

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2008 Legislative Session, Legislative Day No.: July 22, 2008

Resolution No.: 155 AS AMENDED

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Foster, Mr. Harrison, Mr. Pack

A RESOLUTION TO ADOPT A MORATORIUM ON THE PERMITTING OF TELECOMMUNICATIONS TOWERS FOR A PERIOD OF TEN (10) MONTHS PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AS THE COUNTY COUNCIL MAY CONSIDER ADVISABLE TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE

By the Council: July 22, 2008

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, August 12, 2008 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: _____
Secretary

A RESOLUTION TO ADOPT A MORATORIUM ON THE PERMITTING OF TELECOMMUNICATIONS TOWERS FOR A PERIOD OF TEN (10) MONTHS PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AS THE COUNTY COUNCIL MAY CONSIDER ADVISABLE TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the Talbot County Comprehensive Plan includes growth management goals designed and intended to conserve the environmental quality of the County through measures which protect natural resources and environmentally sensitive lands; to conserve and preserve the rural character of the County, and to control development design in order to promote and enhance the physical appearance and rural character of the County; and,

WHEREAS, Talbot County is experiencing a high and increasing demand for the siting and construction of telecommunications towers at various locations throughout the community; and,

WHEREAS, Talbot County desires to review existing requirements in light of changing technology, changing consumer demands, and changes to existing tower infrastructure in the County to evaluate the siting and construction of additional telecommunications towers; and,

WHEREAS the County desires to impose a ten (10) month moratorium to allow the Planning Commission and County staff to study these matters, finalize their recommendations, and propose policy changes to better achieve the goals expressed in the Talbot County Comprehensive Plan before additional development continues that may be contrary or inimical to the goals in the Comprehensive Plan; and,

WHEREAS, completion of this process is anticipated to occur within the ten (10) month period to allow the results of their studies and their recommendations to be considered by the Talbot County Council in connection with enactment of legislation on this subject; and,

WHEREAS, the United States has enacted the Telecommunications Act of 1996, 47 U.S.C. § 332 (c) (7), (“TCA”) which imposes limitations upon the powers of local government to regulate the siting and construction of telecommunications towers, “...to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapid private sector deployment of advanced telecommunications and information technology and services to all Americans by opening all telecommunications markets to competition.” (H.R. Conf. Rep. No 104-8 (104th Cong., 2d Sess. 113 (1996); and,

WHEREAS, Talbot County recognizes its obligation to comply with TCA, desires to promote the objectives of its Comprehensive Plan, and desires to allow the Planning Commission and County staff sufficient time for study and recommendations so that local legislation may be adopted consistent with the requirements of both the TCA and the Comprehensive Plan that will best promote public health, safety, and welfare; and,

WHEREAS, the Federal Communications Commission entered into a formal agreement with the wireless industry on August 5, 1998, which provided that "...moratoria may be utilized when a local government needs time to review and possibly amend its land use regulation to adequately address issues relating to the siting of wireless telecommunications facilities in a manner that addresses local concerns, provides the public with access to wireless services for its safety, convenience, and productivity, and complies with the Telecommunications Act of 1996"; and,

WHEREAS, the said agreement states that "Moratoria should be for a fixed period of time (180 days is a suggested, though not a mandatory, period)"; and,

WHEREAS, the Talbot County Council believes ten (10) months is a reasonable length of time for completion of the study and that a moratorium upon the siting and construction of telecommunications towers for that length of time is necessary to promote public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED:

1. A moratorium on the issuance of permits for approval and construction of new telecommunications towers shall be and is hereby imposed for a period of ten (10) months from and after adoption of this Resolution. This moratorium will not limit co-location of antennas on existing towers or structures but will limit any increase in height on existing towers.

2. This moratorium is adopted to allow sufficient time within which to study this matter fully and to develop comprehensive recommendations:

- (a) to best promote the policies articulated in the Comprehensive Plan;
- (b) to develop suggestions and options to minimize any adverse visual effects of telecommunications towers;
- (c) to consider restriction of towers in certain zoning districts;
- (d) to consider imposition of use standards;
- (e) to consider zoning controls, including overlay zones and floating zones;
- (f) to consider prohibition of facilities in environmentally sensitive areas;
- (g) to obtain such expert advice and assistance as necessary;
- (h) to consider co-location requirements;
- (i) to consider such other matters as the Planning Commission or County staff deem appropriate.

All of which shall comply with the legal requirements imposed by the TCA.

3. This moratorium is a short-term suspension of permit issuing while the County completes its study and finalizes its recommendations. County departments shall, within the framework of their many other responsibilities, continue to accept and process applications (e.g. assign docket numbers and other administrative aspects associated with the filing of applications for approval of tower sites), subject to ordinance provisions as may be revised during the moratorium. All permits issued hereafter shall comply with legal requirements then in effect, which may require the applicant to provide supplemental, new, or different information.

4. This moratorium shall become effective upon adoption of this Resolution.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. 155 having been published, a public hearing was held on Tuesday, August 12, 2008 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time:

Enacted: **August 12, 2008 *AS AMENDED***

By Order: _____
Secretary

Foster - Aye
Pack - Aye
Duncan - Absentee ballot disallowed
because text of original
Resolution was amended prior
to final vote
Bartlett - Aye
Harrison - Aye