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LBA/LBWID Liability Regarding the Dam & Parcel 165 Questions Submitted by Lake Barcroft Residents & Answers (11/7/2024)

1.

Question: Who are the current WID Trustees? How are WID Trustees selected, both as a technical legal matter and in practice? And how long do they serve?

Answer: Answer: The current three LBWID trustees are Alan Pisarski, Brenda Pierce and Jim Simonson. In the Virginia Code sections under which a watershed improvement district (a "WID") is created, there are only a few provisions regarding selection of a WID trustee and his/her term of service. The Code states that a WID shall have three trustees and each trustee must be an owner of land within the WID's taxing district. Appointment of a trustee must be approved by the governing body of a WID, which in the case of our LBWID is the Northern Virginia Soil and Water Conservation District (the "District"). The three trustees shall designate one of themselves to be the chairman and another to be the treasurer. No term limit is specified, and instead, the Code says that a trustee serves at the will of the governing District. See VA Code 10.1-623.

Recognizing that these limited Code provisions include little guidance on how trustees should be nominated for appointment and their term of service, in 2003 and with an update in 2022, LBWID and LBA developed more detailed procedures for filling LBWID Trustee vacancies and for setting term limits. Under these procedures, a Trustee serves for a five-year term, which can be renewed twice for up to 15 total years. Renewal of a second and third term require approvals from the other Trustees, the LBA president and vice president and the governing District. When a Trustee's term is about to expire and is not being renewed or when a trustee plans to resign for other reasons, a nomination committee is created to identify a replacement trustee to submit to the governing District. The committee consists of two persons selected by the remaining two Trustees (and they may select themselves) and two persons selected by the LBA president (one of whom may be the president). Notice of the vacancy is given to the Lake Barcroft community and interested candidates are solicited and any interested individual may apply. The nominating committee then vets potential candidates. After the conclusion of that process, the committee selects a nominee based on a majority vote (three of four on the committee), and the nomination is advanced to the governing District. If the District approves the nomination, the recommended candidate becomes the new trustee. If the District does not approve the nomination (which has never happened), the selection process would start over again.

2.

Question: Who is representing LBA in these negotiations and in the analysis of the proposed transaction?
Thanks

Answer: LBA is being advised by two law firms: Pender & Coward, and Chadwick Washington.