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TO: Brandermill Board members and General Manager Cynthia Wright

FROM: Greg Pearson

DATE: July 10,2017

RE: **Brandermill Docks**

**1. President Charlie Davis should recuse himself because:**

- A. He is a paid lobbyist (ATTACHMENT A, PAGE 1) for Chesterfield County which has the legal requirement by the county, state and federal governments for conducting dock and waterfront inspections.
- B. His dock is one of those not yet inspected.

**2. The size of the problem:**

- A. I took a pontoon boat ride last week and counted the number of private docks Brandermill currently has south of the Genito Road bridge. There were 79 total plus another 16 boats moored to the bank (typically tied to a tree) without a dock. There are additional docks in the Reservoir north of the bridge that I could not access by boat.
- B. According to a Chesterfield FOIA Request, there are only 15 boat docks that have been inspected in Brandermill by the County (ATTACHMENT B, PAGES 3-5).
- C. Some Brandermill residents continue to follow the County legal requirements (ATTACHMENT B, PAGE 6). Dock inspections in Shallowford Landing and Winterberry Ridge were completed earlier this year.
- D. Of the 64 uninspected docks, one of them is for a current or former Board president and at least three others are owned by former BCA Boards members.

**3. The purpose of the inspections:**

- A. The County ordinance, state law and Chesapeake Bay Act exist to protect water quality.
  - 1) The Swift Creek Reservoir is one of three drinking water sources for Chesterfield, providing 7.5 million gallons daily.
  - 2) Because Chesterfield owns the rights to the water, it is our least expensive water source. The other two – the James River purchased from the city of Richmond and the Appomattox River Water Authority – charge for drinking water.
  - 3) These laws and procedures protect Brandermill from the loss of its number one amenity—the Swift Creek Reservoir. According to the 1974 zoning case that created Brandermill, if the County stops using the Reservoir because of poor drinking water quality, the land under the Reservoir reverts back to its owners. Those four owners could then drain all 1,700 acres of the Reservoir and develop it or sell it to some company, which would likely develop it. Property values in Brandermill would then plummet.
  - 4) During the process of setting the maximum phosphorous load for development in the Upper Swift Creek Watershed some 15 years ago, Chesterfield's former Director of Environmental Engineering (Dick McElfish) said the normal lifespan of a man-made reservoir was 30-40 years. The Swift Creek Reservoir is now 43 years old.
- B. Four County departments are involved in the dock inspections (ATTACHMENT C, PAGE 1).

- C. The Chesterfield Water Quality Manager points out (ATTACHMENT C, PAGE 1) that the inspections are required by County law, which is audited by the Virginia Department of Environmental Quality in compliance with the Chesapeake Bay Act, a federal law.
  - D. Part of the inspection process for Brandermill includes permission from adjacent landowners and the BCA (ATTACHMENT C, PAGE 1).
  - E. The referenced paragraph Section 19.1-524.A.2 of the County ordinance (ATTACHMENT C, PAGE 2) is included. The entire ordinance of 27 pages is available, if requested.
  - F. The County's current application form for applying for a dock (ATTACHMENT C, PAGES 3-4) is provided.
4. **BCA Policy and Procedures:**
- A. On May 4, 2009, the BCA Board unanimously approved the BCA Shoreline Buffer Modification Policy (ATTACHMENT D, PAGE 3) with the motion being made by Dr. Bob Friedel. It required waterfront homeowners to submit an application to the BCA Environmental Committee and for review by the Architecture Review Board before being approved (ATTACHMENT D, PAGE 4) by Brandermill and sent to the Chesterfield County for its approval process.
    - 1) A Waterfront Task Force had been established, headed by then President Joyce Rowe and four other resident members. The stated purpose was to conform to "local, state and federal regulations" (ATTACHMENT D, PAGE 4).
    - 2) According to a former Environmental Committee member, a subsequent Board eliminated the BCA Environmental Committee and didn't implement the ARB process. The Environmental Committee was reorganized out of existence.
    - 3) A review of subsequent Board minutes shows this Policy was not changed or rescinded.
  - B. At the September 8, 2009 Board meeting, the BCA Board voted 5-1 to establish the Waterfront Easement & Maintenance Covenant Agreement with Director Friedel voting approval (ATTACHMENT E, PAGE 9).
    - 1) That agreement set BCA policy for application and approval process "for any activity in the Resource Protection Area along the shore of the Swift Creek Reservoir in Brandermill" (ATTACHMENT E, PAGE 1).
    - 2) A review of subsequent Board minutes shows this Policy was not changed or rescinded.
5. **Motions:**
- A. To have the Brandermill General Manager draft correspondence to Chesterfield County Administrator Joe Casey and copy the department heads of Planning, Utilities, Environmental Engineering and Right of Way asking for the immediate resumption of inspections for the buffer zones and docks of Brandermill waterfront properties.
  - B. To have the Brandermill General Manager draft correspondence to be sent to all Brandermill waterfront property owners detailing the procedures for the approval process for applying for a boat dock and advising them of the pending waterfront inspections by Chesterfield County.
  - C. To have BCA staff determine the companies or individuals who have constructed boat docks for Brandermill property owners. The Brandermill General Manager would then draft correspondence to those companies or individuals informing them of the approval process for future boat docks.

- D. To require all future requests for docks be reviewed and recommended by the ARB before forwarding the application to Chesterfield County officials for consideration.