

VIRGINIA: IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

In Re: A Petition of at Least 11,209 Registered Voters Residing in Prince William County for Judicial Recall of Ann Betteridge Wheeler, Chairman of the Board of Supervisors for Prince William County.

Ann Betteridge Wheeler
Respondent

PETITION

1. Ann Betteridge Wheeler is the Chairman of the Board of Supervisors for Prince William County duly elected to office in 2019 by a majority of qualified voters. The total votes cast in that 2019 election for Chairman of the Board of Supervisors in the 2019 election totaled 112,089.
2. This petition seeks the judicial recall of Ann Betteridge Wheeler pursuant to § 24.2-233 of the Code of Virginia (1950) as amended for neglect of duty and misuse of office where that neglect of duty and misuse of office has had a material adverse effect upon the conduct of the office and has been signed by at least 10% or at least 11,209 qualified registered voters living in Prince William County.
3. The undersigned qualified voters of the Prince William County seek the immediate suspension of Ann Betteridge Wheeler from the Prince William County Board of Supervisors upon the filing of this petition, as allowed for by § 24.2-236 of the Code of Virginia (1950) as amended, and subsequently set a trial for her removal from office.

FACTS

1. This petition involves the conduct and actions of Ann Betteridge Wheeler from January 1, 2020 to the present, occurring in Prince William County.
2. On February 3, 2020, Ann Betteridge Wheeler filed a Virginia Conflict of Interest and Ethics Council State and Local Statement of Economic Interests, listing stock holdings in Amazon, Inc. valued at \$5,001 to \$50,000. (see Exhibit A).
3. On February 1, 2021, Ann Betteridge Wheeler filed a Virginia Conflict of Interest and Ethics Council State and Local Statement of Economic Interests, listing stock holdings in Amazon.Com, Inc. valued at \$50,001 to \$250,000 and Microsoft Corp. valued at \$50,001 to \$250,000. (see Exhibit B).
4. On February 13, 2022, Ann Betteridge Wheeler filed a Virginia Conflict of Interest and Ethics Council State and Local Statement of Economic Interests, listing stock holdings in

Amazon.Com, Inc. valued at \$50,001 to \$250,000, Blackstone, Inc. valued at \$50,001 to \$250,000 and Microsoft Corp. valued at \$50,001 to \$250,000. (see Exhibit C).

5. Additionally, those Statements of Economic Interest indicate that between February 2020 and February 2021, Ann Betteridge Wheeler invested in at least seven data center industry stocks specifically
 - Advanced Micro Devices, Data Center processors and accelerators (\$5k - \$50k)
 - CrowdStrike Holdings, Data Center cloud security solutions (\$5k - \$50k)
 - Generac Holdings Inc, Data Center modular power systems (\$5k - \$50k)
 - Honeywell International Inc, Data Center operations & performance analytics products (\$5k - \$50k)
 - Keysight Technologies Inc, Data Center infrastructure provider (\$5k - \$50k)
 - Plug Power, Data Center fuel cells and power solutions (\$50k - \$250k)
 - Twilio Inc, Data Center cloud based contact center (\$50k - \$250k)
 - NVIDIA, Data Center, Data Center computing platforms (\$50k - \$250k)
 - General Electric, Data Center power solutions (\$50k - \$250k)
6. At the February 18, 2020 Prince William County Board of Supervisors Meeting (hereafter BOCS Meeting), Ann Betteridge Wheeler voted to advertise the Fiscal Year 2021 tax rate for Business Tangible Personal Property: Programmable Computer and Peripherals Used in a Data Center (See Exhibit D).
7. At the April 28, 2020 BOCS Meeting Wheeler voted to adopt the Fiscal Year 2021 Real Estate Property Tax Levy, Fire Levy, Personal Property Tax Levies, Business, Professional, and Occupation License Tax Levies, Personal Property Tax Relief, Special District Levies, and Parks, Recreation, and Tourism Fees to Support the Fiscal Year 2021 All Fund Budget which include the Computer Peripherals Tax applied to data centers (See Exhibit E).
8. At the March 2, 2021 BOCS Meeting Ann Betteridge Wheeler voted to Advertise the Tax Rates and Fees Necessary to Support the County Executive's Proposed Fiscal Year 2022 Budget which include the Computer Peripherals Tax applied to data centers (see Exhibit F).
9. At the March 2, 2021 BOCS Meeting Ann Betteridge Wheeler supported the staff directive to bring the Board recommendations to expand and change the Data Center Overlay District (see Exhibit F).
10. At the April 27, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to adopt the Fiscal Year 2022 Real Estate Property Tax Levy, Fire Levy, Personal Property Tax Levies, Business, Professional and Occupational License Tax Levies, Motor Vehicle License Tax Levies, Personal Property Tax Relief, Special District Levies, and Parks, Recreation and Tourism Fees to Support the Fiscal Year 2022 All Funds Budget which include the Computer Peripherals Tax applied to data centers (see Exhibit G).

11. At the May 4, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to Support the Goal of a Gradual, Predictable Increase on Business Tangible Property Tax for All Computer and Peripheral Equipment; and Direct the County Executive to Include the Gradual, Predictable Increase in the Proposed Budgets for Fiscal Year 2023, Fiscal Year 2024, and Fiscal Year 2025 (see Exhibit H).
12. At the May 18, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to Initiate a Zoning Text Amendment for Data Center Opportunity Zone Overlay District and Subsequent Changes to the Comprehensive Plan and Design and Construction Manual (see Exhibit I).
13. At the June 15, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to ratify the execution of the agreement between NVC Development LLC and Prince William County; and Budget and Appropriate a Total of \$131,644 in Reimbursements from NVC Development LLC and Microsoft Corporation in Connection with Agreements for Construction of Improvements and Right-of-Way to the Balls Ford Road Widening Project (see Exhibit J).
14. At the July 13, 2021 BOCS Meeting, Ann Betteridge Wheeler participated in consultation with legal counsel regarding legal advice regarding tax assessment law, and actual or probable litigation in the matters of Board of Equalization 2018 tax assessment cases regarding: 10880 Airman Avenue, Manassas 20110, 8217 Linton Hall Road, Bristow, VA 20136, 9651 Hornbaker Road, Manassas, VA 20109, 15435 John Marshall Highway, Haymarket, VA 20169, 7400 Infantry Ridge Road, Manassas, VA 20109, and 11680 Hayden Road, Manassas, VA 20109, at least one of which is operated by Amazon Data Services, Inc. (see Exhibit K).
15. At the July 20, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to initiate Comprehensive Plan Amendment #CPA2021-00005, Compton Property – Amazon Data Services (see Exhibit L).
16. At the July 20, 2021 BOCS Meeting, Ann Betteridge Wheeler voted to initiate Comprehensive Plan Amendment #CPA2021-00004, PW Digital Gateway – Gainesville Magisterial District (see Exhibit L).
17. At the December 7, 2021 BOCS Meeting, Ann Betteridge Wheeler participated in a closed meeting for consultation with legal counsel regarding legal advice regarding tax assessment law, and actual or probable litigation in the matters of Board of Equalization 2018 tax assessment cases regarding several data centers in Prince William County (see Exhibit M).
18. At the January 18, 2022 BOCS Meeting Ann Betteridge Wheeler voted to Budget and Appropriate – \$111,909 in Building Development Fee Revenue, \$7,801 in Fire Marshal’s Office Development Fee Revenue, \$243,054 from the Building Development Fee

Reserve, and Transfer, Budget, and Appropriate \$34,741 from the Economic Development Opportunity Fund and \$126,987 from the General Fund to the Department of Development Services and Fire Marshal's Office for Increased Staffing to Support the Targeted Industry Program (see Exhibit N).

19. At the January 18, 2022 BOCS Meeting, Ann Betteridge Wheeler voted "nay" to direct Staff to Postpone for Four to Six Weeks the Data Center Opportunity Zone Overlay District Community Meeting Scheduled for January 20, 2022 (see Exhibit N).
20. At the March 1, 2022 BOCS Meeting, Ann Betteridge Wheeler voted "aye" to Transfer, Budget, and Appropriate – \$300,000 in Proffer Funds to the Pageland Lane Right Turn Lane Project that directly impacts CPA2021-00004 to which Blackstone, Inc. is a party (see Exhibit O).
21. At the May 26 BOCS Meeting, Ann Betteridge Wheeler voted on the adoption of the Fiscal Year 2023 Real Estate Property Tax Levy, Fire Levy, Personal Property Tax Levies, Business, Professional and Occupational License Tax Levies, Motor Vehicle License Tax Levies, Personal Property Tax Relief, Special District Levies, and Parks, Recreation, and Tourism Fees to Support the Fiscal Year 2023 All Funds Budget (see Exhibit P).
22. Upon information and belief, Ann Betteridge Wheeler has participated in closed meeting discussions regarding many of the above matters as well as undisclosed economic development matters involving entities in which she has significant stock holdings.
23. Upon information and belief, Ann Betteridge Wheeler has not completed training on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) as required under § 2.2-3132 of the Code of Virginia.
24. Upon information and belief, Ann Betteridge Wheeler has not sought and/or received counsel from the County Attorney or the Commonwealth's Attorney for Prince William County regarding conflicts of interest posed by her stock holdings.

NEGLECT OF DUTY AND MISUSE OF OFFICE

25. All previous paragraphs are attached and incorporated herein.
26. Subsequent to January 1, 2020, Ann Betteridge Wheeler has willfully participated in open and closed meeting discussion, consideration and/or vote on matters involving entities whose stock she owns.
27. Upon information and belief, Ann Betteridge Wheeler has willfully failed to complete training on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) as required under § 2.2-3132 of the Code of Virginia.

28. Subsequent to January 1, 2020, Ann Betteridge Wheeler has willfully violated numerous provisions of Chapter 31 of the Code of Virginia.
29. For the forgoing reasons, Ann Betteridge Wheeler has willfully committed knowing violations of § 2.2-3122 of the Code of Virginia which constitutes malfeasance in office.
30. Upon information and belief, Ann Betteridge Wheeler's participation in the transactions only affects her personal interest.

MATERIAL ADVERSE EFFECT

31. As a result of her actions subsequent to January 1, 2020, Ann Betteridge Wheeler has placed her own personal and financial interests above those of the residents of the Prince William County.
32. As a result of her actions, Ann Betteridge Wheeler has selectively voted on land use matters within Prince William County, votes which she should have been disqualified from casting.
33. As a result of her actions, Ann Betteridge Wheeler has cast doubt on the legitimacy of votes by the Prince William County Board of County Supervisors.
34. Ann Betteridge Wheeler has participated in the discussion, consideration and/or vote on matters before the BOCS without disclosure of her personal investments in the parties involved.
35. Ann Betteridge Wheeler has voted in the affirmative on the expenditure of public funds on public projects that would benefit her personal and financial interests.
36. Ann Betteridge Wheeler has voted on proposed tax rates that would benefit her personal and financial interests.
37. The residents of Prince William County have already suffered demonstrable harm that will continue until Ann Betteridge Wheeler is removed from office.
38. The undersigned qualified voters of Prince William County find that each of the foregoing grounds could be deemed severable.

Wherefore, voters consisting of at least 10% of the votes cast in the 2019 election, or at least 11,209 qualified voters residing in Prince William County move this Court for the removal of

Ann Betteridge Wheeler, Chairman of the County Board of Supervisors, from office immediately.

Petition Signatures to follow.