

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2017-049

**ROBERT G. BEAVERS,
Mayor of War, West Virginia**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Robert G. Beavers 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 Complaint.

FINDINGS OF FACT

1. Robert G. Beavers ("Respondent") is the Mayor of the City of War, West Virginia.
2. At all times pertinent herein, 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 public officials, such as the Respondent. W. Va. Code § 6B-1-1 through § 6B-3-11.
4. In June 2017, Respondent Beavers was elected to serve as the Mayor of the City of War for a four-year term of office commencing on July 1, 2017. He became Mayor several weeks prior to that date when his predecessor resigned and City Council appointed him to serve the remainder of her unexpired term of office.

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5. Shortly after the Respondent became Mayor, the Senior City Clerk resigned to take another job. The Mayor did not immediately direct Stephanie Roncella, the Junior City Clerk, to advertise for the open position as he wanted to give the former Senior City Clerk ample time to return to her position if her new job did not work out.

6. When the former Clerk did not return to her position with the City, the City Council promoted its Junior City Clerk, Stephanie Roncella, to the position of Senior City Clerk. Around that time, Respondent Beavers directed Ms. Roncella to post a job opening for the vacant City Clerk position. Ms. Roncella states she posted the job opening on the City Hall door and on her personal Facebook page, and let people know about the opening by word-of-mouth.

7. The City posted the position for approximately one month and received eleven applications.

8. At its July 18, 2017, meeting, the City Council held an executive session to review the applications and to select a person to fill the position. At the beginning of the executive session, Respondent Beavers distributed the applications to the Council Members. He generally stated to the Council Members and the Recorder that he would work with whomever they selected and then left the executive session.

9. While Respondent Beavers was gone, the Council Members reviewed the applications, including the application of Candace Beavers, the daughter of Respondent Beavers. Ms. Beavers has an Associate of Science Degree from West Virginia University Institute of Technology and a Bachelor's Degree in English Literature from Bluefield State.

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10. After the Council Members completed their review of the applications, discussed the candidates and reached a consensus on who they were going to select, Respondent Beavers returned to the executive session. At that time, while still in executive session, the Council Members voted to hire Candace Beavers. The July 18, 2017, minutes read: "Applications for the City Clerk position were presented. At this time, the Mayor stated to the Council he would like to excuse himself from the meeting for a short period, to give the Council time to discuss the candidates for City Clerk, so that none of them would feel influenced or pressured on who they would choose for the job. Upon his return, Councilmen [*sic*] Herb Billings made the motion to hire Candace Beavers in the City Clerk position because of her education and James Shelton seconded." While not expressly indicated in the minutes, the motion to hire Ms. Beavers carried.

11. Respondent Beavers was present for the vote but did not cast a vote or take part in the discussions or deliberations.

12. Respondent Beavers did not direct the Council Members to vote in executive session. He states that as a newly elected mayor, he was unaware that the vote should have taken place during the public portion of the meeting. He states that he has already taken steps to educate himself about the requirements of the Open Meetings Act.

RELEVANT LEGAL PROVISIONS

W. Va. Code § 6B-1-3(l) states, in relevant part:

"Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

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W. Va. Code R. 158-6-3.6 (2017) states, in relevant part:

A public official may not vote on matters affecting the employment or working conditions of a relative unless the relative is a member of a class of persons affected. A class shall consist of not fewer than five similarly situated persons. For a public official's recusal to be effective, he or she must 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.

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:

.....

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

.....

(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, Robert G. Beavers, the Respondent, admit that I violated the voting recusal requirements in the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(j)(3), and Legislative Rule, at W. Va. Code R. 158-6-3.6 (2017), when I was present for City Council's vote to hire my daughter.

In order to resolve this matter, I am entering into this Agreement. I understand that for this Conciliation Agreement to be finalized, that the Ethics Commission must approve it and determine which sanctions to impose.

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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 \$100.
2. Training on the West Virginia Governmental Ethics Act and Open Meetings Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, before April 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 before the Probable Cause Review Board, where it will be 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.

3/1/18
Date

Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

2-14-18
Date

Robert Beavers
Robert G. Beavers, Respondent

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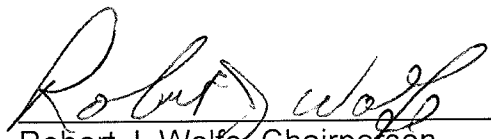
**ROBERT G. BEAVERS,
Mayor of War, West Virginia**

COMMISSION'S ORDER

After considering the FINDINGS OF FACT, RELEVANT LEGAL PROVISION 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 Robert G. Beavers 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 \$100 to be paid to the West Virginia Ethics Commission on or before April 1, 2018, and
2. Training on the West Virginia Governmental Ethics Act and Open Meetings Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, before April 1, 2018. Mr. Beavers shall provide written confirmation of the completion of this training to the Ethics Commission.

3/1/18
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission