



Legislation Text

File #: 17-806, Version: 1

TO: Mayor and Commissioners
FROM: R. Max Lohman, City Attorney
DATE: October 17, 2017

ORDINANCE NO. 36-17: ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE CITY OF DELRAY BEACH ON THE SUBMITTAL AND PROCESSING OF APPLICATIONS, AND ISSUANCE OF ANY PERMITS PERTAINING TO COLLOCATION ON EXISTING OR THE CREATION OF NEW UTILITY POLES IN THE RIGHT-OF-WAY TO SUPPORT SMALL WIRELESS FACILITIES OR MICRO WIRELESS FACILITIES UNTIL DECEMBER 31, 2017, TO ALLOW AN OPPORTUNITY TO DEVELOP REGULATIONS CONSISTENT WITH CHAPTER 2017-136, REGULATIONS LAWS OF FLORIDA. (SECOND READING)

Recommended Action:

Motion to Approve Ordinance No. 36-17, as presented on second reading.

Background:

During the 2017 Legislative Session, the state legislature passed House Bill 687 amending Section 337.401, *Florida Statutes*, creating what is known as the "Advanced Wireless Infrastructure Deployment Act". This legislation was approved by the Governor on June 23, 2017, and became effective on July 1, 2017, under Chapter 2017-136, Laws of Florida. The law establishes a process by which wireless providers may place certain "small wireless facilities" on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way that are under the jurisdiction and control of an "authority" including the City of Delray Beach. The law provides that the city may not prohibit, regulate, or charge for the collocation of small wireless facilities or micro wireless facilities in the public rights-of-way, except as specified in the statute. The City of Delray Beach currently has regulations pertaining to such facilities within its Code of Ordinances, specifically codified within Chapter 57, "Right-of-Way Application Process for Communication Facilities," which need to be evaluated in light of the new law. City staff has not had adequate time to evaluate the impacts or address local issues that are presented by the new law and take action accordingly.

The proposed moratorium provides direction for the Planning, Zoning and Building Department, Public Works Department, and the City Attorney's Office to initiate a review of the City's Code of Ordinances, Chapter 57, "Right-of-Way Application Process for Communication Facilities", and prepare a staff report containing recommendations as to the appropriate steps forward to best support and regulate this new technology and address potential impacts on the quality of life for the surrounding community, and to present such report to the City Commission for consideration.

The moratorium will be in effect until December 31, 2017.

City Attorney Review:

Approved as to form and legal sufficiency.

Finance Department Review:

N/A

Funding Source:

N/A

Timing of Request:

The timing of the moratorium is critical based upon the recent effective date of the new law.