

Staff Report 2024-0527

Meeting Date: October 8, 2024
Subject: Procedure By-Law Review Part 12 (Voting)
Submitted By: Kevin Klingenberg, Municipal Clerk, Corporate Services

RECOMMENDATION

That the Procedure By-Law 2015-108, as amended, be further amended to update parts related to voting, as outlined in sections 5 and 6 of the proposed amending By-law attached as Schedule A of Staff Report 2024-0527.

REPORT HIGHLIGHTS

- Voting by showing of hands is proposed to be the default voting method to enable member abilities under the *Municipal Act, 2001* to request a recorded vote.
- Voting procedures are proposed to be further expanded upon within the Procedure By-law with respect to voting by showing of hands, recorded votes, and when votes are deemed to be carried.
- Procedure By-law Part 12 (Voting) is proposed to be deleted, replaced, and renamed as Part 12 (Voting Procedure), with its subsections reflecting voting procedures to be presented in the sequential ordering of before, during, and after the vote.

DISCUSSION

Background

This report is presented as a part of the continuing Procedure By-law review approved by Council at its March 26, 2024 meeting through the approval of [Staff Report 2024-0167](#). Parts 10 (Motions) and 11 (Reconsideration) were scheduled for review in September, and Part 12 (Voting) and Appendix A were scheduled for review in October as part of the work plan. After initial review of the upcoming sections, it was determined that a stronger fit would be to complete these four closely connected sections together in October due to the significant overlap between these parts. This report addresses the completed review of Part 12 regarding voting.

Part 12 was last revised at Council's March 29, 2022 meeting through approval of [By-law 2022-016](#). Voting by showing of hands was permissible prior to this Procedure By-law amendment through subsection 12.1:

- 12.1 The manner of determining the decision of the *Council* or *Committee* on a *motion* where no *recorded vote* is called for shall be at the discretion of the *Presiding Officer*, and may be by a show of hands.

By-law 2022-016 updated and expanded on voting through the replacement of subsection 12.1 and the additions of 12.2 and 12.3:

- 12.1 All votes shall be a recorded and the Clerk shall call out the name of each Member to record their vote.
- 12.2 Every member present at a meeting shall vote on every motion, unless prohibited by legislation. If a Member is present in-person or remotely, and their name is called and no response is given to indicate the vote, the Clerk shall ask one more time, and if no indication of vote, and the Member is present in-person or remotely, the vote shall be deemed to be a negative vote.
- 12.3 The Clerk shall announce the results and record the votes in the minutes.

The purpose of these voting updates in March 2022 as itemized in the By-law 2022-16 whereas clauses and as explained when the By-law was introduced at the March 29, 2022 Council meeting, was a component of a broader effort to adapt to an evolving hybrid Council and Committee meetings due to continuing health and safety precautions arising from the COVID-19 pandemic.

Issues Statement

The health and safety considerations from the COVID-19 pandemic have largely subsided and Council and Committee meeting attendance have primarily returned to in-person. Remote attendance is currently utilized for when members are unable to attend in-person yet still wish to participate at the meeting. The established March 2022 voting procedures to account for a more hybrid environment is no longer relevant for the currently existing mostly in-person meeting environment.

[Municipal Act section 246](#) provides that a member present at a meeting can request a recorded vote. The previous Procedure By-law prior to the March 29, 2022 amendment stated the manner of determining decisions was assigned to the Presiding Officer (Chair) if there was no recorded vote called by another member. Research indicates that this Chair discretion to determine when to complete a recorded vote led to the Chair routinely calling recorded votes for most votes taken.

Recorded votes became the default, subsequently causing a limiting effect on members requesting recorded votes since it was likely anyways to be called as a recorded vote. The Chair subsequently had greater influential effect in determining a recorded vote than what is equally afforded to all members under the *Municipal Act, 2001*. Further, by requiring each vote to be a recorded vote in the current Procedure By-law, member rights in the *Municipal Act* to request a recorded vote are currently unable to occur.

Part 12 issues regarding recorded votes are identified within subsection 12.1 and can be resolved through replacing this subsection with proposed subsections 12.5 and 12.6. The current Part 12 voting instructions are out-of-sequence and voting procedures during votes have limited definition. The balance of issues within Part 12 can be resolved through expanding voting procedure definition, and reordering Part 12 subsections to be in a more understandable sequence of voting considerations for before, during, and after the vote.

Analysis/Options – Voting Procedures Alignment with the Municipal Act and Current Meeting Environment Conditions

It is proposed to return to voting by showing of hands to account for alignment with the *Municipal Act, 2001* recorded vote provisions and the current mostly in-person meeting environment. The previous Chair discretion on the manner of determining the decision of a motion where no recorded vote is called by a member is not proposed to be reintroduced. Voting by showing of hands is instead proposed to become the default voting method, without further Chair discretion, to enable equal member ability under the *Municipal Act* to request a recorded vote. Showing by vote of hands in favour of recorded votes also provides for more efficient meeting proceedings.

Voting by showing of hands is the most practical method in the existing meeting format. Other voting methods, such as standing to vote in favour or opposition, or saying ‘yay’ or ‘nay’ altogether, are therefore not presented as alternative options.

Analysis/Options – Expanded Voting Procedures Defined within Procedure By-Law

Expanded voting procedures for both voting by showing of hands and recorded votes upon request are proposed for added clarity in proposed subsections 12.5 and 12.6. Voting procedures by showing of hands are proposed as follows:

- a) The *Chair* shall ask for all members in favour; and then all members opposed.
- b) *Members* shall indicate their vote by showing of hands.
- c) Failure to vote shall be deemed to be a negative vote unless prohibited by legislation.
- d) The *Chair* may seek confirmation of the votes by the *Clerk*, shall announce the results of the vote, and may direct the *Clerk* to record in the minutes any unanimous vote outcomes.

The Chair’s requirement to ask for all those in favour, followed by all those opposed provides voting clarity, and enables the minority vote to be identified through a vote by showing of hands.

Members can indicate their vote by showing of hands remotely whether by using the raise hand icon feature if not on camera, or with raising their hand in view of the camera when turned on. If the member cannot vote remotely by showing of hands, they may request a recorded vote.

The option of directing the Clerk to record unanimous votes in the minutes intends to account for defining Council or Committee's unity in their vote without the need for a recorded vote to demonstrate a unified vote.

Voting procedures for a recorded vote are proposed as follows:

- a) A *Member* may call for a *recorded vote* immediately prior to or immediately after the taking of the vote.
- b) The *Clerk* shall call out the name of each *Member* to record their vote.
- c) If a *Member* is present, their name is called and no response is given to indicate the vote, the *Clerk* shall ask one more time, and if no vote is given, the vote shall be deemed to be a negative vote.
- d) The *Clerk* shall announce the results, record the names of the *members* who voted for or against the *motion* and who requested the *recorded vote* in the minutes.

The proposed approach aligns with the *Municipal Act* recorded vote provisions which enable members to determine whether there should be a recorded vote. Existing subsections on recorded voting procedures are reordered to provide better procedure sequence. Procedures with respect to members not indicating their vote is also updated to be more succinct, as the practice of the Clerk calling upon a member to indicate their vote applies the same way for members participating remotely and in-person and does not require differentiation.

It is proposed to include recording which member requested the recorded vote in the minutes. The purpose of this addition is to align with recorded vote minute-taking practices in other municipalities and serves as an accountability and transparency measure.

Further expansion is proposed in the Part 12 subsections that define motions which have been deemed to carry. The current Procedure By-law defines majority votes are deemed to carry and motions tie votes are defeated. The proposed updates expand that:

1. Tie votes are defeated in accordance with [Municipal Act section 245](#),
2. A two-thirds vote has been deemed to carry when at least two-thirds of members present vote in the affirmative, and

3. A two-thirds vote is deemed to carry when there is exactly two-thirds of members voting (for example six of nine members) in the affirmative on a two-thirds vote.

These updates to expand the Part 12 subsections defining motions which have been deemed to carry are proposed to provide enhanced clarity on current voting practices and are not proposing any changes to existing practices.

Analysis/Options – Sequential ordering of Voting Procedures

It is proposed to fully delete and replace Part 12 so that subsections may be fully reordered to follow the sequence of voting procedures to be before the vote in subsections 12.1 to 12.4, during the vote in subsections 12.5 and 12.6, and after the vote in subsections 12.7 to 12.11.

Part 12 is also proposed to be renamed from “Voting” to “Voting Procedures” to accurately reflect the proposed sequencing updates.

FINANCIAL IMPLICATIONS

None.

COUNCIL WORK PLAN

Strategic Plan 2023-2035

This report is directly related to the following priority in Caledon’s 2023-2035 Strategic Plan:

Implement improvements to the Town’s governance framework by updating the Procedural By-law.

Service Excellence and Accountability

Details about Caledon’s 2023-2035 Strategic Plan can be found at caledon.ca/strategicplan.

ATTACHMENTS

Schedule A: Proposed Procedure By-law Amendment