

NOTE: A three-minute maximum time limit will be imposed on all comments from the public, regardless of the subject matter. A request form is available from the Deputy Town Clerk; fill it in and return it to her prior to the start of the meeting. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager at the start of the meeting.

TOWN OF BAY HARBOR ISLANDS
PUBLIC HEARING
AGENDA
December 11, 2017

CALL TO ORDER: 9:00 a.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

- 1 **Discussion and approval** of a resolution to impose a temporary moratorium on the approval of registrations and applications for communication facilities, including small wireless facilities and utility poles for collocation of small wireless facilities as defined in section 337.401(7), Florida Statutes for one hundred and eighty (180) days. This item was brought up for discussion by Council Member Salver at a previous meeting. Enclosed is a copy of the proposed resolution.

CONCLUSION OF PUBLIC HEARING - Approximately 9:30 a.m.

Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AGENDA ITEM REPORT

December 11, 2017

ITEM NUMBER: 1

ITEM: Discussion and approval of a resolution to impose a temporary moratorium on the approval of registrations and applications for communication facilities, including small wireless facilities and utility poles for collocation of small wireless facilities as defined in section 337.401(7), Florida Statutes for one hundred and eighty (180) days. This item was brought up for discussion by Council Member Salver at a previous meeting. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

The Florida legislature recently amended F.S. 337.401 to permit communication facilities including small communications facilities and utility poles for collocation of small wireless facilities to be installed upon the Town's right of way.

The proposed moratorium would be imposed for 180 days from the effective date of this resolution approval.

Enclosed is a copy of the proposed resolution.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk
Isaac Salver, Council Member

ATTACHMENTS

1.	Proposed Resolution	Moratorium - Communication Facilities.pdf
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RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA ESTABLISHING A TEMPORARY MORATORIUM ON APPROVING REGISTRATIONS AND APPLICATIONS FOR COMMUNICATION FACILITIES, INCLUDING SMALL WIRELESS FACILITIES AND UTILITY POLES FOR COLLOCATION OF SMALL WIRELESS FACILITIES AS DEFINED IN SECTION 337.401(7), FLORIDA STATUTES FOR ONE HUNDRED AND EIGHTY (180) DAYS UNLESS RESCINDED, OR EXTENDED, OR BY A SUBSEQUENT AMENDMENT TO THE TOWN USE REGULATIONS REGARDING THE REGULATION OF COMMUNICATIONS FACILITIES INCLUDING, SMALL WIRELESS FACILITIES AND UTILITY POLES FOR COLLOCATION OF SMALL WIRELESS FACILITIES AND ESTABLISHING, PURSUANT TO SECTION 337.401(7), FLORIDA STATUTES, THE RATE FOR COLLOCATION OF A SMALL WIRELESS FACILITY ON A TOWN-OWNED UTILITY POLE AT THE HIGHER OF \$150 PER POLE PER YEAR, OR THE HIGHEST AMOUNT ALLOWED BY APPLICABLE LAW.

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the Town of Bay Harbor Islands, Florida (the “Town”), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, Section 337.401, Florida Statutes was recently amended to permit communication facilities including small communications facilities and utility poles for collocation of small wireless facilities to be installed upon the Town’s right of way; and

WHEREAS, in order to promote effective and responsible land use planning within the Town, the Town Council wishes to allow for sufficient time to research, study and analyze the potential impact of the installation of communication facilities including small wireless facilities and utility poles for collocation of small wireless facilities as defined by Section 337.401(7), Florida Statutes within the Town’s right of way; and

WHEREAS, the Town Council finds that a temporary moratorium on approving registrations and applications of communication facilities including small wireless facilities and

utility poles for collocation of small wireless facilities as defined in Section 337.401(7), Florida Statutes in the Town's right of way is in the best interest of the Town; and

WHEREAS, the Town Council also seeks to establish the rate pursuant to Section 337.401(7), Florida Statutes for collocation of a small wireless facility on a Town-owned Utility Pole at the higher of \$150 per pole per year, or the highest amount allowed by applicable law.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Bay Harbor Islands that:

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Moratorium Imposed. A temporary moratorium on approving registrations and applications for communication facilities including small wireless facilities and utility poles for collocation of small wireless facilities as defined by Section 337.401(7), Florida Statutes is hereby imposed.

Section 3. Establishing Rates. The Town pursuant to Section 337.401(7), Florida Statutes, hereby sets the rate for collocation of a small wireless facility on a town-owned Utility Pole at the higher of \$150 per pole per year, or the highest amount allowed by applicable law.

Section 4. Conflicts. In the event that the provisions of this Resolution are in conflict with any other Resolution or ordinance, then the provisions of this Resolution shall prevail.

Section 5. Report. The Town Manager shall bring the counsel a report within 120 days providing recommendations on communication facilities including small wireless facilities and utility poles for collocation of small wireless facilities as defined in Section 337.401(7), Florida Statutes and the zoning districts where they may be permitted in order to research their impact on the area, including any negative impact that may be created by such communications facilities including small wireless facilities and utility poles for collocation of small wireless facilities as defined in Section 337.401(7), Florida Statutes within the Town.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption. The temporary moratorium enacted by this Resolution shall terminate one hundred eighty (180) days from the effective date of this Resolution, unless rescinded or extended, or by an amendment to the Town's Land Development Regulations or use regulation addressing communication facilities including small wireless facilities and utility poles for collocation of small wireless facilities and utility poles for collocation of small wireless facilities as defined in Section 337.401(7), Florida Statutes.

PASSED AND ADOPTED this _____ day of _____, 2017.

By: _____
Jordan W. Leonard, Mayor

ATTEST:

Marlene Siegel
Town Clerk

APPROVED AS TO FORM:

Frank C. Simone, Esq.
Assistant Town Attorney