

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2009 Legislative Session, Legislative Day No.: September 8, 2009

Resolution No.: 167

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

A RESOLUTION TO EXTEND THE MORATORIUM ADOPTED BY RESOLUTION 155, EXTENDED BY RESOLUTION 163, ON THE PERMITTING OF TELECOMMUNICATIONS TOWERS FOR AN ADDITIONAL PERIOD OF FIVE (5) 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: September 8, 2009

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, October 13, 2009 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: _____
Secretary

A RESOLUTION TO EXTEND THE MORATORIUM ADOPTED BY RESOLUTION 155, EXTENDED BY RESOLUTION 163, ON THE PERMITTING OF TELECOMMUNICATIONS TOWERS FOR AN ADDITIONAL PERIOD OF FIVE (5) 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, by adoption of Resolution 155 on August 12, 2008, Talbot County imposed a ten (10) month moratorium, and by adoption of Resolution 163 on May 26, 2009, that moratorium was extended for an additional four (4) months to allow the Planning Commission and County staff additional time 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 continued that may be contrary or inimical to the goals in the Comprehensive Plan; and

WHEREAS, completion of this process was anticipated to occur within the original and extended moratorium period, which in the event has proven insufficient to allow the results of these 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 additional 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 that an extension of five (5) months from and after October 12, 2009, the current date for expiration of the existing moratorium, is a reasonable length of time to allow the County to enact legislation resulting from the study conducted during the moratorium and that additional length of time is necessary to promote public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED:

1. The existing moratorium on the issuance of permits for approval and construction of new telecommunications towers approved by Resolution 155, extended by Resolution 163, shall be and is hereby extended for a period of five (5) months from and after October 12, 2009 to and including March 12, 2010. 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 extended to allow sufficient additional time within which to finalize recommendations and enact appropriate legislation resulting from the pending study:

- (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 extension of the existing 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 extension of the existing moratorium shall become effective upon adoption of this Resolution, and the five (5) month extension shall commence on October 12, 2009 and conclude on March 12, 2010.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. 167 having been published, a public hearing was held on Tuesday, October 13, 2009 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 second time:

Enacted: **October 13, 2009**

By Order: _____
Secretary

Foster - Aye

Pack - Aye

Duncan - Aye

Bartlett - Aye

Harrison - Aye