



**COMMITTEE OF THE WHOLE
Town Hall – Council Chambers
Monday, May 2, 2016
7:00 pm**

AGENDA

1. Call to Order
2. Moment of Silence – Councillor John Himmelman
3. Approval of the Agenda
4. Approval of the Minutes
5. Action Items
 - 5.1 Grants to Organizations (Discussion)
 - 5.2 RFD 011-2016: Swimming Pool Bylaw
 - 5.3 RFD 012-2016: Electronic Voting Bylaw
 - 5.4 Utility Accounts for Write-Off
6. Information/Discussion Items
 - 6.1. Accounting Activities Report – April 2016
 - 6.2. Heart of the Valley Festival Parade – Council Float
7. Anything by Members
8. Adjournment

TOWN OF MIDDLETON 2016/17 GRANT REQUESTS

May 2, 2016

Organization	Project/Program	2013 Grant	2014 Grant	2015 Grant	2016 Request
AVCC Tourism Committee	Marketing Strategy	0	\$0		\$2,000
Southwest Nova Biosphere	Smartphone map app				\$500
Middleton Fire Department	125th Anniversary			\$ 4,000.00	
Trans County Transportation	Operating Grant	\$1,500	\$2,000	\$1,000	\$2,000
Companion Animal Prot. Society	Operating Grant	\$3,000	\$3,000	\$3,000	\$3,000
A.V. Macdonald Museum	Operating Grant	\$5,000	\$5,000	\$2,500	\$5,000
Heart of the Valley Festival	Annual Festival	\$7,500	\$7,500	\$7,500	\$7,500
AC Ground Search & Rescue	Training Funds	\$1,000	\$1,000	\$1,000	\$1,000
Valley Community Learning	Program Support	\$500	\$500	\$500	
Middleton Rink Commission	Heat pumps/toilets	\$5,000	\$5,000	\$2,500	\$5,000
<hr/> Total		\$23,500.00	\$24,000	\$22,000	\$26,000



REQUEST FOR DECISION
Chapter 45 Swimming Pool Fencing Bylaw
#011-2016

Date: May 2, 2016	Subject: Swimming Pool Fencing Bylaw
Proposal Attached: Yes	Submitted by: Sharon McAuley, Planning Services Coordinator

Proposal:	That Committee of the Whole consider recommending to Council the repeal of Chapter 45 – Swimming Pool Fencing Bylaw at the regular Council meeting scheduled for May 16, 2016.
Background:	<p>In January of 2016 the Town entered into an agreement with the County of Annapolis to provide Building and Fire Inspection Services for the Town of Middleton. As a result, a review is being done of the Town's Building and Fire Bylaws/Policies to ensure they are complimentary with that of the County.</p> <p>To streamline processes for both residents and staff who are providing these services, it is proposed to repeal the Swimming Pool Fencing Bylaw which has already been repealed in the County.</p> <p>The latest version of the Swimming Pool Fencing Bylaw came into effect on January 12, 2005 with the purpose of ensuring that all swimming pools in the Town of Middleton are fenced to prohibit children from gaining unsupervised access.</p> <p>Solicitor advice:</p> <ul style="list-style-type: none"> • Although the Town is not required to have a Swimming Pool Fencing Bylaw, under the MGA the Town has the authority to order that any property or structure which is "dangerous" be made safe. There is no reason why the Town could not rely upon that authority and order the owner of a pool to erect a fence. • It is arguable that the Town is better protected from a claim if the bylaw is repealed. While the bylaw continues to be in force and effect, there is, arguably, a duty upon the Town to conduct inspections to ensure that pool owners are in compliance. If an accident occurred and someone were to find that a pool did not

	<p>meet the standards of the bylaw, a Plaintiff might argue that the Town should bear some responsibility (that it failed to properly investigate). By repealing the bylaw, the Town is signaling to property owners that they alone will be responsible for ensuring the safety of people who may enter upon their property.</p>
Benefits:	<ul style="list-style-type: none"> • Town will no longer be responsible for policing what could be considered as parent/guardian/homeowner's responsibilities. • Processes will match the surrounding municipality. • Reduce risk to the Town.
Disadvantages:	<ul style="list-style-type: none"> • Perception that the Town does not care for the safety of children.
Options:	<ul style="list-style-type: none"> • Status quo. • Repeal the Swimming Pool Fencing Bylaw.
Required Resources:	<ul style="list-style-type: none"> • Bylaw enforcement will be required if the swimming pool fencing bylaw is not repealed.
Source of Funding:	
Sustainability Implications: (Environmental, Social, Economic and Cultural)	
Staff Comments/Recommendations:	
CAO's Review/Comments:	

CAO Initials: RLT

Target Decision Date: May 16, 2016

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Jan 12/05

**TOWN OF MIDDLETON
SWIMMING POOL BYLAW
CHAPTER 45**

1. In this Bylaw, "Swimming Pool" means a container or body of water maintained or used or which may be used for swimming purposes whether above or in-ground and which has any depth of water greater than twenty-four inches, other than an existing natural body of water or stream. It shall also include any such container or body of water as above described belonging to or connected with any type of multiple housing development, motel, hotel, club, or similar establishment. It shall, however, not include an irrigation or fire protection pond, or a fishing or duck pond.
2. No swimming pool shall be constructed in the Town of Middleton after the passage of this Bylaw unless a permit has been obtained therefore from the Building Official of the Town.
3. To obtain a permit, plans and specifications must be submitted to the Building Official and, if it appears that the plans and specifications are in conformity with the requirements of this Bylaw and of all other laws and ordinances applicable thereto, the Building Official shall issue a Building Permit therefore.
4. (a) Every owner of a swimming pool shall erect and maintain at all times around such a pool a fence or other obstruction not less than 1.5 metres (5 feet) in height above ground, so as to prevent entry thereto by any unauthorized persons.

(b) The fence enclosing any swimming pool may have a wall or a wall of a building as part of such fence, provided the said wall is at least 1.5 metres (5 feet) in height, and that if the wall contains any openings that could provide a means of ingress and egress to and from the pool, that such openings be kept locked or blocked at all times when such pool is not under competent supervision.

(c) Every such fence or guarding obstruction shall have a gate or gates constructed of material not less than equivalent strength and which provides an equivalent degree of safety, and every such gate shall be of at least the same height as the said fence or guarding obstruction, be supported by substantial hinges, and be equipped with self-closing, self-latching devices placed at the top and on the inside of the gate.

(d) Every gate shall be kept closed and locked at all times when the pool is not under competent supervision.

(e) No one shall pour, spray, fill or introduce water into any swimming pool, unless a fence has been completely erected around the swimming pool in the manner required by sub-sections (a), (b), (c), and (d) of this section.

(f) An owner of an above ground swimming pool that has walls 90 degrees to the ground, shall construct additional fencing, if necessary, to raise the height of the sides of the pool 1.5 meters (5 feet) above ground level. If the side of the pool is at 90 degrees to the ground and is 1.5 meters (5 feet) above ground level, then only fencing and a gate is required around the access to the pool. If the walls of the above ground pool walls are not at 90 degrees to the ground, then fencing in accordance with this Bylaw is required.

5. Construction Fencing, To prevent persons from accidentally falling into an excavation of a swimming pool, the owner shall erect, at the commencement of excavation, a strongly constructed fence, boarding, or barricade, not less than 1.2 meters (4 feet) in height around the open sides of the excavation area. The safety fence shall be maintained until the permanent fence, required by this Bylaw, is erected."
6. This Bylaw shall come into effect for:
 - (a) all swimming pools to be constructed after the passage of this Bylaw on the date the Bylaw is approved by the Minister of Municipal Affairs, and
 - (b) existing swimming pools, sixty days after the approval of this Bylaw by the Minister of Municipal Affairs.

Approved by Town Council December 5, 1988

Approved by Minister of Municipal Affairs January 12, 1989

THIS IS TO CERTIFY THAT this bylaw amendment, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Town Council by majority vote of the whole Council of the Town of Middleton on the 4th day of January, 2005.

Marianne Daine

Marianne Daine
Deputy Clerk Treasurer

GIVEN under the hand of the Deputy Clerk Treasurer and under the corporate seal of the Town of Middleton this 11th day of January, 2005.

Marianne Daine

Marianne Daine
Deputy Clerk Treasurer

1. Date of Notice to Council Nov 30/04
2. Date of First Reading Dec 06/04
3. Publication of Notice of Second Reading Dec 15/04
4. Date of 2nd Reading & Passing Jan 04/05
5. Date of Publication of Notice of Passing* Jan 12/05

* Effective date of the Bylaw unless otherwise specified in the text of the Bylaw.



REQUEST FOR DECISION
Electronic Voting Bylaw
#012-2016

Date: 28 April 2016	Subject: Electronic Voting Bylaw Chapter 57
Proposal Attached: Yes	Submitted by: Rachel Turner, Chief Administrative Officer

Proposal:	That Committee of the Whole recommend first reading to amend Chapter 57 Electronic Voting Bylaw to Council at the regularly scheduled Council meeting in May 2016.
Background:	<p>Further to the decision by Town Council to provide for electronic voting at the 2016 municipal election, a bylaw outlining the provisions for this method of voting needs to be in force prior to the election. Attached is a proposed amended bylaw, developed by Intelivote, that is being implemented in various other municipal units that have chosen to go forward with electronic voting (Internet and telephone voting).</p> <p>It is required to have a bylaw in force, and the details within the document provide clarity around the various issues of who, what, when and where as they relate to the upcoming municipal election.</p> <p>Council is also being asked to provide clarity on whether or not paper ballots will also be used, or if the only methods utilized will be electronic (Internet and telephone).</p>
Benefits:	
Disadvantages:	
Options:	
Required Resources:	
Source of Funding:	
Sustainability Implications:	

(Environmental, Social, Economic and Cultural)	
Staff Comments/ Recommendations:	
CAO's Review/ Comments:	

CAO Initials: RLT

Target Decision Date: 16 May 2016

CHAPTER 57
ELECTRONIC VOTING BYLAW
TOWN OF MIDDLETON

VOTING BYLAW FOR USE OF ALTERNATIVE VOTING
(INTERNET AND TELEPHONE)

BE IT ENACTED by the Council of the Town of Middleton, under the authority of Section 146A of the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended, as follows:

SHORT TITLE

1. This Bylaw shall be known as Chapter 57 and may be cited as the “Electronic Voting Bylaw”.

DEFINITIONS

2. In this bylaw:
 - a. “Act” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
 - b. “advance poll” means:
 - i. the Tuesday immediately preceding ordinary polling day; and
 - ii. one other day fixed by the Council by resolution that is either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day;
 - c. “alternative polling days” means any hours and dates fixed by a resolution of Council for alternative voting;
 - d. “alternative voting” means voting by telephone or via the internet through the unsupervised use of a personal computing device and includes a combination of telephone and internet voting;
 - e. “ballot box” means a computer database in the system where cast internet ballots and telephone ballots are put;
 - f. “candidate” means a person who has been nominated as a candidate pursuant to the Act;
 - g. “Council” means the Council of the Town of Middleton;
 - h. “Education Act” means the *Education Act* 1995-1996 S.N.S. c. 1, as amended;
 - i. “election” means an election held pursuant to the Act, including a school board election;
 - j. “Election Officer” means an “Election Official” under the Act;

- k. “elector” means a person:
 - i. qualified to vote pursuant to the Act and the Education Act; and
 - ii. entitled to vote on advance polling days for an election pursuant to Section 10 of this bylaw, or entitled to vote on the ordinary polling day;
- l. “final list of electors” means the final list of electors completed pursuant to Section 40 of the Act;
- m. “friend voter” means a friend who votes for an elector pursuant to Section 12 of this by-law;
- n. “Internet ballot” means an image of a ballot on an Internet enabled digital device screen including all the choices available to an elector and the spaces in which an elector marks a vote;
- o. “Municipality” means the Town of Middleton;
- p. “normal business hours” means the time between 8:30 am and 4:30 pm, Monday through to and including Friday;
- q. “ordinary polling day” means the third Saturday in October in a regular election year and in the case of any other election, means the Saturday fixed for the election;
- r. “PIN” means the Personal Identification Number issued to an elector for alternative voting on alternative polling days or on the ordinary polling day;
- s. “proxy voter” means an elector who votes by a proxy pursuant to the Act;
- t. “regular election year” means 2016 and every fourth year thereafter;
- u. “spoiled ballot” means an Internet ballot or telephone ballot that has not been marked for any candidate;
- v. “Returning Officer” means a Returning Officer appointed pursuant to the Act;
- w. “seal” means to secure the ballot box and prevent Internet and telephone ballots from being cast;
- x. “system” means the technology, including software, that:
 - i. records and counts votes; and
 - ii. processes and stores the results of alternative voting during alternative polling days and on the ordinary polling day;
- y. “System Elections Officer” means:
 - i. a person who maintains, monitors, or audits the system, and
 - ii. a person who has access to the system beyond the access necessary to vote by alternative voting;

- z. “telephone ballot” means:
 - i. an audio set of instructions which describes the voting choices available to an elector; and
 - ii. the marking of a selection by an elector by depressing the number on a touch tone keypad.

ALTERNATIVE VOTING PERMITTED

- 3. Subject to this bylaw, alternative voting shall be permitted on alternative polling days and on the ordinary polling day.
- 4. The Municipality may elect to use alternative voting on the ordinary polling day and/or make available the equipment to use alternative voting at any poll.
- 5. Not fewer than sixty (60) days before the ordinary polling day, the Returning Officer is directed to establish procedures and forms for the conduct of voting in accordance with the bylaw and to provide a copy of the procedures and forms to each candidate for election.

NOTIFICATION OF ELECTORS

- 6.0 The Returning Officer shall cause notice of advance poll days to be published in a newspaper circulating in the municipality.
- 6.1 The notice of advance poll days shall:
 - a. identify the advance poll days for paper voting and for alternative voting; and
 - b. inform the elector that telephone voting and internet voting is permitted during alternative polling days.
- 6.2 The notice may include any other information the Returning Officer deems necessary.
- 7.0 The Returning Officer shall cause notice of the ordinary polling day to be published as required by the Act.
- 7.1 The notice may include any information the Returning Officer deems necessary to comply with the Act or this bylaw.

FORM OF TELEPHONE AND INTERNET BALLOTS

- 8.0 A telephone ballot and Internet ballot shall:
 - a. identify by the title “Election for Mayor”, “Election for Councillor” or “Election for School Board Member”, as the case may be;
 - b. identify the name or names by which they are commonly known of the candidates with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names; and
 - c. warn the elector to “vote for one candidate only” or “vote for not more than (the number of candidates to be elected) candidates”, as the case may be.

- 8.1 No title, honour, decoration or degree shall be included with a candidate's name on an Internet ballot or telephone ballot.

OATH

9. Any oath that is authorized or required shall be made in the form required by the Act.

ELECTORS

10. No person shall vote by alternative voting unless:
- a. the person's name appears on the final list of electors on the date chosen by Council for the final list of electors, to be completed pursuant to Section 40 of the Act; **or**
 - b. The person's name does not appear on the final list of electors and:
 - i. the person appears before the Returning Officer during normal business hours during advance polling days; and
 - ii. the person swears an oath in the prescribed form to the Act.

PROXY VOTING

11. A proxy voter shall not vote for an elector by alternative voting.

FRIEND VOTING

- 12.0 A friend voter shall only vote for an elector by alternative voting if:
- a. an elector is unable to vote because:
 - i. the elector is blind;
 - ii. the elector cannot read; or
 - iii. the elector has a physical disability that prevents him or her from voting by alternative voting.
 - b. the elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.
- 12.1 A candidate shall not act as a friend voter unless the elector is a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate.
- 12.2 The elector shall take an oath in the prescribed form to the Act providing that he or she is incapable of voting without assistance.
- 12.3 The friend of the elector shall take an oath in the prescribed form to the Act that:
- a. the friend has not previously acted as a friend for any other elector in the election other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend of the elector;
 - b. the friend will mark the ballot as requested by the elector; and
 - c. the friend will keep secret the choice of the elector.

- 12.4 The Returning Officer shall enter in the poll book:
- a. the reason why the elector is unable to vote;
 - b. the name of the friend; and
 - c. the fact that the oaths were taken.

VOTING

13. The system shall put Internet ballots and telephone ballots cast by an elector in the ballot box.

SEAL

- 14.0 At the close of the alternative polling days, the system shall seal the ballot box until after the close of the poll on ordinary polling day.
- 14.1 The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during advance polling days.

LIST OF PERSONS WHO VOTED

15. At the close of ordinary polling days, the system shall:
- a. generate a list of all electors who voted either manually or by alternative voting; and
 - b. a list of voters who did not vote, if required by the Returning Officer.
16. A printed and electronic copy of the lists under Section 12 shall be delivered to the Returning Officer within twenty-four (24) hours of the close of alternative voting. (this section 16 is not needed if only e-voting is being used.)

COUNTING

17. At the close of ordinary polling day, the system shall generate a count of the telephone ballots and Internet ballots in the ballot box that were cast for each candidate during alternative polling days and on the ordinary polling day.

RECOUNT BY SYSTEM

18. In the event of a recount, the system shall regenerate the election count and a printed copy of the regenerated count shall be given to the Returning Officer.
19. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
- 20.0 If the regenerated count and the initial count do not match, the Returning Officer shall:
- a. direct one final count be regenerated by the system of the votes cast by alternative voting, and
 - b. attend while the final count is being regenerated.

- 20.1 The regenerated final count pursuant to subsection (1) shall be the final count of the votes cast by alternative voting.

RECOUNT BY COURT

- 21.0 For a recount, the judge shall only consider the final count by the system, as determined by Section 21 or 22, of the total number of votes that were cast by alternative voting for each candidate.
- 21.1 The final count by the system, as determined by Section 21 or 22, of the total number of votes that were cast by alternative voting for each candidate, shall be added to the judge's count of the number of votes for each candidate cast by non-alternative voting.

SECRECY

22. An Election Officer and System Election Officer shall maintain and aid in maintaining the secrecy of the voting.
23. Every person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting.

OTHER METHODS OF VOTING

24. Notwithstanding this bylaw, **paper balloting and alternative voting are permitted at advance polls or on the ordinary polling day held pursuant to the Act. . (this section 24 is not needed if only e-voting is being used.)**

SEVERABILITY

25. If a court of competent jurisdiction should declare any section or part of a section of this bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the bylaw and it is hereby declared that the remainder of the bylaw shall be valid and shall remain in force.

PROHIBITIONS

26. No person shall:
- use another person's PIN to vote or access the system unless the person is a friend voter;
 - take, seize, or deprive an elector of his or her PIN; or
 - sell, gift, transfer, assign or purchase a PIN.
27. No person shall:
- interfere or attempt to interfere with an elector who is casting an Internet ballot or telephone ballot;
 - interfere or attempt to interfere with alternative voting; or
 - attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

28. No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

OFFENCES AND PENALTIES

- 29.0. A person who:
- violates any provision of this bylaw; or
 - permits anything to be done in violation of any provision of this bylaw; is guilty of an offence.
- 29.1 A person who contravenes Subsection (1) of this section is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand (\$5,000) dollars and not more than ten thousand (\$10,000) dollars and in default of payment, to imprisonment for a term of two years less a day, or both.
- 29.2 In determining a penalty under Subsection (2), a judge shall take into account:
- the number of votes attempted to be interfered with;
 - the number of votes interfered with; and
 - any potential interference with the outcome of an election.
- 29.3 Pursuant to Section 146A of the Act:
- the limitation period for the prosecution of an offence under this bylaw is two years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed; and
 - The Remission of Penalties Act*, 1989 SNS c.397, as amended, does not apply to a pecuniary penalty imposed by this bylaw.

1. Date of First Reading
2. Publication of Notice of Second Reading
3. Date of 2nd Reading & Passing
4. Date of Publication of Notice of Passing

*Effective date of the Bylaw unless otherwise specified in the text of the Bylaw.

I, Rachel L. Turner, Town Clerk of the Town of Middleton, do hereby certify that the bylaw, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Town Council of the Town of Middleton held on the day of , 2016.

GIVEN under the hand of the Town Clerk and the corporate seal of the Town of Middleton this day of , 2016.

Rachel L. Turner
Town Clerk