



JOINT BOARD OF MANAGEMENT

Wednesday, April 15, 2020

9:00 AM

Virtual Meeting via Zoom

SPECIAL MEETING

AGENDA

A. Call to Order:

B. Disclosures of Pecuniary Interest:

C. Items for Consideration:

1. UW/10/20 dated April 3, 2020 re: Emergency Measures during an Emergency - Electronic Meetings and Electronic Preparation - Delegation of Authority
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D. Consideration of UWSS Policies

1. UW C01 - Electronic Meetings during and Emergency
Under legal review - will be provided under separate cover
2. UW C01 - Delegation of Authority in Event of Loss of Quorum (COVID19)
Under legal review - will be provided under separate cover

E. Adjournment:

/kmj

UW/10/20

To: Chair and Members of the Union Water Supply System Joint Board of Management

From: Rodney Bouchard, Union Water Manager

Date: April 3, 2020

Re: Emergency Measures during an Emergency
-Electronic Meetings and Electronic Participation
-Delegation of Authority



Recommendation:

It is recommended that:

1. The Union Water Supply System (UWSS) Joint Board of Management resolves to allow for electronic participation in meetings during an emergency as declared pursuant to the Emergency Management and Civil Protection Act; and
2. UWSS administration be directed to bring forward a policy delegating certain duties to the Manager of UWSS in order to ensure continuity for business purposes.

Background

The recent developments regarding COVID-19 both locally and internationally have resulted in numerous recommendations from public health authorities regarding social distancing and group gatherings. On March 17, 2020, the Province of Ontario declared an emergency pursuant to the Emergency Management and Civil Protection Act (EMCPA). The Province further approved Order in Council 519/2020 and 520/2020 ordering the closures of numerous types of establishments and prohibiting organized events of over fifty (50) people.

On March 19, 2020, the provincial legislature passed the Municipal Emergency Act, 2020, amending the Municipal Act, 2001 (the "Act") and the City of Toronto Act, 2006. The amending legislation provides enhanced means for members of municipal councils to meet electronically in situations where emergencies are declared pursuant to the EMCPA.

Discussion

Electronic Meetings and Electronic Participation

The Act requires that each municipality or local board have a procedural policy governing the calling, place and proceedings of meetings. In general, a meeting of the local board occurs where a quorum of local board is present and members advance the business or decision-making of the local board. The reference in the Act to a quorum of members

being present has always been understood to mean that members are to be physically present for a meeting.

Prior to March 19, 2020, the Act allowed for electronic participation in meetings where it was permitted by the municipality's procedure by-law or local board procedure policy. However, there were limitations to any such by-law/ policy, including:

- members participating electronically could not be counted for the purposes of determining a quorum. A quorum of members (7 is quorum for the UWSS Board) was still required to be physically present in order for the meeting to occur; and
- electronic participation was not allowed at a closed meeting.

The UWSS Board has never considered the use of electronic participation however, it should be considered at this time.

On March 19, 2020 the Act was amended removing the above limitations where an emergency has been declared pursuant to the EMCPA; however, a board is still required to include provisions authorizing such meeting methods in its procedural policy. This would generally require a meeting with physical attendances to approve the amendment of the procedural by-law prior to conducting electronic meetings; however, the Province added subsection 238(3.4) to address that issue. Subsection 238(3.4) permits a municipality/ local board to hold a special meeting electronically to amend its procedural policy to allow for electronic participation.

In light of the March 17, 2020 Ontario Emergency declaration in regards to electronic meetings and quorum requirements, the UWSS Manager sought a legal opinion from external legal counsel to ascertain if and how these emergency provisions applied to UWSS. The legal opinion indicates that UWSS appears to meet the definition of a local board and thus the provisions under Bill 187 under the Municipal Act, 2001 applies to UWSS.

The Manager is recommending that procedural policy be created to allow for electronic participation subject to the following requirements:

- an emergency has been declared by the Province or Manager under the Emergency Management and Civil Protection Act.
- members participating electronically shall be counted in determining quorum;
- members participating electronically in a closed meeting shall ensure that they are participating from a location that ensures the privacy and confidentiality of the closed meeting discussions;
- members participating electronically shall advise the office clerk of their intention to do so at least 24 hours prior to the meeting unless circumstances of the emergency to do not permit such notice;
- the Chair, in consultation with the Manager, shall rule on and determine the applicable meeting processes as required to be adapted for electronic participation which processes shall be consistent with the procedural policy and at all times in

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Re: Emergency Measures during an Emergency

compliance with the requirements of the Transfer Order 2001 and the Municipal Act, 2001.

A draft procedural policy for Electronic Meetings and Electronic Participation for UWSS Board meetings has been developed. This draft policy is currently under review by retained legal counsel to ensure that it meets the legal requirements under Bill 187 and/or the Municipal Act, 2001. This draft policy will be provided to Board members under separate cover before the April 15th, 2020 Special Meeting of the UWSS Board.

Delegation of Authority during an Emergency

A draft policy has been developed that contains a number of delegations to the Manager in order to ensure continuity of services and the business of the UWSS to continue in the event of loss of quorum of the Joint Board of Management. The draft policy is similar to the policy enacted during a lame duck period prior to an election. The draft policy is currently under review by retained external legal counsel and will be provided to Board members under separate cover before the April 15th, 2020 Special Meeting of the UWSS Board.

Financial Impact

There is no financial impact associated with this report.

Respectfully submitted,



Rodney Bouchard, Manager
Union Water Supply System Joint Board of Management

rb/kmj

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