

ORDINANCE NO. 3961

AN ORDINANCE to amend and reordain Ordinance No. 2165, to grant a two-year extension of franchise rights to Bell Atlantic-Virginia, Incorporated, formerly known as the Chesapeake and Potomac Telephone Company of Virginia.

WHEREAS, on March 22, 1977, the City Council of Alexandria enacted Ordinance No. 2165, granting a franchise to the Chesapeake and Potomac Telephone Company of Virginia and its successors and assigns "to use the streets, alleys, and other public places" of the City of Alexandria "and to acquire, erect, maintain and use posts, poles, wires, manholes, ducts, cables, conduits, electrical conductors, fixtures, appliances, appurtenances, and all other necessary apparatus in, under, over and along the streets, alleys and public places of the City for the purpose of providing a telephone and telegraph service and system within the corporate limits of the City;"

WHEREAS, section 17 of Ordinance No. 2165 provides that the franchise rights and privileges provided by the ordinance are to continue for a term of twenty years from the first day of May 1977;

WHEREAS, the twenty-year term contemplated in Ordinance No. 2165 expired on May 1, 1997;

WHEREAS, Bell Atlantic-Virginia, Incorporated, was formerly known as the Chesapeake and Potomac Telephone Company of Virginia;

WHEREAS, on March 18, 1997, the Virginia General Assembly approved legislation amending and reenacting sections 56-458 and 56-462 of the Code of Virginia, relating to payments by telephone companies to local governments for the use of the localities' rights-of-way;

WHEREAS, this legislation prohibits cities in the Commonwealth from imposing on telephone companies any fees, including franchise, permit and inspection fees, and from requiring the provision of in-kind services or physical assets from such companies, in return for the right to use any public rights-of-way, except to the extent that such fees, in-kind services or physical assets were required to be provided by ordinance, permit, agreement or franchises as of February 1, 1997;

WHEREAS, this legislation is effective until July 1, 1998, at which time it will expire; and

WHEREAS, it is expected that the General Assembly will enact new legislation during its 1998 Session, with a July 1, 1998, effective date, which will address the fees, in-kind services and physical assets that the city and other Virginia local governments may impose on Bell Atlantic-Virginia, Incorporated, in return for authorizing the use of public rights-of-way;

WHEREAS, until the enactment of such permanent legislation, the question of the city's authority to impose any fee, in-kind service or physical asset requirement upon Bell Atlantic for its use of the city's rights-of-way is subject to question;

WHEREAS, the city council has determined that a decision on a new long-term franchise for Bell Atlantic-Virginia, Incorporated,

which grants it rights to use the city's rights-of-way, cannot be made until after the enactment by the General Assembly of the above-referenced permanent legislation and, consequently, that it is in the public interest to extend for two years the franchise granted to Chesapeake and Potomac Telephone Company of Virginia, and its successors and assigns, by Ordinance No. 2165, to provide the city and Bell Atlantic-Virginia, Incorporated, approximately 10 months after the effective date of the permanent legislation to negotiate a new long-term franchise; now, therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That, pursuant to Article VII, Section 9 of the Virginia Constitution and Article 2 of Chapter 9 of Title 15.1 of the Code of Virginia, Section 17 of Ordinance No. 2165, which sets the term of the franchise that the ordinance grants to the Chesapeake and Potomac Telephone Company of Virginia its successors and assigns, at 20 years, be, and the same hereby is, amended to set the term at 22 years, such that the franchise shall expire on April 30, 1999, unless sooner voluntarily surrendered by the franchisee, with the consent of the city council, or unless sooner forfeited as provided by law.

Section 2. That Ordinance No. 2165, as amended by Section 1 of this ordinance, be, and the same hereby is, reordained.

Section 3. That this ordinance shall be effective as of April 30, 1997.

KERRY J. DONLEY  
Mayor

Introduction: 10/14/97  
First Reading: 10/14/97  
Publication: 10/16/97  
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