BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

PAULA BOGGS
Council Member,
City of Piedmont, West Virginia

Complaint No. VCRB 2012-012

STATEMENT OF CHARGES AND NOTICE OF HEARING

The Probable Cause Review Board of the West Virginia Ethics Commission entered an order on June 9, 2015, finding that there is probable cause to believe that Paula Boggs, the Respondent in the above-referenced Complaint, violated the provisions of W. Va. Code § 6B-2-5(b). The Order directed that this Statement of Charges be prepared and that the matter be scheduled for a public hearing to determine the truth or falsity of the charges.

The Order found that there is probable cause to believe that the Respondent violated the Ethics Act by using her public office as a member of the Piedmont City Council for the private gain of former Town Foreman John Shingler in violation of W. Va. Code § 6B-2-5(b) by voting to have the City of Piedmont pay $10,000.00 to retain an attorney to represent Shingler in matters outside the scope of his employment.

STATEMENT OF CHARGES

Jurisdiction

1. Paula Boggs ("Boggs" or "Respondent") was a member of the Piedmont City Council on December 30, 2011.
2. Respondent was an elected public official during all times relevant to this Statement of Charges and, as such, is subject to the provisions of the West Virginia Governmental Ethics Act ("Ethics Act") as set forth in W. Va. Code § 6B-1-1 *et seq.*

Facts

3. On December 30, 2011, the Piedmont City Council called a special meeting. The subject of the meeting was, according to the official minutes, "[t]o discuss the ongoing investigation concerning the F.E.M.A. trailers."

4. At the time of the meeting, the West Virginia State Police was conducting an investigation into the town's purchase of six trailers from the Federal Emergency Management Agency ("FEMA").

5. The allegations being investigated, in part, were that John Shingler fraudulently obtained the trailers in the City of Piedmont's name for his personal use and for the use of others, and that he subsequently falsified reports concerning the trailers.

6. Present at the meeting were Respondent, Councilman Bob Fike, Councilman Ray Hall, Councilwoman Grace Russell, City Clerk Betsy Rice, Shingler, and City Attorney James Carskadon. Councilwoman Freda Fisher attended by phone.

7. At the beginning of the meeting, Councilman Fike made a motion to go into Executive Session to discuss personnel matters concerning the FEMA trailer investigation. Respondent seconded the motion. Respondent, Fisher, Fike, Hall, Russell, Rice, Shingler, and City Attorney Carskadon all then entered into Executive Session.

8. In Executive Session, those present discussed whether to retain City Attorney Carskadon to represent the City on matters relating to the state police investigation into Shingler's alleged purchase of trailers from FEMA for personal use.

9. During this discussion, Shingler asked Carskadon if Carskadon was representing him individually on issues related to FEMA trailers. Carskadon responded that he could only represent Shingler to the extent that he was acting within the scope of his employment, and that if he was not, then Shingler would need to retain separate counsel.

10. Shingler then asked that the City of Piedmont pay for separate counsel to represent him. Council Member Fisher stated that Shingler was being investigated for benefitting personally from the FEMA trailer transaction and that his alleged actions were outside his position as a City employee.

11. During the Executive Session discussion, Shingler asked again that Council use City funds to provide him with separate legal representation.

12. Council Member Hall recommended that City Attorney Carskadon represent the City and "everyone involved" until such time that a conflict arose.

13. Shingler then reiterated that he wanted separate legal representation.

14. In the public portion of the City Council meeting, Councilman Fike made a motion to retain City Attorney Carskadon to represent the City of Piedmont in matters concerning the FEMA trailer investigation for a retainer fee of $10,000.00. Hall seconded the motion. The motion passed 4-0 with Respondent abstaining.

15. Respondent then made a motion to pay a retainer fee of no more than $10,000.00 for an attorney other than Carskadon to represent Shingler in any matters concerning the FEMA trailer investigation. Council Member Russell seconded the motion.

16. The motion passed 2-1 with Respondent and Russell voting yes, Hall voting no, and Fike and Fisher abstaining.

17. Therefore, Respondent, after being advised that Shingler only needed separate representation if he was acting outside the scope of his employment, misused her public position by voting to expend public resources for Shingler's personal gain, in violation of W. Va. Code § 6B-2-5(b).

WHEREFORE, Respondent Paula Boggs knowingly and intentionally used her public office for private gain as set forth herein in violation of the West Virginia Ethics Act at W. Va. Code § 6B-2-5(b).

NOTICE OF HEARING

Notice is hereby given that a PUBLIC HEARING will be held on July 23, 2015, at the offices of the West Virginia Ethics Commission, 210 Brooks Street, Third Floor Conference Room, Charleston, West Virginia, and beginning at 10:00 a.m., to determine the truth or falsity of the charges against Respondent which are contained in the foregoing Statement of Charges.

In accordance with W. Va. Code § 6B-2-4 and 158 W. Va. C.S.R. 17-1, *et seq.*, the Commission has appointed an independent Hearing Examiner to preside over the hearing. The record compiled by the Hearing Examiner will be submitted to the members of the Ethics Commission, who will make a final decision in this case.

H.F. Salsbery, Esq., has been appointed as Hearing Examiner.

Dated: June 9, 2015

Rebecca L. Stepto
Executive Director

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

RAY HALL,

Petitioner,

v. VCRB 2012-012

PAULA BOGGS,

Respondent.

CERTIFICATE OF SERVICE

I, Rebecca L. Stepto, Executive Director of the West Virginia Ethics Commission, do hereby certify that on this 9th day of June, 2015, I served a true and complete copy of the foregoing **STATEMENT OF CHARGES AND NOTICE OF HEARING**, via certified mail, return receipt requested, upon:

Paula Boggs
71 Ashfield St.
Piedmont, WV 26750
Respondent

Rebecca L. Stepto
Executive Director
West Virginia Ethics Commission
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