or Chair, as applicable:*
  - (i) a Council member shall not attend a Regular Council meeting by electronic participation more than four (4) times per calendar year;*
  - (ii) a Council member shall not attend a Public Hearing by electronic participation more than four (4) times per year; and*
  - (iii) a board, committee or commission member shall not attend by electronic participation more than 25% of the regular board, committee or commission meetings scheduled for the calendar year;*



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*(3) A Council member or board, committee or commission member attending a meeting by electronic participation is deemed to be present in the meeting as though he or she is physically present.*

*(4) A delegation or member of the public authorized to address Council or a board, committee or commission may attend the meeting by electronic participation, with the permission of the City Clerk or recording secretary, as applicable, by submitting a written request at least 24 hours prior to the start of the meeting.*

*(5) The City Clerk or recording secretary, as applicable, shall record in the minutes of the meeting the members, delegations and members of the public, as applicable, who attended by electronic participation.*

**Electronic Meetings**

**10B. (1)** *Notwithstanding any other provision of this bylaw, an electronic meeting may be held in the following circumstances:*

- (a) Special Council meeting at the discretion of the Mayor;*
- (b) Special board, committee or commission meeting at the discretion of the Chair, in consultation with the Mayor;*
- (c) Regular Council meeting at the discretion of the Mayor, and regular board, committee or commission meeting at the discretion of the Chair in consultation with the Mayor, in special circumstances which prevent or make it difficult for members to attend the meeting in person, provided the Mayor or Chair, as applicable provides at least 14 days' prior written notice to the City Clerk;*

*(2) For a Special Council meeting and Regular Council meeting held by way of an electronic meeting:*

- (a) the specified place where the public may attend to hear, or watch and hear, the proceedings that are open to the public shall be Council Chamber at City Hall or such other place specified by the Mayor; and*

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*(b) the designated municipal officer in attendance at the specified place shall be the Deputy City Clerk or such other person specified by the Mayor;*

*(3) Notice of an electronic meeting shall be provided in accordance with the following:*

*(a) for a Special Council meeting or Special board, committee or commission meeting, in accordance with Sections 127(2) and 128.1(2) of the Community Charter;*

*(b) for Regular Council meeting or regular board, committee or commission meeting, by posting the notice of electronic meeting at the posting location at least ten (10) days prior to the meeting and publishing the notice in the last edition of the local newspaper prior to the meeting.”*

## **5.0. OTHER HOUSEKEEPING AMENDMENTS**

### **5.1. Regular Meetings vs. Closed Meetings**

Section 2 of the Burnaby Procedure Bylaw 2004 refers to Regular Meeting of Council, whether open or closed, or a Public Hearing, other than a Special Meeting or Inaugural Meeting.

#### ***Recommendation:***

Closed Meeting should only be held when closed items are submitted to the agenda and not regularly scheduled. In order to provide public transparency, it is recommended that the words “Regular Closed Meeting” be replaced with “Closed Meeting” wherever it appears in the Burnaby Procedure Bylaw.

### **5.2. Inaugural Meeting**

Section 5(1) of the Burnaby Procedure Bylaw 2004 provides that an Inaugural Meeting will be held on the first 10 days of November following a general local election. The meeting will be held at 7:00 p.m. at a location to be chosen by the Mayor-elect in consultation with the City Clerk.

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**Recommendation:**

The following amendment is proposed to allow flexibility for when to hold an Inaugural meeting:

*Section 5(1) - An Inaugural Meeting will be held within first 10 days of November following a general local election. The meeting will be held at a time and a location chosen by the Mayor-elect in consultation with the City Clerk.*

**5.3. Regular Open Meetings**

Section 6(1) of the Burnaby Procedure Bylaw 2004 provides that Regular Open Meetings of Council will be held at 6:30 p.m. in Burnaby City Hall in accordance with a schedule of meetings adopted by resolution of Council prior to January 1<sup>st</sup> in each year.

**Recommendation:**

A schedule that is submitted to Council for approval each year incorporates start time of the meetings. The following amendment is recommended to provide flexibility to hold Regular Open Meetings.

*Section 6(1) - Regular Open Meetings of Council will be held in Burnaby City Hall in accordance with a schedule for the date and time of meetings adopted by resolution of Council prior to January 1<sup>st</sup> in each year.*

**5.4. Closed Meetings**

Section 7(1) of the Burnaby Procedure Bylaw 2004 provides that subject to subsections (2) and (2a), a Closed Meeting of Council will be held at 6:30 p.m. in Burnaby City Hall immediately following the "Call to Order" of the Regular Open Meeting.

**Recommendation:**

In conjunction with Sections 5.1 and 5.3 of this report, the following amendment is proposed:

*Section 7(1) – Subject to subsections (2) and (2a), a Closed Meeting of Council will be held in Burnaby City Hall immediately following the "Call to Order" of the Regular Open meeting.*

**5.5. Public Hearings**

Sections 8(1) and 8(3)(ii) of the Burnaby Procedure Bylaw refer to a Public Hearing start time at 7:00 p.m. in Burnaby City Hall in accordance with a schedule of meetings adopted by Council prior to January 1<sup>st</sup> in each year.

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**Recommendation:**

A schedule that is submitted to Council for approval each year incorporates start time of the meetings, and therefore the following amendments are proposed:

*Section 8(1) – A Public Hearing will be held as a Regular Meeting of Council, monthly in Burnaby City Hall in accordance with a schedule for the date and time of meetings adopted by Council prior to January 1<sup>st</sup> in each year.*

*Section 8(3)(ii) – the members present shall direct that the Public Hearing be held or continued at City Hall at a specified time on the next day that is not a holiday, or on the date of the next scheduled Public Hearing.*

5.6. Availability of Council Meeting Agendas

Section 14(3)(i) of the Burnaby Procedure Bylaw 2004 provides that the agenda of Regular Council Meetings must be made available for viewing by the public at 4:30 p.m. on the Friday of the week preceding each such meeting.

**Recommendation:**

The Clerk publishes the agenda on the City’s website at 4:30 p.m. on the Friday of the week preceding each Council Meeting. With the use of social media (i.e. Facebook and Twitter), the staff from Communications Department need to receive a link to the Council agenda earlier in the day so they can promote the upcoming Council meeting. In addition, if staff encounters technical issues with the eAgenda software, additional time is needed to resolve these issues in order to publish the agenda on the website. Therefore, the following amendment is proposed:

*Section 14(3)(i) – Regular Meetings – by 4:30 p.m. on the Friday of the week preceding each such meeting,*

5.7. Chief Administrative Officer

The Burnaby Procedure Bylaw 2004 refers to the City Manager. On 2021 September 7, the City Manager position title was changed to the Chief Administrative Officer.

**Recommendation:**

To reflect the title change, it is recommended that the reference to “City Manager” be replaced with “Chief Administrative Officer” wherever it appears in the Burnaby Procedure Bylaw.

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## TIMELINE

Once Council approves the amendments to the Burnaby Procedure Bylaw proposed in this report, the City Solicitor will bring forward the necessary amendment bylaw for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> readings. Following the three readings, a Notice of Amendment and explanation of the purpose of the bylaw amendments will be advertised in accordance with Section 94 of the *Community Charter*. The advertisement will be placed in the Burnaby Now, once each week for two consecutive weeks. Following the second advertisement, the amendment bylaw will return to Council for reconsideration and final adoption.



Blanka Zeinabova  
CITY CLERK

Copied to: Director Corporate Services  
Director Engineering  
Director Finance  
Director Parks, Recreation and Cultural Services  
Director Planning and Building  
Director Public Safety and Community Services  
Chief Librarian  
City Solicitor