

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2017-13

JOSEPH R. THORPE
Former Mayor,
Town of West Union

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Joseph R. Thorpe freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced Verified Complaint.

Findings of Fact

1. Respondent, Joseph R. Thorpe, ("Respondent") served as the Mayor of the Town of West Union at all times relevant herein.

2. As the Mayor of the Town of West Union, the Respondent was a "public official" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(k).

3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by West Virginia public officials, such as the Respondent. W. Va. Code §§ 6B-1-1 through 6B-3-11.

4. The Respondent's son, Joseph H. Thorpe, was employed by the Town of West Union during the Respondent's tenure as Mayor.

5. Joseph H. Thorpe began working in the maintenance department for the Town of West Union in June 2015.

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6. During a regular meeting on April 11, 2016, the West Union Town Council ("Council") voted to increase the pay for new hires with an operator-in-training certificate to \$12.00 per hour.


7. An operator-in-training is an individual who holds a valid operator-in-training certificate issued by the Commissioner of the West Virginia Bureau for Public Health or his or her designee, and who is training under the responsibility of the Chief Operator at a public water system while completing the educational and experience requirements to become a Water Distribution System or Class I operator. W. Va. Code R. § 64-4-3.23.

8. During a regular meeting on September 12, 2016, the West Union Town Council ("Council") considered whether to grant Joseph H. Thorpe's request for an increase in pay based upon his obtaining an operator-in-training certificate prior to the April 11, 2016, decision of Council to increase the pay for new hires with the certificate.

9. The Council considered the request in executive session, and the Respondent attended the executive session.

10. The Respondent is not a voting member of the Council, however, as mayor, he does serve as the tie-breaking vote.

11. The Respondent participated in the deliberations of the Council during the executive session regarding his son's request by answering direct questions from the Council regarding the operator-in-training certificate and pay of new-hires. The Respondent explained what the certificate was and why those obtaining the certificate should receive additional pay.

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12. The operator-in-training certificate was relevant to the Respondent's son's employment in the maintenance department regarding leaks in the town's water system. An operator is qualified to disinfect lines, properly flush hydrants and take water samples.


13. The Council voted unanimously to approve the Respondent's son's request for additional pay raising his basic hourly rate from \$10.50 to \$12.50. Per city policy, the Respondent's son also received an additional \$3.00 per hour for not being enrolled in the town's health benefits package for a total of \$15.50 per hour.

14. During a special meeting on October 26, 2016, the Council considered another personnel matter regarding the Respondent's son and another employee in executive session. The Council wished to speak to the employees separately in executive session. The Respondent attended this executive session as well.

15. During the discussion in executive session, the Respondent's son became angry, stated that he quit and physically left the meeting. The Respondent subsequently participated in a conversation with Council and agreed that his son was young, hot-headed and just needed time to cool off.

16. The Respondent's son subsequently approached the Council asking to be permitted to return to work for the Town of West Union.

17. During a regular meeting on December 12, 2016, Council considered and approved rehiring the Respondent's son by a vote of 4-1; however, while the Respondent did not participate during the deliberations and vote, he did not properly recuse himself by physically leaving the room.

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18. During a special meeting on January 17, 2017, Council reconsidered the re-hiring of the Respondent's son to cure any defects regarding the Respondent's failure to properly recuse himself during the December 12, 2016, regular meeting.

19. During the January 17, 2017, meeting, the Respondent properly recused himself from the deliberations and vote regarding the re-hiring of his son by stating the reason for his recusal, physically leaving the room and turning the meeting over to the Recorder. After deliberating the matter, the Council voted in favor of re-hiring the Respondent's son by a vote of 4-1.

20. W. Va. Code § 6B-2-5(j) prohibits the Respondent from being involved in any personnel matters which uniquely affect his son as opposed to affecting his son as a class of five or more similarly situated employees.

Relevant Legal Provisions

W. Va. Code § 6B-2-5(j) states, in relevant part:

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter [regarding]:

....

(C) The employment or working conditions of the public official's relative or person with whom the public official resides.

....

(2) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession,

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occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses;

....

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue. The recusal shall also be reflected in the meeting minutes.

Conciliation of Violation

I, Joseph R. Thorpe, Respondent, agree that I violated the above-referenced provisions of the West Virginia Governmental Ethics Act. In order to resolve this matter, I am entering into this Agreement. For this Conciliation Agreement to be finalized, I understand that the Ethics Commission must approve it and must determine which sanctions to impose.

In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A fine in the amount of \$250 to be paid on or before July 1, 2018;
2. A public reprimand, and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before July 1, 2018. I shall provide written confirmation of the completion of this training to the Ethics Commission.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the Complaint against me will proceed to the Probable Cause Review Board, where it will be

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processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.

If the Ethics Commission approves the Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to W. Va. Code § 6B-2-4(t), this Conciliation Agreement and Commission Order must be made available to the public.

4/5/18
Date



Robert J. Wolfe, Chairperson
W. Va. Ethics Commission

3-28-2018
Date



Joseph R. Thorpe, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2017-013

JOSEPH R. THORPE
Former Mayor,
Town of West Union

COMMISSION'S ORDER

After considering the FINDINGS OF FACT, RELEVANT LEGAL PROVISIONS and CONCILIATION OF VIOLATION in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and Joseph R. Thorpe as required by W. Va. Code § 6B-2-4(t). In accordance with W. Va. Code § 6B-2-4(s), the Commission imposes the following sanctions:

1. A fine in the amount of \$250 to be paid on or before July 1, 2018;
2. A public reprimand, and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, before July 1, 2018. Mr. Thorpe shall provide written confirmation of the completion of this training to the Ethics Commission.

4/5/18
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission