



Development Advisory – 24 September 17, 2014

Policy Change – Effective Immediately

Development Within Franchise Utility Transmission Easements and Right-of-Way

The City Attorney's Office has reviewed the Development policies of the City related to projects that have the potential to affect Franchise Utility Transmission Easements and Right-of-Way (UTE). This review was triggered in part by pending litigation regarding the construction of public facilities within a UTE and in part due to new policies implemented by Dominion Virginia Power. The City wants to ensure that its policies meet utility safety concerns, and minimize the risk of any City liability associated with the construction of public facilities within any UTE. The City also wants to assist developers in minimizing their risks of proceeding with improvements without the desired Franchise Utility Approvals.

Effective immediately, the City will be requiring consent letters for proposed public improvements within a UTE prior to construction plan approval. Consent letters shall also be required for private improvements that are a requirement of the City Code. Consent letters are strongly recommended for private improvements that are not required by the City Code.

In the event the development is already under construction, the consent letter, if required, must be provided before the City takes any new action on the development (i.e. plan approval, permit issuance, plat recordation, certificate of occupancy, or acceptance of public facilities). For new developments, the City will continue to review plans, but will withhold plan approval until any required consent letter is received. Dominion Power has assured the City Manager's Office that its approvals will not be unreasonably withheld and that its reviews will take approximately 3 weeks. The contact for Dominion Power is Joe Ragland and he can be contacted at 757-817-8895.

In addition to the above, the City will also be requiring consent letters from the appropriate franchise utility for the relocation, resizing, or reconfiguration of any existing **public easement or public facilities** presently existing in a UTE.

The City reluctantly changes development policies without advanced notice to stake holders, without the opportunity to have input. However in this case, the City Manager's Office has determined this immediate policy change is necessary after consultation with the City Attorney's office. The City is working with franchise utility companies in an attempt to develop a more flexible policy and/or consent process in the future that might include guidance on the maximum uses of property that are not inconsistent with the purpose and use of a UTE.

Any engineering and construction questions should be directed to jtate@cityofchesapeake.net. Legal questions should be directed to Kelly Lackey at 382-6586 in the City Attorney's Office.